

WESTERN AUSTRALIA.

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**TRUCK ACT 1899-1904.**

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ARRANGEMENT.

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Approved for Reprint 29 December 1981.

WESTERN AUSTRALIA.

# TRUCK ACT.

63° VICTORIAE No. 15

(Affected by Act No. 113 of 1965, s. 8.)

[As amended by Acts:

64 Vict., No. 9, assented to 5 December 1900;

No. 38 of 1904, assented to 10 December 1904,  
and reprinted pursuant to the Amendments Incorporation Act  
1938.]

## AN ACT to prohibit the Payment of Wages in Goods or otherwise than in Money.

[Assented to 9 October 1899.]

**BE** it enacted—

1. This Act may be cited as the Truck Act 1899-1904 and shall come into operation on the first day of January, One thousand nine hundred.

Short title.  
Amended by  
No. 38 of  
1904.

2. In this Act, unless inconsistent with the context,—

Interpreta-  
tion.

“Contract” includes any agreement, understanding device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and workman are parties, or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them:

N.Z. Truck  
Act 1891,  
s. 2.

“Employer” includes any master, manager, foreman, clerk, or other person engaged in the hiring, employment, or superintendence of the service, work, or labour of any workman within the meaning of this Act:

“Money” means coin of the realm current in Western Australia, and includes the notes of any banker or banking corporation carrying on business in Western Australia and legally authorized to issue notes there:

“Wages” include any money or thing had or contracted to be paid, delivered, or given as a recompense, reward, or remuneration for any service, work, or labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain:

“Workman” means any person in any manner employed for wages in work of any kind or in manual labour, whether under the age of twenty-one years or above that age.

Wages to be payable in money.  
*Ibid.*, s. 3.  
Truck Amendment Act 1887 (Imp.), s. 3.  
No deduction for interest.

3. (1) In every contract hereafter to be made with any workman, the wages of such workman, shall be made payable in money only, and not otherwise, and if by agreement, custom, or otherwise a workman is entitled to receive, in anticipation of the regular period of the payment of his wages, an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

Contracts to be void if in contravention of this section.

(2) If in any such contract the whole or any part of such wages shall be made payable in any manner other than in money, or shall provide for any deduction or charge as aforesaid in respect of any advance of the whole or a part of the wages of such workman, such contract shall be and is hereby declared illegal and void so far as any promise or consideration made or given by or arising out of the same relates to the payment of such wages otherwise than in money, or as to making any such deduction or charge as aforesaid; and such promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

4. If an employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman, any terms as to the place, or the manner in which, or the person with whom any wages or portion of wages paid to the workman are or is to be expended, such condition shall be illegal and void.

No contract to stipulate as to mode of spending wages.  
*Ibid.*, s. 4.

5. The entire amount of the wages earned by or payable to any workman shall be actually paid to such workman in money, and not otherwise, except as hereinafter mentioned; and every payment made to any such workman by his employer of or in respect of any such wages by the delivering to him of goods, or otherwise than in money, except as hereinafter mentioned, shall be and is hereby declared illegal and void; and every workman shall be entitled to recover from his employer, in any Court of competent jurisdiction, the whole or so much of the wages earned by such workman as shall not have been actually paid to him by his employer in money.

All wages to be paid in money.  
*Ibid.*, s. 5.  
See Truck Act 1831 (Imp.), s. 4.

<sup>1</sup>  
6. In any action to be hereafter brought or commenced by any workman against his employer for the recovery of any sum of money due to such workman as his wages,—

No set-off to be allowed for goods supplied to workman by employer.  
*Ibid.*, s. 6.  
See Truck Act 1831 (Imp.), s. 5.

- (1) The defendant shall not be allowed to make any set-off or counter-claim, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods had or

<sup>1</sup> Section 2 of Act No. 38 of 1904 reads as follows—

2. Section six of the principal Act shall not apply to any action brought or commenced after the first day of November 1904, for the recovery of any sum of money due to a workman as his wages before the first day of November 1904:

Exemption of certain actions from 63 Vict., No. 15, s. 6.

And notwithstanding anything contained in the principal Act, the defendant in any action brought or commenced after the first day of November 1904, for the recovery of any sum due to a workman as his wages before the first day of December 1904, may make a set-off or counter-claim by reason or in respect of—

- (a) Any goods had or received by the plaintiff as or on account of his wages; or
- (b) Any goods sold, delivered, or supplied at any shop, store, house, or premises kept by or belonging to the defendant, or in the profits of which the defendant may have any share or interest; or
- (c) Any goods supplied to the plaintiff by the defendant or by any person under any order or direction of the defendant or his agents.

received by the plaintiff as or on account of his wages, or by reason or in respect of any goods sold, delivered, or supplied at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

- (2) Nor shall the defendant be entitled to any set-off or counter-claim in respect of any goods supplied to the plaintiff by the defendant or by any person under any order or direction of the defendant or his agent.

No action by employer, etc., for price of goods delivered, or on account of wages, nor by any one supplying under employer's order.

7. No employer, or his partner or agent, shall have or maintain any action in any Court against any workman in respect of any goods sold, delivered, or supplied to any such workman while in such employment as or on account of his wages, and no person shall have or maintain any action against such workman in respect of any goods sold, delivered, or supplied to the workman under any order or direction of such employer, his partner or agent.

Provided that nothing in this section shall apply to any exceptions expressly provided for by this Act.

No deduction from wages for sharpening or repairing tools, etc.  
See *Ibid.*, s. 8, altered.  
See Truck Act 1887 (Imp.), s. 8.

8. No deduction shall be made from a workman's wages for sharpening or repairing tools, except by agreement, not forming part of the condition of hiring, and any deduction contrary to this section shall be illegal and void.

Payment of wages may be made by cheque.  
*Ibid.*, s. 9, altered in form.  
See Truck Act 1831 (Imp.), s. 8.

9. Nothing herein shall be construed to prevent or render invalid any contract for the payment, to any workman of the whole or any part of his wages in a cheque, draft, or order in writing for the payment of money to the bearer on demand, drawn upon any person, company, or association carrying

on the business of a banker in Western Australia, either generally or with any particular persons or class of persons only, or any payment so made, if such workman shall freely consent to receive such cheque, draft, or order: Provided that no such cheque shall be crossed by the party giving the same in payment:

Provided, further, that if wages shall be paid to any workman by a cheque, draft, or order in writing as aforesaid, and the same shall be dishonoured, such workman shall be entitled to recover from his employer such reasonable damages as he may have sustained in consequence of the dishonour of such cheque, draft, or order in writing, and such damages shall be recoverable in any Court of competent jurisdiction, and in addition to any wages due or payable to such workman.

Remedies of  
workman.

10. Service of any summons for an offence against this Act or any legal process for or incidental to the recovery of wages or damages for non-payment thereof, or on any cheque, draft, or order given in respect of such wages, may be effected on the employer by leaving such process with, or delivering the same to, the manager or overseer for the time being of the works at or in respect of which such wages shall have been earned. This section shall not affect any other mode of service allowed by law.

Service of  
legal process.  
*Ibid.*, s. 10.  
See Truck  
Act 1831  
(Imp.) s. 14.

11. If the employer of any workman shall, by himself or the agency of any other person or persons, directly or indirectly enter into any contract or make any payment or deduction hereby declared to be illegal and void wholly or in part, or if the employer or his agent contravenes or fails to comply with any of the foregoing provisions of this Act, such employer or agent, as the case may be, shall be deemed guilty of an offence, and be liable to the following penalties:—

Penalties for  
breaches of  
Act.  
*Ibid.*, s. 11.  
See Truck  
Amendment  
Act 1887  
(Imp.), part  
s. 11.

For the first offence, a penalty not exceeding twenty dollars;

For the second offence, a penalty not exceeding fifty dollars;

And for a third or any subsequent offence, a penalty not exceeding one hundred dollars.

Penalty on agent of employer. *Ibid.*, s. 12.

12. (1) Where an offence for which an employer is by virtue of this Act liable to a penalty has, in fact, been committed by some agent of the employer or other person, such agent or other person shall be liable to the same penalty as if he were the employer.

If person other than employer guilty of offence, power of employer to exempt himself from penalty on conviction of actual offender. *Ibid.*, part s. 12.

(2) Where an employer is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the Court that he has used due diligence to enforce the execution of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be convicted of such offence, and the employer shall be exempt from liability.

Penalties to be recovered summarily. *Ibid.*, s. 13.

13. All penalties under this Act may be recovered in a summary way before a Court of summary jurisdiction.

Provisions as to second and third offences. *Ibid.*, s. 14. Truck Act 1831 (Imp.), part s. 10.

14. (1) No person shall be punished as for a second offence under this Act of a like nature with the first offence under this Act unless ten days at the least shall have intervened between the conviction of such person for the first and the commission by such person of the second offence; but each separate offence committed by any such

person before the expiration of the said term of ten days shall be punishable by a separate penalty as though the same were a first offence.

(2) And no person shall be punished as for a third offence under this Act of a like nature with the second offence under this Act unless ten days at the least shall have intervened between the conviction of such person for the second and the commission by such person of the third offence; but each separate offence committed by any such person before the expiration of the said term of ten days shall be punishable by a separate penalty as though the same were a second offence.

(3) For every offence under this Act subsequent to a third conviction the offender shall be liable to a penalty not exceeding one hundred dollars.

15. (1) If the person or persons preferring any information under this Act shall not be able, or shall not see fit, to produce evidence of any previous conviction or convictions, any such offender shall be punished for each separate offence by him committed against the provisions of this Act by an equal number of distinct and separate penalties as though each of such offences were a first or second offence, as the case may be.

If no evidence of a previous conviction, offence deemed to be separate.  
*Ibid.*, s. 15.  
*Ibid.*, part s. 10.

(2) And no person shall be proceeded against or punished as for a second or as for a third or subsequent offence at the distance of more than six months from the commission of the next-preceding offence.

Limit of time for prosecution.

16. In order to prove the conviction or acquittal, whether summary or on indictment, of any person for an offence against this Act, it shall not be necessary to produce the record or proceedings or a copy thereof, but it shall be sufficient if a certificate signed by the proper officer having the custody of

Evidence of a previous conviction.  
See *Ibid.*, s. 16.  
14 & 15 Vict., c. 9 (Imp.), s. 13.



the record of such previous conviction or acquittal, or of the proceedings of the Court in which such conviction or acquittal was obtained, shall be produced to any Court or in any case where it may be necessary to prove such previous conviction or acquittal, in which certificate shall be stated in a compendious form the general nature of the offence for which such previous conviction or acquittal was had, and the date thereof; and it shall not in any case be necessary to prove the signature or official status of the officer signing or giving such certificate, or that a conviction certified therein was not quashed, or reversed on appeal, or otherwise howsoever.

Partner not to be liable in certain cases.

*Ibid.*, s. 17.  
Truck Act, 1831 (Imp.), part s. 13.

17. No person shall be liable to be convicted of any offence against this Act committed by his co-partner in business, and without his knowledge, privity, or consent; but it shall be lawful, when any penalty or sum for wages, or any other sum, is ordered to be paid under the authority of this Act, and the person or persons ordered to pay the same shall neglect or refuse to do so, to levy the same by distress and sale of any goods or chattels belonging to any co-partnership concern or business in the carrying-on of which such wages may have become due or such offence may have been committed.

Judgment and execution against partners.

*Ibid.*, s. 18.  
*Ibid.*, part s. 13.

18. In all proceedings to recover any sum due for wages, it shall be lawful in all cases of co-partnership for the Court, at the hearing of any action for the non-payment thereof, to give judgment against any one or more co-partners for the payment of the sum appearing to be due, and in such case the service of a copy of the summons or other process upon one or more of such co-partners shall be deemed to be service upon all; and any execution or other process may be had and enforced upon any such judgment in accordance with the ordinary law and practice of such Court.

19. This Act shall not extend or apply in the following cases:—

Act not to  
apply in  
certain cases.  
Amended by  
64 Vict.  
No. 9, s. 1.  
*Ibid.*, s. 19.  
*Ibid.*, part  
s. 13.

- (1) Where a workman engages to work for an employer, and the employer, or his agent, at the written request of the workman, supplies him during the first six weeks of his service, and not beyond that time, with necessaries, to be paid for by deduction from the wages earned by him during that time;
- (2) Where an employer or his agent, supplies or contracts to supply to any workman any fuel, materials, tools, appliances, or implements to be by such workman employed in his trade, labour, or occupation;
- (3) Where an employer, or his agent, supplies or contracts to supply to any workman or workmen who have engaged with him to fell bush or timber, or to clear land of bush or timber, with the necessary outfit and means of support, and materials or tools requisite for commencing their engagement, to any amount not exceeding in any case the amount of two months' wages to be earned by such workman or workmen in such engagement;
- (4) Where such employer, or his agent, supplies or contracts to supply to any workman any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such workman in his trade, labour, or occupation;
- (5) Where such employer, or his agent, demises to any workman the whole or any part of any tenement at any rent to be therein reserved, or allows such workman the use of a tenement as part of his wages or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services;

- (6) Where such employer supplies or contracts to supply to any such workman any victuals dressed or prepared under the roof of such employer, or any drink, not being of an intoxicating nature, and there consumed by such workman;
- (7) Nor to prevent such employer from making or contracting to make any deduction or stoppage from the wages of any such workman for or in respect of any such rent, fuel, materials, tools, implements, hay, corn, provender, victuals, or drink as aforesaid;
- (8) Nor shall prevent any employer from advancing to any workman any money to enable the workman to take up his engagement or to be by him contributed to any friendly society, life assurance company or association, savings bank, or other society or association whatever, or from advancing any money for the relief of such workman or his wife or family in sickness, or from advancing any money to any member of the workman's family by his order, nor from deducting or contracting to deduct any such sum or sums of money as aforesaid from the wages of such workman;
- (9) To seamen or to persons employed in agricultural, fruit-growing, or pastoral pursuits, or engaged on sheep or cattle stations:

Provided that no deduction or stoppage shall exceed the ordinary real and true value of any necessaries, fuel, tools, implements, hay, corn, provender, victuals, drink, or materials at the place where they are supplied.

Nor shall this Act extend or apply where any employer or his agent supplies or contracts to supply to any workman any medicine or medical attendance

in any part of the Colony defined by the Governor by Proclamation for the purpose of this exemption; and the Governor may from time to time amend, alter, or revoke any such Proclamation.

20. A person engaged in the same trade or occupation as an employer charged with any offence against this Act shall not act as a justice of the peace in hearing or determining the charge.

Certain  
justices  
disqualified.  
Truck  
Amendment  
Act 1887  
(Imp.), s. 15.

In the name and on behalf of the Queen I  
hereby assent to this Act.

GERARD SMITH, Governor.