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Wages Act

R.S.O. 1990, CHAPTER W.1

Consolidation Period: From October 25, 2010 to the [e-Laws currency date](#).

Last amendment: [2010, c. 16, Sched. 4, s. 29](#).

Legislative History: [+]

Definition

1 In this Act,

“wages” means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1990, c. W.1, s. 1.

Priority of wages or salaries in case of assignments for benefit of creditors

2 Where an assignment of any property is made for the general benefit of creditors, the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment or within one month before the making thereof, not exceeding three months wages, and such persons rank as ordinary or general creditors for the residue, if any, of their claims. R.S.O. 1990, c. W.1, s. 2.

Priority over execution creditors

3 All persons who, at the time of the seizure by the sheriff or who within one month prior thereto, were in the employment of the execution debtor, and who become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of the *Creditors' Relief Act, 2010* are entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months wages, in priority to the claims of the other creditors of the execution debtor, and are entitled to share proportionately with such other creditors as to the residue, if any, of their claims R.S.O. 1990, c. W.1, s. 3; 2010, c. 16, Sched. 4, s. 29.

Section Amendments with date in force (d/m/y) [+]

Priority in case of attachment

4 All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under the *Absconding Debtors Act*, or within one month prior thereto, are entitled to be paid by the sheriff, out of any money realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months wages, in priority to the claims of the other creditors of the debtor, and are entitled to share proportionately with such other creditors as to the residue, if any, of their claims. R.S.O. 1990, c. W.1, s. 4.

Priority in administration of estates

5 In the administration of the estate of a deceased person, any person in the employment of the deceased at the time of his or her death, or within one month prior thereto, who is entitled to share in the distribution of the estate, is entitled to his or her wages, not exceeding three months wages, in priority to the claims of the ordinary or general creditors of the deceased, and such person is entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his or her claim. R.S.O. 1990, c. W.1, s. 5.

When wages to be payable on distribution of estate

6 (1) Wages in respect of which priority is conferred by this Act become due and are payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time the estate was received by him, her or it or placed under his, her or its control, unless it appears to him, her or it that the estate is not of sufficient value to pay the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate. R.S.O. 1990, c. W.1, s. 6 (1).

Ordinary expenses, meaning

(2) Ordinary expenses do not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him or her in writing. R.S.O. 1990, c. W.1, s. 6 (2).

Protection of assignee, etc., paying claims for wages in good faith

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his, her or its hands, pay the prior claims for wages without being chargeable in case it in the end appears that the estate was insufficient to have justified such payment, if he, she or it acted in good faith and had reasonable grounds to believe that the estate would prove sufficient. R.S.O. 1990, c. W.1, s. 6 (3).

Joinder of claims

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims. R.S.O. 1990, c. W.1, s. 6 (4).

Net wages subject to garnishment

7 (1) For the purposes of this section,

“wages” does not include an amount that an employer is required by law to deduct from wages. R.S.O. 1990, c. W.1, s. 7 (1).

Disability payments included

(1.1) For the purposes of this section, payments from an insurance or indemnity scheme that are intended to replace income lost because of disability shall be deemed to be wages, whether the scheme is administered by the employer or another person. 1999, c. 12, Sched. B, s. 18.

Exemption from seizure or garnishment

(2) Subject to subsection (3), 80 per cent of a person's wages are exempt from seizure or garnishment. R.S.O. 1990, c. W.1, s. 7 (2).

Idem, support or maintenance

(3) Fifty per cent of a person's wages are exempt from seizure or garnishment in the enforcement of an order for support or maintenance enforceable in Ontario. R.S.O. 1990, c. W.1, s. 7 (3).

Judge may decrease exemption

(4) A judge of the court in which a writ of execution or notice of garnishment enforceable against a person's wages is issued may, on motion by the creditor on notice to the person, order that the exemption set out in subsection (2) or (3) be decreased, if the judge is satisfied that it is just to do so, having regard to the nature of the debt owed to the creditor, the person's financial circumstances and any other matter the judge considers relevant. R.S.O. 1990, c. W.1, s. 7 (4).

Judge may increase exemption

(5) A judge of the court in which a writ of execution or notice of garnishment enforceable against a person's wages is issued may, on motion by the person on notice to the creditor, order that the exemption set out in subsection (2) or (3) be increased, if the judge is satisfied that it is just to do so, having regard to the person's financial circumstances and any other matter the judge considers relevant. R.S.O. 1990, c. W.1, s. 7 (5).

Employer may pay into court

(6) Where an employer receives notice of a motion under subsection (4) or (5), the employer may pay into court the part of the person's wages that is not exempt from seizure or garnishment under subsection (2) or (3), as the case may be, and the judge on the hearing of the motion may make such order for payment out of court as is just. R.S.O. 1990, c. W.1, s. 7 (6).

Wage assignments

(7) Subject to subsection (8), an assignment of wages or any part of them to secure payment of a debt is invalid. R.S.O. 1990, c. W.1, s. 7 (7).

Idem, credit unions

(8) A person may assign to a credit union to which the *Credit Unions and Caisses Populaires Act* applies the part of the person's wages that does not exceed the part that may be seized or garnished under this section. R.S.O. 1990, c. W.1, s. 7 (8).

Section Amendments with date in force (d/m/y) [+]

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