

NEW JERSEY DEPARTMENT OF LABOR & INDUSTRY
COMPILED STATUTES OF 1937

TITLE 34. LABOR AND WORKMEN'S COMPENSATION

CHAPTER 11. WAGES

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ARTICLE 1. REGULATION IN GENERAL

Cross references. Insolvent corporations, liens for wages, see sec. 14:14-21 of the title Corporations, General. Other provisions for hours of labor and prevailing wage, see sec. 34:10-1 of this title.

34:11-1. PUBLIC CONTRACTS; PREVAILING RATE OF WAGES. Every contract in excess of five thousand dollars in amount, to which the State or any political subdivision is a party, which requires or involves the employment of laborers or mechanics in the construction, alteration, or repair of any public buildings of the state or any political subdivision thereof within the geographical limits of the state shall provide that the rate of wages for all laborers and mechanics employed by the contractor or any subcontractor on the public buildings covered by the contract shall be not less than the prevailing rate of wages for work of a similar nature in the city, town, village, or other civil division of the state in which the public buildings are located, and a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature applicable to the contract which cannot be adjusted by the contracting officer, the matter shall be referred to the Commissioner of Labor for determination and his decision shall be conclusive on all parties to the contract. In case of national emergency the governor is authorized to suspend the provisions of this section.

Source L. 1931, c. 242, sec. 1, p. 597,

34:11-4 PAYMENT OF WAGES EVERY TWO WEEKS; EXCEPTIONS; AGREEMENTS TO CONTRARY; ACTION BY EMPLOYEE; PAYMENTS BY NEGOTIABLE CHECKS. Every person, firm, association or partnership doing business in

this State, and every corporation organized under or acting by virtue of or governed by the provisions of Title 14, Corporations, General, or by the provisions of the act entitled "An act concerning corporations" (Revision 1896) approved April twenty-first, one thousand eight hundred and ninety-six, in this State, shall pay at least every two weeks, in lawful money of the United States, to each and every employee engaged in his, their or its business, or to the duly authorized representative of such employee, the full amount of wages earned and unpaid in lawful money to such employee, up to within twelve days of such payment. If, however, at any time of payment, any employee shall be absent from his regular place of labor and shall not receive his wages through a duly authorized representative, he shall be entitled to such payment at any time thereafter upon demand. It shall not be lawful for any such person, firm, association, partnership or corporation to enter into or make any agreement with any employee for the payment of the wages of any such employee otherwise than as provided by this section, except to pay such wages at shorter intervals than every two weeks. Every agreement made in violation of this section shall be deemed to be null and void, and the penalties provided for in section 34:11-6 of this Title may be enforced notwithstanding such agreement; and each and every employee with whom any agreement in violation of this section shall be made by any such person, firm, association, partnership or corporation, or the agent or agents thereof, shall have his action and right of action against any such person, firm, association or corporation for the full amount of his wages in any court of competent jurisdiction in this State. Any such person, firm, partnership, association or corporation that can reasonably satisfy the commissioner that he, they or it have a paid-up cash capital invested in this State of not less than two hundred thousand dollars (\$200,000.00), and that arrangements have been made with a banking institution for the payment in full of any negotiable check issued for the payment of wages, may, with the written consent of the commissioner, pay any such wages by negotiable check instead of in lawful money. Any person, firm, association, partnership or corporation may, with the written consent of the Commissioner of Labor pay the wages of his, their or its employees by check if he, they or it furnish satisfactory

proof to the commissioner of his, their or its financial responsibility and file with the commissioner a bond running to the commissioner for the benefit of said employees in double the amount of the maximum weekly payroll paid by him, them or it during the calendar year preceding the date of the filing thereof conditioned upon the payment by the bank upon which any such check is drawn immediately upon proper presentation of such check and secured by a surety authorized to do business in New Jersey and approved by the Commissioner of Banking and Insurance, which bond and the terms thereof may be enforced by an action at law either by the commissioner or, with the written consent of the commissioner, by any aggrieved employee. Any person, firm, association, partnership or corporation shall, as a condition precedent to the obtaining of the written consent of the commissioner under this section, make suitable arrangements for the cashing of such checks by employees without difficulty and for the full amount for which they are drawn.

This section shall not apply to employees engaged in agricultural work or as watermen.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S.p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546, L. 1941, c. 415, sec. 1, L. 1899, c. 38, sec. 2, p. 70 (C.S. p. 3050, sec. 124).

34:11-5 Blank.

34:11-6 PENALTY FOR VIOLATIONS OF SECTION 34:11-4. Every person, firm, association, partnership or corporation mentioned in section 34:11-4 of this Title and every officer or agent thereof who shall violate any of the provisions of said section 34:11-4 shall, for the first offense, be liable to a penalty of fifty dollars (\$50.00), and for the second and each subsequent offense to a penalty of one hundred dollars (\$100.00), to be recovered by and in the name of the Department of Labor of this State.

All penalties recovered for any violation of said section 34:11-4 shall be paid to the Department of Labor for the use of the State.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S.p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546, L. 1941, c. 415, sec. 2.

34:11-7 JURISDICTION OF ACTION FOR PENALTY; PROCESS; ISSUE.

Every district court, justice of the peace, and police magistrate is empowered, upon filing of a complaint in writing by any person authorized by the commissioner, alleging that a violation of section 34:11-6 of this title has occurred, which complaint may be made upon information and belief, to issue process at the suit of the department of labor of New Jersey as plaintiff.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546.

34:11-8 PROCESS IN NATURE OF SUMMONS OR WARRANT; SERVICE; RETURN; AMENDMENTS. The process mentioned in section 34:11-7 shall be either in the nature of a summons or warrant, which warrant may issue without any order of the court first being obtained against the person so charged, which process, when in the nature of a warrant, shall be returnable forthwith, and when in the nature of a summons shall be returnable in not less than five or more than fifteen entire days. The process shall state what provision of the law is alleged to have been violated by the defendant or defendants. The court, justice or magistrate may, at all times, amend all defects and errors in the complaint and process.

Any officers authorized by law to serve and execute process in the court in which the proceeding is brought shall serve and execute all process in proceedings for violations of section 34:11-4 of this title.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546.

34:11-9 SUMMARY TRIAL AND JUDGMENT. On the return of process issued pursuant to section 34:11-8 of this title or at any time to which the trial shall be adjourned the court without the filing of any pleadings shall proceed in a summary manner, without a jury, to hear the testimony and to give judgment for plaintiff for the penalty with costs, or for the defendant.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546.

34:11-10 COMMITMENT FOR FAILURE TO PAY JUDGMENT. The court shall cause a defendant who refuses or neglects to pay forthwith the amount of a judgment rendered against him and the costs and charges incident thereto, to be committed to the county jail for a period not exceeding one hundred days in the case of a first

conviction, and in case of a conviction for a second, subsequent or continuing violation, for a period not exceeding two hundred days.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546.

34:11-11 ADJOURNMENT; COMMITMENT OF DEFENDANT IN DEFAULT OF BOND. The district court, justice of the peace or police magistrate may adjourn the hearing from time to time but, unless the first process was a summons, shall detain the defendant in safe custody unless he shall enter into bond to the department with at least one sufficient surety in double the amount of the penalty claimed conditioned for his appearance on the day to which the hearing shall be adjourned and thence from day to day until the case is disposed of, and to abide by the judgment of the court. Such bond if forfeited may be prosecuted by the department.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546. E

34:11-12 FORM OF JUDGMENT AND COMMITMENT. A judgment for a penalty under section 34:11-6 of this title shall be in the following or similar form:

"State of New Jersey) ss
County of)

"Be It Remembered that on this day of, at, in said county, C.D., defendant, was by (the district court of, or, justice of the peace, or, police magistrate, or as the case may be), convicted of violating section of the Revised Statutes of New Jersey, in a summary proceeding at the suit of the department of Labor of New Jersey upon a complaint made by, and further, that the witnesses in said proceeding, who testified for the plaintiff were (name them), and the witnesses who testified for the defendant were (name them).

"Wherefore, the said court doth hereby give judgment that the plaintiff recover of the defendant dollars, penalty, and dollars, costs of this proceeding."

The conviction shall be signed by the judge of the district court, justice of the peace or police magistrate before whom the conviction is had. In case the defendant is committed to jail in

default of payment of the penalty, a commitment in the following form shall be added to the conviction, beneath the signature of the judge, justice of the peace or police magistrate:

"And the said C. D., neglecting and refusing to pay the amount of the penalty above mentioned, with costs, it is hereby ordered that the said C. D. be, and he hereby is, committed to the common jail of the county of for the period of days, unless the said penalty and costs are sooner paid."

This commitment shall also be signed by the judge, justice or magistrate, and in case of commitment of any defendant to jail, the conviction and commitment shall be signed in duplicate, and one of the duplicate copies shall serve the purposes of a warrant of commitment.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546.

34:11-13 SIGNATURE OF PROCESS; COSTS; EXECUTION; BODY

EXECUTION. The clerk of a district court or magistrate's court may sign and seal any process required to be issued under sections 34:11-6 to 34:11-12 of this title, except a warrant of commitment. The costs recoverable in any such proceeding shall be the same as costs taxed in the district court. Execution may issue for the collection of a judgment and costs, against the goods and chattels and body of the defendant without any order first obtained for such purpose.

Sources. L. 1899, c. 38, sec. 1, p. 69 (C.S. p. 3050, sec. 123), as am. by L. 1928, c. 150, sec. 1, p. 302, L. 1929, c. 235, sec. 1, p. 431, L. 1932, c. 249, sec. 1, p. 546.

34:11-14 Blank.

34:11-15 Blank.

34:11-16 ENFORCEMENT OF ACT BY DEPARTMENT OF LABOR. The department of labor shall enforce the provisions of this article and for that purpose the commissioner shall designate such of his employees or assistants as may be necessary.

Sources. L. 1899, c. 38, sec. 3, p. 70, as am. by L. 1904, c. 195, sec. 1, p. 354 (C.S. p. 3050, sec. 125), L. 1928, c. 150, sec. 2, p. 305.

34:11-17 NEGOTIABLE ORDERS. It shall be unlawful for any person or corporation to pay their employees in store goods or merchandise, or to issue for the payment of labor any order or other paper whatsoever, unless the same is negotiable and by its

terms redeemable for face value at sight in lawful money of the United States, by the person giving or issuing the same, but nothing in this section shall prevent any private individual from giving orders for goods and merchandise on any store in the profits or business of which he has no interest, directly or indirectly.

Sources. Rev. 1877, p. 750, sec. 3 (C.S. p. 3046, sec. 98), Rev. 1877, p. 1375, sec. 1, as am. by L. 1880, c. 36, sec. 1, p. 45 (C. S. p. 3047, sec. 107), L. 1919, c. 182, sec. 1, p. 383 (1924 Suppl. sec. 107-107). L. 1880, c. 198, sec. 1, p. 295 (C. S. p. 3046, sec. 101).

34:11-18 FORFEITURE ON ISSUING ORDERS IN PAYMENT FOR LABOR; NO OFFSET; LIMITATIONS. Any employer paying its employee in store goods or merchandise or giving or issuing or authorizing to be given or issued in payment for labor, any due bills or orders contrary to any law shall forfeit the amount of wages or pay for which such orders were given and the same shall not be offset against any claim for wages but recovery may be had for such wages in full as though no such orders or due bills had been given or paid and no settlement with the employer shall bar an action therefor until after the lapse of one year from such settlement.

Sources. Rev. 1877, p. 750, sec. 3, (C. S. p. 3046, sec. 98), L. 1880, c. 198, sec. 2, p. 295, (C. S. p. 3046, sec. 102).

34:11-19 PUNISHMENT FOR ISSUING ORDERS IN PAYMENT FOR LABOR. Any person giving or issuing in payment of labor, any due bills or orders contrary to law shall be guilty of a misdemeanor and punishable by fine of not more than five hundred dollars (\$500.00). Sources. Rev. 1877, p. 1375, sec. 2, (C. S. p. 3047, sec. 108).

34:11-20 SEAMSTRESSES, FEMALES AND MINORS INCLUDED IN PROVISIONS AGAINST PAYMENT BY DUE BILLS OR ORDERS. The provisions of this chapter prohibiting and penalizing the giving or issuing of due bills or orders in payment for labor shall extend to all seamstresses, females, and minors employed in factories or otherwise.

Sources. Rev. 1877, p. 750, sec. 4, (C. S. p. 3046, sec. 99), L. 1880, c. 198, sec. 3, p. 296, (C. S. p. 3047, sec. 103).

34:11-21 ATTEMPTING TO CONTROL EMPLOYEES IN PURCHASE OF STORE GOODS UNLAWFUL. It shall not be lawful for an employer, or his agents, clerks, or superintendents, owning or controlling any stores for the sale of general store goods or merchandise in connection with his manufacturing or other business, to attempt to

control his employees in the purchase of store goods or supplies at such stores by withholding payment of wages beyond the usual time of payment, whereby the employee would be compelled to purchase supplies at any such stores.

Sources. L. 1881, c. 190, sec. 1, p. 239, (C.S.p. 3047, sec. 105).

34:11-22 PENALTY FOR ATTEMPTING TO CONTROL EMPLOYEES IN PURCHASE OF STORE GOODS. Any person offending against the provisions of section 34:11-21 of this title shall be guilty of a misdemeanor and on conviction thereof shall be fined not to exceed one hundred dollars (\$100.00), with costs of suit, for each offense to be sued by and for the benefit of any citizen of the state.

Sources. L. 1881, c. 190, sec. 2, p. 239 (C.S. p. 3047, sec. 106).

34:11-23 DIVERSION OF WAGES WITHOUT VOLUNTARY CONSENT OF EMPLOYEES FORBIDDEN AS AGAINST PUBLIC POLICY. No corporation under pretense of assisting, relieving or maintaining its employees when sick or otherwise disabled shall without their free and voluntary consent retain or withhold any part of their wages nor shall any person by contract or otherwise be required by any corporation to sign written consent that his wages be retained or withheld for such purposes or for investment, and any such diversion of wages to the control or possession of any corporate employer without the free and voluntary consent of the employee is hereby declared to be against public policy and unlawful.

Sources. L. 1891, c. 212, sec. 1, to 3, p. 404 (C.S. p. 3048, sec. 109 to 111), suppl. to Rev. 1877, p. 1375.

34:11-24 PENALTY FOR DIVERTING WAGES WITHOUT EMPLOYEE'S VOLUNTARY CONSENT. Any violation of section 34:11-23 of this title by the directors or managing officers of any corporation shall be deemed a misdemeanor, punishable under indictment in any county where such corporation does business by a fine of not to exceed two hundred dollars (\$200.00), or imprisonment in the county jail not to exceed six months, or both.

Sources. L. 1891, c. 212, sec. 4, p. 404 (C.S. p. 3048, sec. 112), suppl. to Rev. 1877, p. 1375.

34:11-25 ASSIGNMENT OR PURCHASE OF WAGES AT USURIOUS RATE FORBIDDEN. It shall be unlawful for any person to purchase or have assigned to him any pay or wages due, or to become due, to any employee, upon which the purchaser or assignee shall directly or indirectly have received or contracted to receive from such employee, more than the legal rate of interest es-

wages purchased or assigned.

Sources. L. 1884, c. 166, sec. 1, p. 245 (C.S. p. 3048, sec. 113).

34:11-26 PENALTY FOR USURIOUS PURCHASE OF WAGES. Any person violating section 34:11-25 of this title shall be deemed guilty of a misdemeanor punishable by fine not exceeding five hundred dollars (\$500.00), at the discretion of the court, but this section and said section 34:11-25 shall not apply to any assignment of pay or wages, for the payment of the full value of goods, wares or merchandise sold to an employee, or for professional services to the employee mentioned in the assignment.

Sources. L. 1884, c. 166, sec. 2, p. 246 (C.S. p. 3048, sec. 114).

34:11-27 FORFEITURE OF WAGES OF EMPLOYEES NOT GIVING NOTICE OF INTENTION TO QUIT EMPLOYMENT; PENALTY. Any manufacturer who requires from his employees under penalty of forfeiture of a part of their wages earned, notice of intention to leave such employ, shall be liable, as on express contract, after demand and refusal thereof to payment of a like forfeiture if he discharges any such employee without similar notice, unless in case of a general suspension of labor in the employer's factory or unless the employee's misconduct in or about the work, or incompetency to properly perform such work or service shall have given or afforded sufficient cause for such discharge. Any person violating any of the provisions of this section shall, for each offense, be liable to a penalty of fifty dollars (\$50.00).

Sources: L. 1895, c. 142, sec. 1, p. 300 (C.S.p. 3039, sec. 79).
L. 1904, c. 64, sec. 27, 30, p. 161 (C.S. pp. 3029, 3030, sec. 42, 45).

34:11-28 DISCHARGE OF FACTORY HAND WITHOUT NOTICE; AMOUNT OF FORFEITURE WHERE WAGES NOT FIXED. Where any forfeiture is incurred by any manufacturer by discharging an employee without notice and the wages of such employee are not computable at a fixed rate per day or other unit of time, the amount to be forfeited shall be that amount which such employee might ordinarily have earned in the time for which such notice should have been given.

Sources. L. 1895, C. 142, sec. 1, p. 300 (C.S. p. 3039, sec. 79).

34:11-29 ATTORNEY'S FEE ON RECOVERY OF JUDGMENT FOR WAGES AND ON APPEAL. If a factory employee discharged without notice shall recover judgment in suit for wages or pay, or for a larger amount than was tendered him in case tender was made, he shall be

allowed as part of the costs of suit, an attorney's fee to be fixed by the court, and in case defendant shall appeal without success an additional attorney's fee to be fixed by the court shall be allowed as part of the costs of appeal.

Sources. L. 1895, c. 142, sec. 1, p. 300 (C.S. p. 3039, sec. 79).

34:11-30 DECEASED EMPLOYEE'S WAGES PAYABLE WITHOUT ADMINISTRATION. It shall be lawful for an employer, not less than thirty days after the death of an employee to whom is owing wages not exceeding seventy-five dollars, to pay the same to such employee's surviving wife, child or children, father or mother, sister or brother, preferring such persons in the order named, without letters of administration having been issued upon the estate of such deceased employee and if no such persons survive then to the undertaker for his services, such sum as shall be due him, and the residue if any to physician, boarding house-keeper and nurse, pro rate, upon bills furnished verified by affidavit, and payment made by this section provided shall be a full release and discharge to the employer from any claims for wages so due and paid.

Sources. L. 1909, c. 59, sec. 1, 2, p. 82 (C.S. p. 3051, sec. 126, 127).

34:11-31 PAYMENT OF WAGES CONDITION PRECEDENT TO REMOVAL OF EMPLOYER'S PERSONAL PROPERTY ON LEVY OF EXECUTION OR OTHER PROCESS. No personal property, being in this state and belonging to any person, corporation or manufacturer, shall be liable to be removed by virtue of any execution, attachment or other process, unless the party, by whom or at whose suit such process was issued or sued out, shall first pay or cause to be paid to the operatives, mechanics and other employees of such person, manufacturer or corporation the wages then owing from such person, manufacturer or corporation. The wages required to be paid as aforesaid shall not exceed two months wages, and, if the wages due and owing as aforesaid shall exceed two months' wages, the party at whose suit such process is sued out may upon paying or causing to be paid to such employees two months' wages, proceed to execute his process; and the sheriff or other officer shall levy and pay to the plaintiff, as well the money so paid for wages as the money to be made by virtue of such process.

Sources. Rev. 1877, p. 749, sec. 1, as am. by L. 1896, c. 27,

sec. 1, p. 53 (C.S.p. 3044, sec. 94).

34:11-32 PROCEDURE WHERE PERSONAL PROPERTY IS REMOVED UNDER PROCESS WITHOUT PAYMENT OF WAGES OF DEBTOR'S EMPLOYEES. If an officer shall by virtue of execution, attachment or other process remove any personal property from the possession or premises of any employer against whom the process is directed without first paying to the employees of such employer their wages owing and earned or accrued to the amount specified in section 34:11-31 of this title, such personal property shall not be sold by the officer until ten days after such removal and then not until the plaintiff or party causing the levy shall, before the sale, pay to such employees such wages upon the payment of which the process may be executed and sale made; provided the persons to whom such wages may be owing, shall within ten days after such removal give notice to the officer holding such process of the amount of wages due, and claim the same, which notice may be served by delivery to the officer or leaving a copy thereof at his usual place of abode.

Sources. Rev. 1877, p. 750, sec. 2, as am. by L. 1896, c. 27, sec. 2, p. 54 (C.S.p. 3045, sec. 95).

34:11-33 WAGES FOR SERVICES BESTOWED ON PROPERTY OF MANUFACTURERS IN HANDS OF RECEIVERS. Whenever personal property of a manufacturer, distiller, brewer or producer of manufactured articles shall come into the possession of a receiver, any employee who has bestowed labor or services upon any of such personal property for which there is then due and owing to him wages, may petition the chancellor or judge appointing such receiver for the payment of such wages, setting forth the nature and kind of the services and the amount due to such petitioner, and the chancellor or judge shall thereupon direct a reference to a master in chancery to ascertain and report upon the correctness of the allegations of the petition and the amount of wages due and unpaid, and upon ascertainment and determination of such amount shall further direct the receiver to forthwith sell so much of such personal property as may be necessary to pay such wages to such employees in preference to any other creditors and without delay.

Sources. L. 1881, c. 72, sec. 1, p. 74 (C.S.p. 3045, sec. 96), suppl. to Rev. 1877, p. 749.

ARTICLE 111. WAGE COLLECTION DIVISION

34:11-57 DEFINITIONS. As used in this article:

"Commissioner" means the commissioner of labor or any person or persons in the department designated in writing by him for the purposes of this article.

"Employee" means any natural person who works for another for hire.

"Employer" means any person, partnership, firm or corporation employing another for hire.

"Wages" means any moneys due an employee from the employer whether payable by the hour, day, week, semimonthly, monthly or yearly and shall include commissions, bonus and piece-work compensation.

Sources. L. 1934, c. 91, sec. 1, p. 269.

34:11-58 INVESTIGATION OF WAGE CLAIMS; TESTIMONY; AWARD AND JUDGMENT. The commissioner is authorized and empowered to investigate any claim for wages due an employee and in such investigation may summon the defendant, subpoena witnesses, administer oaths, take testimony and shall upon such hearing make a decision or award where the sum in controversy, exclusive of costs, does not exceed two hundred dollars (\$200.00).

Such decision or award shall be a judgment when a certified copy thereof is filed with the court of common pleas of the county where defendant resides.

Such judgment shall be entered in the same manner and have the same effect and be subject to the same proceedings as are judgments rendered in suits duly heard and determined by courts of competent jurisdiction.

Sources. L. 1934, c. 91, sec. 2, p. 269.

34:11-59 CLAIM DOCKETED; SUMMONS; SERVICE. An employee may file a written claim for wages against an employer in the wage collection division of the department which shall be entered in a book to be called the wage collection docket.

Upon the filing of claim the department shall issue a summons returnable between the hours of nine o'clock in the forenoon and three o'clock in the afternoon, both inclusive, which shall also specify a certain time and place for the appearance of the defendant, not less than five nor more than fifteen days from

the date of such process, which summons shall be served at least five days before the time of appearance mentioned therein, by reading the same to the defendant and delivering to him a copy thereof if he shall be found and if not found by leaving a copy thereof in his house or with some other person of his family over the age of fourteen years. Such persons being served with summons and complaint shall be informed of the contents thereof and the person serving the summons shall endorse thereon a return of the time and manner he executed the same, and sign his name thereon. At the time and place specified in the summons, the commissioner shall inquiry in a summary way into the merits of the employee's claim and defenses of the defendant, if any.

Sources. L. 1934, c. 91, sec. 3, p. 270

34:11-60 PROCESS TO RUN THROUGHOUT STATE; BY WHOM SERVED. Process of the wage collection division shall run throughout the state. Service of process shall be made either by a constable or a process server of the department.

Sources. L. 1934, c. 91, sec. 4, p. 270.

34:11-61 COMMISSIONER MAY ADMINISTER OATHS, TAKE TESTIMONY, ETC.; PROCESS IN NAME OF COMMISSIONER. The commissioner shall have power to administer oaths, hear testimony and take or cause to be taken depositions of witnesses residing within or without the state. The summonses, subpoenas, and orders to take testimony and for production of documents, emanating from the wage collection division shall issue in the name of the commissioner and under the seal of the department.

Sources. L. 1934, c. 91, sec. 5, p. 271.

34:11-62 SET-OFF; DISMISSAL WHERE BALANCE DUE DEFENDANT EXCEEDS TWO HUNDRED DOLLARS (\$200.00). If the defendant files a set-off against the plaintiff for more than two hundred dollars (\$200.00) and at the trial it shall be proved that the balance exceeding two hundred dollars (\$200.00) is due the defendant then suit shall be dismissed unless the defendant consents to accept judgment for two hundred dollars (\$200.00) and costs in full settlement of this claim, but in no event shall a counter-claim for unliquidated damages be set up against plaintiff for wages in the wage collection division.

Sources. L. 1934, c. 91, sec. 6, p. 271.

34:11-63 APPEALS; BOND; PROCEDURE. From any judgment which may be obtained in the wage collection division, except such as shall be given by confession, either party may, upon filing a notice of appeal with the wage collection division within twenty days after judgment shall be given, appeal to the court of common pleas of the county, which appeal the said wage collection division is hereby directed to grant upon the following and no other terms: One sufficient security, either being a freeholder in the county or a surety company authorized to do business in New Jersey, and in double the amount of such judgment or offset conditioned that the appellant shall appear and prosecute his appeal in the court of common pleas, shall stand to and abide the judgment of the said court, and pay such costs as shall be taxed against him if the judgment be affirmed; if the judgment appealed from be in favor of the appellant, and there be no set-off in the action against his demand, then no appeal bond shall be required; the appeal shall be taken by a notice in writing, signed by or in behalf of the appellant, briefly describing the judgment and stating that the party appeals therefrom to the court of common pleas. The wage collection division shall then prepare a transcript of the record to be filed in the court of common pleas. Either party may bring on the hearing of the appeal at term time or in vacation upon ten days' notice to the other party or his attorney.

Sources. L. 1934, c. 91, sec. 7, p. 271.

34:11-64 SUMMARY HEARING ON APPEAL; JUDGMENT AND EXECUTION. The courts of common pleas shall hear and determine all such appeals without a jury in a summary way and give judgment and award execution thereon with costs, either on the affirmance or reversal of the judgment so appealed.

Sources. L. 1934, c. 91, sec. 8, p. 272.

34:11-65 EVIDENCE ON APPEAL. Upon the trial of any appeal either party may produce any witness not produced or sworn in the court below, or any documentary evidence not offered or admitted in the court below, if otherwise legal and competent, without notice to the opposite party.

Sources. L. 1934, c. 91, sec. 9, p. 272.

34:11-66 JURY TRIAL; OTHER REMEDIES. Nothing in this article shall prevent the claimant from instituting suit for his

claim in any court of proper jurisdiction or be construed to deny or limit the right of the plaintiff or defendant to a trial by jury.

Where either party demands a trial by jury he shall pay at least two days before the return date or the adjourned date of hearing of his cause, the statutory jury fee to the wage collection division and thereupon the wage collection division of the department shall file the entire record, in the cause, in a district court or a justice's court in counties having no district court, for trial by jury of the issues presented by the claimant and defendant. The jury fee so received shall be paid to the district court or justice's court wherein the cause is to be tried by the jury with the judge or acting judge of said court presiding and the verdict of the jury with judgment thereon shall be docketed in the common pleas court as are other judgments of the wage collection division.

Sources. L. 1934, c. 91, sec. 10, p. 272.

34:11-67 FEES AND COSTS. No filing fee shall be charged by the wage collection division, for accepting a wage claim, and no advance fees shall be charged by constables making service of process on wage claims of the wage collection division nor shall any fee be charged by any county clerk for filing of any award or determination of the wage collection division or sheriff for execution and levy but the collection of any wage claim either by execution or otherwise shall carry taxed costs of service, filing, recording fees, executions, et cetera, in accordance with the table of costs as prescribed for justices' courts. The balance of all moneys received by way of taxed costs shall be retained by the wage collection division and at the end of each calendar year shall be paid into the state treasury for the use of the state.

Sources. L. 1934, c. 91, sec. 11, p. 273.

34:10-1. EIGHT-HOUR DAY; CONTRACTS; PREVAILING WAGE RATE; VIOLATIONS; PENALTY. All contracts made by or on behalf of the state or any county or municipality for the performance of work or the furnishing of material shall provide that the mechanics, workers and laborers while engaged in such work shall work no more than eight hours in any one day. It shall be unlawful for any state, county or municipal officer to make any such contract

without such provision. It shall be unlawful for any employer or other person to require or permit any mechanics, workman or laborer to work more than eight hours per calendar day, in doing such work or furnishing such material. In the case of necessity for the protection of property or human life, mechanics, workmen and laborers may be employed for longer periods than eight hours per calendar day if paid extra compensation on the basis of eight hours constituting a day's work. Not less than the prevailing rate of the daily wages in the locality where the work is performed shall be paid to mechanics, workmen and laborers employed by contractors or subcontractors or by or in behalf of the state or any county or municipality. The prevailing rate of wage for workers of any craft shall be the rate paid by the employers employing a majority of the workers of that craft in the county or municipality in which the work is being done. In case of disagreement the commissioner shall determine the prevailing rate of wage and his determination shall be conclusive. Any officer of this state or any county, city, township or other municipality of this state, or any person acting under or for such officer, or any contractor with this state, or any, or any county, city, township or other municipality thereof, or any subcontractor under any such contractor, or the agent, manager or superintendent of any contractor or subcontractor violating any of the provisions of this section shall be deemed and adjudged a disorderly person, and shall for each offense be punished by a fine of not less than fifty dollars, or by imprisonment for not more than six months, or both fine and imprisonment in the discretion of the court; provided, complaint of violation of this section be made by the commissioner or his representative within the department, authorized by him to act in such manner.

Sources. L. 1913, c. 253, S1, p. 479, (1924 Suppl. S107-78d) as am. by L. 1932, c176 S2, p. 303, L. 1932, c. 230, S1, p. 507, L. 1913, c. 253, S2, p. 480 (1924 Suppl. S107-78e) as am. by L. 1932, c. 230 S2, p. 508.

34:10-2. FEDERAL AID PROJECTS EXCEPTED FROM STATUTES REGULATING WAGES AND HOURS. All statutes providing for hours of employment and rate of wages of laborers, workmen and mechanics on work done under contract made by or on behalf of the state or any board, department, commission or agency thereof or by or on behalf of any county or municipality or any water, sewer or fire district, or any

school district, or consolidated school district shall not apply and shall be without force and effect where payment for work under such contracts or payments to such laborers, workmen and mechanics shall be made in whole or in part out of grants of money received from the federal government or any agency thereof.