

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

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NATIONAL MINIMUM WAGE OF

WORKERS ACT, No. 3 OF 2016

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[Certified on 23rd March, 2016]

Printed on the Order of Government

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National Minimum Wage of Workers 1

Act, No. 3 of 2016

[Certified on 23rd March, 2016]

L.D.—O. 51/2015.

AN ACT TO PROVIDE FOR THE PAYMENT OF NATIONAL MINIMUM WAGE

BY EMPLOYERSTOWORKERS ANDFOR MATTERSCONNECTED THEREWITH

OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:-

1. (1) This Act may be cited as the National Minimum Short title and

Wage of Workers Act, No. 3 of 2016. the date of

operation.

(2) The provisions of this Act shall be deemed, for all

purposes to have come into operation on January 1, 2016.

2. (1) The Commissioner-General shall be the competent Competent

Authority.

authority for the purposes of this Act.

(2) The competent authority may delegate to any officer

of the Department of Labour any power, function or duty

conferred or imposed on, or assigned to, such authority by

this Act.

3. (1) The national minimum monthly wage for all National

workers in any industry or service shall be ten thousand minimum wage.

rupees and the national minimum daily wage of a worker

shall be four hundred rupees.

(2) Notwithstanding the provisions of any other written

law, no employer in any industry or service shall pay to any

worker employed by him a wage which is less than the

national minimum monthly or daily wage specified in

subsection (1), as the case may be.

2—PL 009745—2,950 (02/2016)

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Special 4. Every worker who has been employed by any

provisions employer shall, subject to the provisions of section 3, for so

regarding

long as he continues to be a worker of such employer,

continuation of

employment. continue to be so employed on such terms and conditions

relating to wages or salary, allowances or other payments in

money by whatsoever name or designation as are not less

favourable than those which such worker had enjoyed on

the day immediately prior to the date of the coming into

operation of this Act.

Duty of the 5. (1) The employer of a worker in any industry or

employer to service shall from and after the date of coming into operation

maintain a

of this Act, maintain and keep in the premises in which that

register.

industry or service is carried on, a register setting out-

(a) the name of each worker employed by him;

(b) the class of work performed by each worker

employed by him; and

(c) the amount paid to each such worker as wages.

(2) Every register maintained under subsection (1), shall

be preserved for a period of six years by the employer.

Powers of 6. The competent authority shall have power-

competent

authority.

(a) to enter into and inspect at all reasonable hours

of the day or night, any place in which workers

in any industry or service are employed, for the

purpose of inspection of any register or for

ascertaining whether the provisions of this Act

are being complied with;

(b) where no such register is available for

examination when he inspects such place, to

require the production of such register on a

specified later date for examination at such place

or at the office of such authority;

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(c) to take copies of the whole or any part of any

such register;

(d) to question any person whom he finds in such

place and has reasonable cause to believe is the

employer of workers employed in any industry

or service carried on in such place; or

(e) to direct, in writing, any employer of workers

employed in any industry or service to furnish

him on or before a specified date, with-

(i) a return, relating to all workers employed

by any such employer in any specified

class or description of such workers and

containing such other particulars as he

may require for the purposes of this Act;

(ii) such information or explanation as he may

require in respect of particulars stated in

any return furnished by any such

employer; or

(iii) a true copy of the whole or any part of any

register maintained by any such employer.

7. (1) Every employer shall, when required by the Duty to produce

Commissioner-General, produce the register for inspection the register.

or furnish a true copy thereof or permit a copy of such register

to be taken.

(2) Where an employer of any worker in any industry or

service -

(a) has failed to maintain and keep the register required

to be kept under subsection (1) of section 5; or

(b) fails to produce for inspection when required to do

so under section 6,

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the Commissioner-General shall assess the wage or the short

payment thereof, as the case may be, payable to such worker

under this Act on the basis of all the evidence both oral and

documentary, available to him and the provisions of section

8 shall apply where default is made in the payment of any

such wage or part thereof.

Action against 8. (1) Where any employer fails to pay the national

default of minimum monthly or daily wage payable to any worker or

payment of the

national workers under this Act, the Commissioner-General shall, after

minimum wage. such investigation as he may deem necessary, if he is satisfied

that the employer has defaulted payment of the national

minimum monthly or daily wage to such worker or workers,

by notice issued to such employer, require the employer to

deposit with him the amount of such part of the national

minimum monthly or daily wage that is defaulted in respect

of such worker or workers for the period the amount is due,

within the date specified in such notice.

(2) The employer shall, upon receipt of such notice under

subsection (1) deposit with the Commissioner-General the

amount indicated in the notice on or before the date specified

in the notice and any payment of any part of the wage in

default to the worker or workers concerned made by the

employer after receipt of such notice shall not be deemed to

be a valid payment of such amount in default.

(3) Where an employer fails to make the payment of any

sum he is liable to pay as the national minimum monthly or

daily wage under this Act and contravenes subsection (2),

the Commissioner-General shall issue a certificate containing

particulars of the sum so due and the name and place of

residence of the defaulting employer to the Magistrate

having jurisdiction in the division in which the place of

employment of the worker or workers in respect of whom

default is made is situate.The Magistrate shall, thereupon

summon such employer to appear before him to show cause

why further proceedings for the recovery of the sum due

under this Act should not be taken against him and if such

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employer fails to appear before court on the day specified in

such summons or sufficient cause is not shown, as the case

may be, such sum shall be deemed to be a fine imposed by a

sentence of the Magistrate on such employer for an offence

punishable with imprisonment and the provisions of

subsection (1) of section 291 [except paragraphs (a), (d) and

(i)] of the Code of Criminal Procedure Act, No. 15 of 1979

relating to the default of payment of a fine imposed for such

an offence shall thereupon apply and the Magistrate may

make any direction which by the provisions of that

subsection he could have made at the time of imposing such

sentence.

(4) The correctness of any statement in a certificate issued

by the Commissioner-General for the purpose of this section

shall not be called in question or examined by the Court in

any proceedings under this section, and accordingly any

statement in such certificate shall be sufficient evidence to

the facts that the amount due under this Act from the

defaulting employer has been duly calculated and that such

amount is in default.

(5) In any proceedings against any employer under this

section for failure to pay any sum which he is liable to pay

under this Act, the burden of proving that the sum was paid

shall lie on the employer.

(6) The provisions of the Prescription Ordinance (Chapter

68) shall not apply to any action brought under subsection

(3).

9. (1) Any employer in any industry or service who Offences and

penalties.

contravenes the provisions of section 3 or section 4 or section

8 of this Act shall be guilty of an offence and shall be liable

on conviction by a Magistrate to a fine not exceeding twenty

five thousand rupees or to imprisonment of either description

for a term not exceeding six months or to both such fine and

imprisonment.

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(2) Any person who-

(a) fails to furnish the competent authority with such

assistance as is necessary for any entry or

inspection or for the exercise of his powers under

section 6;

(b) hinders or obstructs such authority in the exercise

of the powers conferred by that section;

(c) refuses to produce any register or furnish any

information which such authority requires him

to produce or furnish;

(d) makes or causes to be made in any register, any

false statement or makes or causes or knowingly

permits to be produced, any register containing

a false statement to such authority, knowing the

same to be false;

(e) furnishes any information to such authority

acting under the powers conferred by that

section, knowing the same to be false; or

(f) fails to comply with any directions given by

such authority under section 6, or who, when

called upon to furnish a return under that section,

knowingly makes or furnishes, or causes to be

made or furnished, a return containing any false

statement,

shall be guilty of an offence and shall be liable on conviction

by a Magistrate to a fine not exceeding twenty five thousand

rupees or to imprisonment of either description for a term

not exceeding six months or to both such fine and

imprisonment.

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10. Where an offence under this Act is committed by a Liability of the

directors and

body of persons then – certain officers

for offences

(a) if that body of persons is a body corporate, every committed by a

body of persons.

person who at the time of the commission of the

offence was a director, general manager, agent,

secretary or officer holding similar office of that

body;

(b) if that body of persons is a firm, every partner of

that firm; or

(c) if that body of persons is not a body corporate,

every person who at the time of the commission of

the offence was a member of that body,

shall be deemed to be guilty of that offence, unless he proves

that the offence was committed without his consent or

connivance and that he exercised all such diligence so as to

prevent the commission of that offence as he ought to have

exercised having regard to the nature of his functions and

the related circumstances.

11. No prosecution for any offence committed under Conditions

this Act shall be instituted except by, or with the previous necessary for the

prosecution for

written sanction of, the Commissioner-General. offences under

this Act.

12. The provisions of this Act shall be in addition to Construction of

and not in derogation of the provisions of any other written the Act.

law:

Provided however, that in the event of any conflict or

inconsistency between the provisions of this Act and any

other written law, the provisions of this Act shall prevail.

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Retrospective 13. Where there remains, as on the date of coming into

effect.

operation of this Act, any unpaid amount of the national

minimum monthly or daily wage payable by any employer

to any worker under section 3 of this Act for the period

commencing on January 1, 2016 and ending on the date on

which this Act comes into operation, and where such

employer pays to such worker such arrears in equal monthly

instalments or higher monthly installments within a period

of six months commencing from the date on which this Act

comes into operation, such employer shall for all purposes

be deemed to have complied with the provisions of section

3 of this Act.

Interpretation. 14. In this Act, unless the context otherwise requires-

“Commissioner-General” means the person for the time

being holding the office of Commissioner-General

of Labour and includes any person for the time being

holding office as an Additional Commissioner-

General, a Commissioner of Labour, a Deputy

Commissioner of Labour, an Assistant

Commissioner of Labour or a Labour officer;

“employer” means any person who employs or on whose

behalf any other person employs, any worker and

includes a body of employers (whether such body

is a firm, company, local authority or trade union),

and any person who on behalf of any other person

employs any worker including a competent

authority of a business undertaking vested in the

Government under any written law, the legal heir,

successor in law, executor or administrator and

liquidator of a company and in the case of an

unincorporated body the president or secretary of

such body, and in the case of a partnership the

managing partner or manager;

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“industry or service” includes –

(a) any trade, business, manufacture and agriculture,

any undertaking or occupation by way of trade,

business, manufacture or agriculture and any

branch or section of trade, business, manufacture

or agriculture;

(b) work or labour of any description whatsoever

performed by persons in the employment of a

local authority, or of a corporation established

by or under any written law for carrying on an

undertaking whether for purposes of trade or

otherwise;

(c) every occupation, calling or service of workers,

and

(d) every undertaking of employers,

but does not include any industry, business or

undertaking which is carried on by any corporation,

board or other body which was or is established by or

under any written law where the Government holds a

majority of the share capital with funds or capital

wholly or partly provided by the Government by way

of grant, loan or otherwise; or any registered society

within the meaning of the Co-operative Societies Law,

No. 5 of 1972 or any religious institution or any

charitable institution within the meaning of the Inland

Revenue Act, No. 10 of 2006;

“national minimum wage” means -

(a) the contractual wage or salary of the worker or

the wage prescribed under the Wages Boards

Ordinance (Chapter 136) for the industry or

service to which the worker belongs; and

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(b) wages or basic salary together with the cost of

living allowance, special living allowance or

any other similar allowance;

“worker” means, any person who has entered into or works

under a contract with an employer in any capacity,

whether the contract is expressed or implied, oral

or in writing and whether it is a contract of service

or of apprenticeship excluding a contract of

apprenticeship covered under the Tertiary and

Vocational Education Act, No. 20 of 1990 and the

Employment of Trainees (Private Sector) Act, No. 8

of 1978, or a contract personally to execute any

work or labour and includes any person ordinarily

employed under any such contract whether such

person is or is not in employment at any particular

time and includes any person whose services have

been terminated but does not include a domestic

servant.

Sinhala text to 15. In the event of any inconsistency between the

prevail in case Sinhala and Tamil texts of this Act, the Sinhala text shall

of inconsistency.

prevail.

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