

L.D.O-55/2009

**An Act to Amend the Wages Boards Ordinance**

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

Short title

1. This Act may be cited as the Wages Boards (Amendment) Act No. 2010.

Amendment of section 4 of Chapter 136.

2. Section 4 of the Wages Boards Ordinance (Chapter 136) (hereinafter referred to as the "principal enactment") is hereby amended as follows:-

(1) by the repeal of subsection (1) of that section and the substitution therefor of the following:-

"(1) Every employer who fails to comply with any provisions of this section of this Part shall be guilty of an offence and shall be liable to a fine not less than five thousand rupees and not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment.";

(2) in subsection (2A) of that section-

(a) in paragraph (d) of that section by the substitution for the words "of such sum." of the words "of such sum;";

(b) by the addition immediately after paragraph (d) of that section of the following new paragraph:-

"(e) where such sum is in arrears for a period exceeding twenty - four months a surcharge of ten *per centum* thereafter for each period of twelve months.".

Amendment of section 41 of the principal enactment.

3. Section 41 of the principal enactment is hereby amended in subsection (2) thereof by the substitution for the words "four years commencing" of the words "six years commencing".

Amendment  
of section 44  
of the principal  
enactment

4. Section 44 of the principal enactment is hereby amended by the repeal of subsections (1) and (2) of that section and the substitution thereof of the following:-

“(1) Every employer who fails to pay wages to any worker in accordance with the provisions of section 21, shall be guilty of an offence and shall be liable to a fine not less than five thousand rupees and not exceeding ten thousand rupees or to imprisonment of either description of a term not exceeding one year or to both such fine and imprisonment, and shall in addition, be liable to a fine not exceeding five hundred rupees for each day on which the offence is continued after conviction.

(2) Every employer, other than an employer referred to in subsection (1), who fails to make to any worker any payment in accordance with any provision of this Part of this Ordinance or of any decision of a Wages Board, shall be guilty of an offence and shall be liable to a fine not less than five thousand rupees and not exceeding ten thousand rupees or to imprisonment of either description for a term not exceeding one year or to both such fine and imprisonment, and to a fine not exceeding five hundred rupees for each day on which the offence is continued after conviction.”

Amendment of  
section 46 of  
the principal  
enactment.

5. Section 46 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “during the four years” of the words “during the six years”.

Amendment of  
section 48 of  
the principal  
enactment

6. Section 48 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “to a fine not exceeding five hundred rupees” of the words “to a fine not exceeding five thousand rupees”.

Amendment of  
section 50 of  
the principal  
enactment

7. Section 50 of the principal enactment is hereby amended in subsection (1) of that section by the substitution for the words “not exceeding two hundred rupees” and the words “not exceeding three months” of the words “not less than five thousand rupees” and the words “not exceeding twelve months” respectively

Amendment of  
section 51 of  
the principal  
enactment

8. Section 51 of the principal enactment is hereby amended by the substitution for the words “not exceeding two hundred rupees” and the words “not exceeding three months” of the words “not less than five thousand rupees” and the words “not exceeding twelve months” respectively.

Amendment of section 56 of the principal enactment

9. Section 56 of the principal enactment is hereby amended in paragraph (c) of that section by the substitution for the words "within four years" of the words "within six years".

Amendment of section 58 of the principal enactment

10. Section 58 of the principal enactment is hereby amended in the succeeding paragraph to paragraph (g) of that section by the substitution for the words "not exceeding one thousand rupees" and the words "not exceeding six months" of the words "not less than twenty thousand rupees" and the words "not exceeding twelve months" respectively.

Replacement of section 59 A in the principal enactment.

11. Section 59 A of the principal enactment is hereby repealed and the following section substituted therefor:-

"Special provisions applicable where persons are employed to do work under any arrangement made by way of trade or any commercial purpose

59 A.(1) Where any person enters into a contract or work arrangement expressed or implied, for trade or commercial purposes, with any other person who employs workers to perform work on a regular basis which is an integral part of the business activities of the first - mentioned person, and such person employs workers pursuant to the said contract or work arrangement, such contract of employment or work arrangement shall be deemed to amount to a disguised employment relationship.

(2) Where the Commissioner is of opinion, after due inquiries that such work arrangement is in fact a disguised employment relationship, he shall in writing direct the first - mentioned person referred to in subsection (1) to refrain from having such work executed under such arrangement or agreement in respect of such workers.

(3) A person who has been aggrieved by a directive made in respect of him under subsection (2) shall have a right to appeal to the Special Employment Relations Tribunal established under section 59B of this Act within thirty days of the making of such directive. The Special Employment Relations Tribunal shall thereafter summon all parties concerned and make a determination affirming or rejecting the directive of the Commissioner."

Insertion of 12. The following new sections are hereby inserted immediately after sections 59 B, section 59A of the principal enactment and shall have effect as sections 59C, and 59 D 59B, 59C, and 59D of that enactment:-  
in the principal  
enactment.

“Establishment of a Special Employment Relations Tribunal. 59 B. (1) There shall be established a Special Employment Relations Tribunal ( hereinafter referred to as “Tribunal” ) for the determination of appeals made to the Tribunal by any aggrieved person in terms of subsection (3) of section 59 A.

(2) The Tribunal shall consist of three Members to be appointed by the Minister. The three members shall be persons who have a wide knowledge and experience in the field of labour laws and one of whom shall be a retired Judge of the Supreme Court or Court of Appeal of Sri Lanka who shall be the Chairman of the Tribunal.

(3) A member of the Tribunal shall hold office for a period of three years and shall be eligible for reappointment.

(4) Any member may at any time resign his office by a letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister.

(5) Where any member vacates office by resignation, removal, death or of his inability to hold office on account of ill health or absence from Sri Lanka or any other cause, the Minister may appoint another person in his place in terms of subsection (2) and the person so appointed may hold office for the unexpired period of term of office of the member whom he succeeds.

(6) The Minister may remove any member of the Tribunal for reasons assigned.

(7) There shall be a Secretary to the Tribunal appointed by the Commissioner who shall maintain records of the Tribunal and attend to any such other work assigned to him by the Tribunal and the Commissioner relating to functions of the Tribunal.

(8) The Commissioner may appoint such officers and servants as are necessary to facilitate the functions of the Tribunal.

(9) The members of the Tribunal may be paid such remuneration as the Minister may determine in consultation with the Minister in charge of the subject of Finance.

Powers and functions of the Tribunal 59 C (1) The Tribunal shall hear and determine the appeals made to it under subsection (3) of section 59 A in accordance with the principles of natural justice. On making a decision the Chairman shall forthwith inform the Commissioner and the parties of the decision.

(2) The Commissioner shall upon receipt of the decision of the Tribunal, cause the same to be published in the Gazette.

(3) The decision shall be effective as between the parties with effect from the date of publication in the Gazette or from such date as may be specified therein.

Power of Commissioner to institute action. 59D. Any person who fails to comply with any directive of the Commissioner under section 59A, or does any act in violation of the decision of the Tribunal under section 59C shall be guilty of an offence and the Commissioner or any person duly authorized by him in writing may institute action in the appropriate Magistrate's Court against such person."

Sinhala text to prevail in case of inconsistency 13. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

