PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

WAGES BOARDS (AMENDMENT) ACT, No. 14 OF 2019

[Certified on 24th of September, 2019]

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Wages Boards (Amendment)
Act, No. 14 of 2019

[Certified on 24th of September, 2019]

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. 14 of 2019.

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 therefor 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 subseciton (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 subseciton (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 subseciton (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 59A of the principal enactment.

11. Section 59A 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.

59A. (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 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 contract or 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 contract or arrangement 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 sections 59B, 59C, and 59D in the principal enactment.

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

"Establishment of a Special Employment Relations Tribunal.

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

(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.

Power and functions of the Tribunal.

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

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