AN ACT TO AMEND THE EMPLOYEES' TRUST FUND ACT, NO. 46
OF 1980

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

1. This Act may be cited as the Employees' Trust Fund (Amendment) Act, No. 18
   of 1993.

2. Section 23 of the Employees, Trust Fund Act, No. 46 of 1980
   (hereinafter referred to as the "principal enactment"), is hereby
   amended in subsection (2) of that section by the addition at the end of
   that subsection of the following proviso:

   “Provided that where a non pensionable post held by an employee in any service referred to
   in paragraphs (ii) and (iv) is subsequently made pensionable with effect from the date on
   which he was first employed in the non-pensionable post, the amount of, the contributions
   standing to the credit of the individual account of that employee on the date on which the post
   was made pensionable shall be refunded to his employer.”.

3. Section 25 of the principal enactment is hereby amended by the
   insertion, immediately after subsection (3) of that section of the
   following new subsection:

   " (3A) Where no nomination has been made under the
   provisions of this Act and such member is also a member of
   the Employees' Provident Fund established under the
   Employees' Provident Fund Act or an approved provident
   fund under that Act, any nominee nominated under the
   regulations made under that Act shall be deemed to be a
   nominee under this Act and the provisions of this Act shall,
   mutatis mutandis, apply in respect of that nominee.”.

4. The following new section is hereby inserted immediately after section
   37, and shall have effect as section 37A of the principal enactment:

   " 37A. Where an employer, who is required by the Act or any
   Imposition regulation made there under or any direction issued by the
   Board, to furnish a return relating to contributions, has failed to
   furnish that return within the period specified therein, or has
   furnished an incorrect or deficient return and is unable to
   defaulting explain to the satisfaction of the Board or an officer authorized
   employers, in that behalf by the Board the reason for the failure to furnish
   the return within that period, or to furnish an accurate or
   complete return, as the case may be, he shall be liable to pay to
   the fund a surcharge at the rate of one per cent of the amount of
   the contribution to which the return relates for every completed
   month or part thereof from the last date on or before which the
   return was due to the date of receipt by the Board of a duly
   completed and correct return. ".
5. Section 44 of the principal enactment, as amended by Act No. 47 of 1988, is hereby further amended as follows:

   (1) by the substitution for the definition of "earnings" of the following definition:

   "earnings," means

   (a) wages, salary or fees;
   (b) cost of living allowance, special living allowance, and any other similar allowances;
   (c) payment in respect of holidays;
   (d) the cost value of any cooked or uncooked food provided by the employer to employees in employments provided by regulations made under the Employees' Provident Fund Act, and any such commodity used in preparation or composition, of any food as so provided, such value being assessed by the employer, subject to an appeal to the Commissioner of Labour whose decision on such appeal shall be final;
   (e) meal allowances; and
   (f) such other forms of remuneration as may be prescribed by regulations made under the Employees' Provident Fund Act;

   (2) by the substitution, in the definition of the word "employer" for the words "company, corporation or trade union", of the words "company, corporation, local authority or trade union".

6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.