

WAGES BOARDS

AN ORDINANCE FOR THE REGULATION OF THE WAGES AND OTHER EMOLUMENTS OF PERSONS EMPLOYED IN TRADES, FOR THE ESTABLISHMENT AND CONSTITUTION OF WAGES BOARDS, AND FOR OTHER PURPOSES CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

Ordinance Nos, [19th September , 1941]

27 of 1941
40 of 1943
39 of 1945
22 of 1945

Short title. **1.** This Ordinance may be cited as the Wages Boards Ordinance.

PART 1

Act Nos,

5 of 1953
27 of 1957
27 of 1962
23 of 1966
24 of 1966
10 of 1978
10 of 1980

36 of 1982 [12th October , 1982]

PROVISIONS RELATING TO ALL TRADES

Payment of wages. **2.** The employer of workers in any trade shall comply with the following provisions of this section regarding the payment of wages to every such worker [2, 5 of 1953] :-

(a) He shall, subject as hereinafter provided, pay such wages in legal tender directly to the worker, without any deduction other than an authorized deduction, as hereinafter defined, made with the consent of the worker:

Provided that the aggregate of the deductions so made at any one time shall not exceed-

(i) seventy-five per centum of the wages due, in the case of a worker in any trade specified by the Minister for the purposes of this paragraph by Notification published in the Gazette; and

(ii) fifty per centum of the wages due, in the case of a worker employed in any other trade;

Provided, further, that nothing in the preceding provisions of this paragraph shall affect or be deemed to affect-

(i) any deduction authorized to be made from such wages by the Income Tax Ordinance* or any other written law; or

(ii) any retention or payment of the whole or any part of such wages made in pursuance of or compliance with any order, process or decree made or issued by any court of law.

For the purposes of this paragraph a payment which, immediately after the wages are paid to the worker, is made out of the wages by

the worker to the employer or to an agent of the employer, shall be deemed to be a deduction from the wages.

In this paragraph "authorized deduction" means a deduction made in such manner and subject to such conditions, if any, as may be prescribed in respect of-

(i) any advance of money made by the employer to the worker,

(ii) any payment which, at the instance of the worker, is made out of the wages of the worker by the employer to any person other than the employer or an agent of the employer in order to discharge any obligation of the worker or for any other purpose, or

(iii) any other prescribed matter.

[2.5 of 1953] (b) Subject to the provisions of subsection (1) of section 5, he shall fix the wage period (not exceeding one month) in respect of each worker employed by him and shall pay the wages for that period to that worker-

(i) where that period does not exceed one week, within three days after the expiry of that period, or

(ii) where that period exceeds one week but does not exceed two weeks, within five days after the expiry of that period, or

(iii) where that period exceeds two weeks, within ten days after the expiry of that period:

Provided, however, that where owing to the absence of any worker or to any other unavoidable cause, it is not possible to pay the wages of any worker within the time limited by this paragraph, he may retain such wages and shall thereafter pay such wages to that worker at the earliest possible opportunity. Nothing in this paragraph shall in any way affect the period of notice or warning necessary under any provision of written law other than this Ordinance for the termination of any contract.

[2, 27 of 1957]

(c) If on any date he terminates the employment of a worker or any worker lawfully terminates employment under him,

he shall, before the expiry of the second working day after that date, pay the wages due to that worker.

Wage records. **3.**
[3, 5 of 1953]

(1) Subject to the provisions of subsection (2) of section 5, the employer of workers in any trade shall maintain and keep in the premises where that trade is carried on a clear and accurate record in writing (hereinafter referred to as a "wage record"), in respect of each wage period of such workers, specifying-

- (a) the wage period,
- (b) the names of the workers who are paid wages in respect of such wage period,
- (c) the number of hours or days during which each such worker has worked in such wage period,
- (d) the wages paid to each such worker in respect of such wage period,
- (e) the date of payment of such wages,
- (f) the deductions from such wages, and

[3,27 of 1957] (g) particulars of such other matters as may be prescribed.

(2) Every person who as an employer maintains or has maintained under subsection (1) a wage record in respect of any wage period shall preserve such record for four years commencing on the last day of such period, and shall, when required to do so by the Commissioner of Labour or any prescribed officer, produce such record for inspection and furnish a true copy of such record or of any part of such record or permit such a copy to be made.

Grant of Holiday on the Full Moon Poya Day.
[Gaz. Extra. No. 14,984/44 of 15.11.1971]

3A. An employer of workers in any trade shall grant to such workers a holiday on every Full Moon Poya Day: Provided that no additional weekly holiday shall be granted to the workers where the weekly holiday falls on a Full Moon Poya Day.

Employment on Full Moon Poya Day.
[Gaz. Extra. No. 14,984/44 of 15.11.1971]

3B. Notwithstanding the provisions of section 3A, the employer of workers in any trade may employ a worker on a Full Moon Poya Day for a normal period of employment, subject to the condition that he shall be paid not less than one and a half times his normal daily rate of wages.

Particulars of wages to be furnished to the worker or to his trade union.
[2,10 of 1978]

3C. Every employer who, under section 3, maintains or has maintained a wage record shall, on any request made by a worker or by the trade union to which he belongs, furnish or cause to be furnished, all particulars of the wages paid to such worker in the prescribed form.

arrears of wages in certain cases. **3D.**
[2, 10 of 1978]

(1) Where an employer of any worker in any trade has failed to maintain and keep in the premises where that trade is carried on the wage record required to be kept under subsection (1) of section 3, or fails, when required to do so under subsection (2) of that section, to produce such record for inspection, the Commissioner is hereby empowered to assess the wages or the short

payment of wages, as the case may be, payable to such worker under this Ordinance on the basis of all the evidence both oral and documentary, available to him, and the provisions of subsection (2) shall apply where default is made in the payment of any such wages.

(2) Where an employer makes default in the payment of any sum which he is liable to pay under subsection (1), and the Commissioner is of opinion that it is impracticable or inexpedient to recover that sum under any other provisions of this Ordinance, then, he may 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 such place is situated. The Magistrate shall thereupon summon such employer before him to show cause why further proceedings for the recovery of the sum due should not be taken against him, and in default of sufficient cause being shown, such sum shall be deemed to be a fine imposed on such employer by such Magistrate, and shall be recovered accordingly. Every sum so recovered shall be paid to the Commissioner.

(3) The correctness of any statement in a certificate issued by the Commissioner for the purposes of this section shall not be called in question or examined by the court in any proceedings under this section, and accordingly nothing in this section shall authorize the court to consider or decide the correctness of any statement in such certificate, and the Commissioner's certificate shall be sufficient evidence that the amount due under subsection (1) from the defaulting employer has been duly calculated and that such amount is in default.

Penalty for failure to comply with provision of Part 1.

[3, 10 of 1978]

4.

(1) Every employer who fails to comply with any provision of this Ordinance shall be guilty of an any offence and shall be liable-

(a) in the case of a first offence, to a fine not less than one hundred rupees nor exceeding two hundred and fifty rupees,

(b) in the case of a second offence, to a fine not less than two hundred and Fifty rupees nor exceeding five hundred rupees, and

(c) in the case of a subsequent offence, to a fine not less than five hundred rupees nor exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

[3,36 of 1982]

(2) On conviction of an employer under subsection (1) of an offence in respect of any worker, the court may, in addition to any other sentence, order the employer to pay-

(a) where a worker has not been paid the amount which ought properly to have been paid to that

worker, such sum as may be found by the court to represent the difference between such amount and the amount actually paid and the surcharge referred to in subsection (2A); or

(b) where no portion of the wages due to that worker has been paid, such sum as may be found by the court to represent such wages and the surcharge referred to in subsection (2A). Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

[3,36 of 1982]

(2A) The surcharge payable on any sum referred to in paragraph (a) or paragraph (b) of subsection (2) shall be calculated as follows :-

(a) where such sum is in arrears for a period exceeding one month but not exceeding three months, a surcharge of twenty per centum of such sum;

(b) where such sum is in arrear for a period exceeding three months but not exceeding six months, a surcharge of thirty per centum of such sum ;

(c) where such sum is in arrear for a period exceeding six months but not exceeding twelve months, surcharge of forty per centum of such sum;

(d) where such sum is in arrear for a period exceeding twelve months, a surcharge of fifty per centum of such sum.

[4,27 of 1957]

(3) The power of the court to make an order under subsection (2) for the payment of any sum of money shall not be in derogation of any right of the worker to recover that sum by any other proceedings.

Duration of provisions of sections 2 (b) and 3.

5.

(1) With effect from the date on which a decision of a Wages Board under section 23 comes into force in respect of any trade, the provisions of paragraph (b) of section 2 shall cease to have effect in respect of that trade, in so far as they are inconsistent or in conflict with any such decision.

(2) The provisions of section 3 shall cease to have effect in respect of any trade with effect from the date on which a form of register under section 41 is prescribed for that trade.

PART II

PROVISIONS RELATING TO PARTICULAR TRADES APPLICATION OF PART II OF ORDINANCE TO PARTICULAR TRADES

Application of Part II to particular trades.

6.

(1) Subject to the provisions of section 7, the Minister may by order in writing apply the provisions of this Part of this Ordinance to any trade specified in such order.

[3,40 of 1943] The power conferred by the preceding provisions of this subsection shall be deemed to include the power to make from time to time an amending order for the purpose of varying in any manner the description of any trade specified in any earlier order.

(2) Every order under subsection (1) shall be published by notification in the Gazette and shall come into force on the date of such publication or on such later date as may be specified in such notification.

Notice of **7.**
intention to
apply Part II.

(1) No order under section 6 shall be made unless notification of the intention to make such order is published in the Gazette and in one Sinhala, one Tamil and one English newspaper, together with a notice specifying a date on or before which objections to the proposed order will be received by the Minister.

(2) Every objection preferred in consequence of a notice under subsection (1) shall be made in writing and shall contain a statement of the grounds upon which objection is taken to the proposed order.

(3) The Minister shall consider all objections made in consequence of a notice under subsection (1) and may for the purpose of investigating any such objection hold such inquiry as to him may seem necessary.

WAGES BOARDS

Establishment of **8.**
Wages Boards.

(1) The Minister may by Order published in the Gazette-

(a) establish a Wages Board for any trade to which the provisions of this Ordinance have been applied under section 6 or for any branch of, or any function or process in, any such trade;

[4, 5 of 1953] (b) declare that the powers, duties and functions under this Ordinance of any Wages Boards so established for any trade shall extend to any other trade to which those provisions have been so applied.

(2) No Order under paragraph (b) of subsection (1) shall be made unless notification of the intention to make such Order is published in the Gazette and in at least one Sinhala, one Tamil and one English newspaper, together with a notice specifying a date on or before which objections to the proposed Order will be received by the Minister.

(3) Every objection preferred in consequence of a notice under subsection (2) shall be made in writing and shall contain a statement of the grounds upon which objection is taken to the proposed Order.

(4) The Minister shall consider all objections made in consequence of a notice under subsection (2) and may for the purpose of investigating any such objection hold such inquiry

as to him may seem necessary.

[4, 5 of 1953]

(5) Where the description of any trade for which a Wages Board has been established is varied on any date by an order made under subsection. (1) of section 6, that board shall be deemed to have been duly established on that date for the trade of the varied description.

Constitution of 9.

Wages.

Boards.

[4, 40 of 1943]

(1) Subject to the provisions of subsection (7), every Wages Board shall consist of the Commissioner and of members representing employers in the trade for which the board is established, and members representing workers engaged in such trade, and of nominated members.

(2) The number of representative members of a Wages Board shall be determined by the Minister and one-half of such number shall be representatives of the employers and one-half shall be representatives of the workers. All representative members of a Wages Board shall be appointed by the Minister.

(3) Where the powers, duties and functions of any Wages Board are extended under section 8, the Minister may appoint an equal number of additional representative members to represent employers and workers, respectively.

(4) Any person may be appointed a representative member of a Wages Board notwithstanding that he is not an employer or a worker in the trade for which the board is established : Provided, however, that-

(a) any person who is to be appointed a representative member shall, if he is to represent any employers or workers who are members of any trade union, association, or other organization, be approved by that union, association, or organization, and

(b) any person who has been appointed to be a representative member on the approval of any such union, association, or organization, may at the request of such union, association, or organization, be removed from office by the Minister if the Minister, after such inquiry as he may deem necessary, is satisfied that such person has ceased to be a member or to have the confidence of such union, association, or organization.

(5) Women shall be eligible for appointment as members of Wages Boards as well as men.

(6) Any person may be a member of more than one Wages Board.

[4,40 of 1943]

(7) The Minister shall appoint to be nominated members of a Wages Board such number of persons (not exceeding three) as he may deem fit, No person who is an employer or a worker in any trade shall be appointed to be a nominated member of the Wages Board established for that trade.

[5,5 of 1953] (8) Where any member of a Wages Board is, through illness or other cause which the Minister considers reasonable, unable to attend meetings of that board, the Minister may appoint a person to act as a member of that board during the absence of the first-mentioned member.

Chairman and secretary of Wages Board, **10.**

[6, 5 of 1953] (1) The Commissioner shall be the chairman of every Wages Board and shall preside at all meetings of such board : Provided, however, that in the absence of the Commissioner of Labour from any meeting of a Wages Board or during any stage of the proceedings thereof, a Deputy Commissioner of Labour or an Assistant Commissioner of Labour may, notwithstanding that he is not a member of that board, preside at that meeting on behalf of the Commissioner of Labour.

[6, 5 of 1953] (2) The officer presiding at any meeting of a Wages Board shall not be entitled to vote on any question before that meeting.

[6, 5 of 1953] (3) Every Wages Board shall have a secretary or two joint secretaries and may have an assistant secretary.

Procedure at meetings of Wages Boards, **11.**

[7, 5 of 1953]

(1) The quorum for a meeting of a Wages Board shall consist of-

- (a) the Commissioner of Labour or a Deputy Commissioner of Labour or an Assistant Commissioner of Labour,

[2,10 of 1980] (b) four representative members of whom two shall be representatives of employers and two shall be representatives of workers, and

(c) one nominated member.

[5, 40 of 1943] (2) Where in the attendance of members for the purpose of holding any meeting of a Wages Board, the number of members representing employers is greater or less than the number of members representing workers, the members representing employers or the members representing workers, whichever are in the majority, shall, before the meeting commences, choose from among themselves the member or members who shall refrain from voting at that meeting in order to ensure that the number of members representing employers who shall be entitled to vote at that meeting, and the number of members representing workers who shall be so entitled shall be equal:

Provided, however, that where the representative members who are in the majority are unable to agree among themselves as to which of them shall so refrain from voting, the member or members who shall refrain from voting at that meeting shall be chosen by lot to be drawn in the presence and under the directions of the chairman.

[5, 40 of 1943] (3) A representative member of a Wages Board who has been chosen in accordance with the provisions of subsection (2) to refrain from voting at any meeting of a Wages Board shall not be

entitled to vote at that meeting but shall be entitled to be present and to participate in any discussion at that meeting :

Provided, however, that such representative member shall be entitled to vote if, as a result of an increase in the attendance of members at any time during such meeting, the number of members present who represent employers is equal to the number of mem-bers present who represent workers.

[7.5 of 1953]

(4) Every decision which a Wages Board is empowered or required to make under this Ordinance must be made by a majority of the members present and entitled to vote at any meeting of that board ; and no decision of a Wages Board shall be invalid, by reason merely of any informality or error of form, or failure to do anything required by this Ordinance to be done as preliminary to the making of such decision.

(5) The proceedings of a Wages Board shall not be invalidated by any vacancy in the number of the members of that board or by any defect in the appointment of any member.

(6) Subject to the provisions of this Ordinance and of any regulation, a Wages Board may regulate its own procedure.

Term of office **12.**
of member of
Wages Board.

[6.40 of 1943]

(1) Every member of a Wages Board shall hold office for a period of three years from the date of his appointment:

Provided, however, that any member of the board (other than the Commissioner) may at any time resign from his membership of the board or be removed therefrom by the Minister ;

Provided further that-

[8, 5 of 1953]

(a) any person appointed to be a member of a Wages Board in place of a member who has died or resigned his membership of that board or has been removed from office, shall hold office during a period equal to the unexpired portion of the term of office of the last-mentioned member,

(b) any person appointed to act as a member of a Wages Board during the absence of a member shall hold office during the period of such absence, and

(c) any person who is appointed to be an additional member of a Wages Board shall hold office till the expiry of the term of office of the other permanent members of the board.

[8.5 of 1953]

(2) Any member of a Wages Board (other than the Commissioner of Labour) who is absent from three consecutive meetings of that board shall be deemed to have resigned his membership of that board on the fifteenth day after the date of the last of those meetings unless before that day he satisfies the Minister that his absence from each of those meetings was due to a reasonable cause. For the purposes of this subsection, " meeting" includes a meeting which is not held for want of a quorum.

(3) Any person ceasing to be a member of a Wages Board shall be eligible for reappointment thereto.

Regulations. **13.**

(1) Regulations not inconsistent with any provision of this Ordinance may be made-

(a) prescribing the manner in which the representatives of employers and workers may be chosen (whether by election or otherwise) ;

(b) prescribing the manner in which meetings of a Wages Board shall be summoned and held and the procedure to be followed at such meetings, including the method of voting ;

(c) prescribing the method of filling vacancies occurring in the membership of a Wages Board ;

(d) generally for or in respect of any matter relating to a Wages Board or the performance or discharge of any power, duty or function of a Wages Board under this Ordinance.

(2) Any regulation under subsection (1) may, as provided therein, apply to all Wages Boards or to any particular class of Wages Board or to any one or more specified Wages Boards.

Determination of questions **14.** If any doubt arises or any question is raised as to which of two or more Wages Boards is entitled or required to exercise and perform in any matter the powers, duties and functions of a Wages Board under this Ordinance, the Commissioner shall decide such question and his decision thereon shall be final.

Reference of matters to Wages Board by Minister or Commissioner. **15.** A Wages Board established for any trade shall consider and furnish a report upon any matter regarding the conditions of that trade which may be referred to it by the Minister or by the Commissioner.

Power of Wages Board to hold inquiries. **16.**

(1) For the purpose of making any decision or furnishing any report on any matter which a Wages Board is empowered or required to make or furnish under this Ordinance, a Wages Board may hold such inquiry as it may deem necessary.

(2) For the purpose of holding any inquiry under subsection (1), the chairman of a Wages Board shall have the same powers as a District Court to enforce the attendance of any person and examine him on oath and to enforce, the production of any relevant document ; and the provisions of the Civil Procedure Code relating to the powers of a civil court in respect of the matters aforesaid shall apply accordingly.

(3) Nothing in the preceding provisions of this section shall be deemed to require or permit any person to disclose any information or to produce any document in any case where the disclosure or production by that person of such information or document is prohibited by or under the provisions of any written

law other than this Ordinance.

Information given in proceedings before Wages Board to be treated as confidential in certain cases.

17.

(1) Where in any inquiry held by a Wages Board under section 16 or in any other proceedings before a Wages Board under this Ordinance, any information is given or any document produced by any person and a request is made by or on behalf of that person that such information or document or the contents of such document should be treated as confidential, the chairman of the board shall order that such information or document be treated as confidential.

(2) No member of a Wages Board or other person present at or concerned in any proceedings before a Wages Board shall in any way disclose any information or document in respect of which an order has been made under subsection (1), or the contents of any such document, except with the written consent of the party at whose request such order was made.

DISTRICT WAGES COMMITTEES

District Wages Committees.

18.

(1) A Wages Board established for any trade may, with the approval of the Minister and in accordance with regulations, constitute a District Wages Committee for that trade in any area or district in Sri Lanka.

(2) Every District Wages Committee shall consist of-

(a) such number of members of such Wages Board as that board may determine, but so, however, that the number of members representing employers and the number of members representing workers shall be equal ;

(b) such number of members to represent the employers in the area for which the committee is constituted as such Wages Board may determine, and an equal number of members to represent the workers in such area ; and

(c) the Commissioner or in his absence, a Deputy Commissioner, or in the absence of both of them, some other person (not being a member of such Wages Board) generally or specially authorized in writing by the Commissioner.

(3) The Commissioner, or in his absence the Deputy Commissioner, or, in the absence of both of them, any person authorized by the Commissioner under paragraph (c) of subsection (2) shall preside at all meetings of a District Wages Committee.

(4) The proceedings of a District Wages Committee shall not be invalidated by any vacancy in the number of members of that

committee or any defect in the appointment of any member.

(5) Regulations may be made with respect to the tenure of office of members of District Wages Committees, the filling of vacancies in the membership of such committees, the procedure to be followed at meetings of such committees, and the form and manner in which reports made by such committees shall be furnished ; but subject to the provisions of this Ordinance and of any such regulation, a District Wages Committee may regulate its own proceedings.

Reference of matters
by Wages Board to
District Wages
Committee.

19. A Wages Board may refer to any District Wages Committee constituted by that board any matter regarding which the board is empowered or required by this Ordinance to make any decision, and that committee shall consider any matter so referred and shall furnish to the board its report upon such matter.

DECISIONS OF WAGES BOARDS

Minimum **20.**
wages
[7.40 of 1943]

(1) In respect of the trade for which it is established, every Wages Board shall, subject to the provisions of subsection (3), determine a minimum rate of wages for time-work (hereinafter referred to as " a general minimum time-rate") and may also determine all or any one or more of the following rates of wages:-

(a) a minimum rate of wages for piece-work (hereinafter referred to as "a general minimum piece-rate") ;

(b) a minimum time-rate to apply in the case of workers employed on piece-work for the purpose of securing to such workers a minimum rate of remuneration on a time-work basis (hereinafter referred to as " a guaranteed time-rate ");

(c) a minimum rate (whether a time-rate or a piece-rate), to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by workers (hereinafter referred to as " an overtime rate ").

(2)

(a) Any minimum rate of wages determined in any decision of a Wages Board under subsection (1) in respect of any trade may consist of-

(i) a basic rate ; and

(ii) a special allowance at a rate to be adjusted, at such intervals and in such manner as the Wages Board may in such decision direct, to accord as nearly as practicable with the variation in the cost of living index-number applicable to workers in that trade; Provided, however, that a Wages Board may, in the decision by which the rate is determined, fix the minimum variation in such index-number upon which any such adjustment shall have effect.

(b) A Wages Board may, in any decision by which a minimum rate is determined, direct that the special allowance referred to in paragraph (a) shall be computed by the Commissioner at such intervals as may be specified, and in accordance with such directions as may be given, by the board in the decision; and in every such case the Commissioner shall compute such special allowance in accordance with such directions and shall publish it by notification in the Gazette at the intervals so specified.

(c) The minimum rate of wages applicable in the case of any trade at any time shall be the aggregate of the basic rate referred to in paragraph (a) (i) and of the special allowance referred to in paragraph (a) (ii), in force at that time, or, where the Commissioner has notified such allowance under paragraph (b), the aggregate of such basic rate and of the special allowance as so notified, in force at that time.

(d) In this subsection-

" competent authority" means the authority appointed by the Minister, by Notification published in the Gazette, to ascertain from time to time the cost of living index-number applicable to the workers employed in the trade specified in such Notification;

" cost of living index-number ", in relation to the workers in any trade, means the index-number ascertained and declared by notification in the Gazette by the competent authority to be the cost of living index-number applicable to workers in that trade.

[4,10 of 1978] (3) Where a Wages Board is in any case unable, before the expiry of a period of one year from the date on which that board is established, to determine a general minimum time-rate as required by subsection (1), the board shall report the fact to the Minister, and the Minister may, so far as respects that case, exempt that board from determining such rate, and make an order under section 33.

Liability of employer to pay minimum wages. [9, 5 of 1953] **21.** Where any decision of a Wages Board, whereby a minimum rate of wages for any trade is determined, has come into force, every employer shall pay to every worker to whom such minimum rate is applicable, wages at not less than such minimum rate;

Provided, however, that, where as respects any employer the date on which any such decision comes into force does not correspond with the beginning of a wage period for which wages are payable by that employer, the rate determined in that decision shall, in respect of that employer, become effective as from the beginning of the next wage period following the aforesaid date.

Wages of worker who works for less than normal working day or does not work at all on **22.**

(1) Where a worker who is employed in any trade for which a Wages Board has been established and who is paid wages at an hourly or daily rate determined by that

any day.
[10, 5 of 1953]

board, works on any day (including a holiday on which he is required to work) for less than the number of hours constituting a normal working day, he shall be deemed to have worked for the full normal working day and his wages shall be computed accordingly, unless his failure to work for the normal working day is due to his unwillingness to work or such other circumstances as that board may determine and not due to the omission of his employer to provide him with work. Where, due to such unwillingness or such circumstances and not to such omission, he works on any day for a period which is less than the number of normal working hours of that day, his employer shall pay him as remuneration for that period a sum which bears to the amount of the remuneration which would be payable to him if he had worked for that number of normal working hours the same proportion as that period bears to that number of normal working hours.

[5,27 of 1957] (2) Where a worker who is employed in any trade for which a Wages Board has been established and who is paid wages at a weekly or monthly rate determined by that board, does not work at all on any day or works on any day (including a holiday on which he is required to work) for less than the number of normal working hours of that day, he shall be deemed to have worked for the full normal working day and his wages shall be computed accordingly, unless his failure to work at all on that day or to work for the full normal working day is due to his unwillingness to work or such other circumstances as that board may determine and not due to the omission of his employer to provide him with work. Where, due to such unwillingness or such circumstances and not to such omission, he works on any day for a period which is less than the normal working hours of that day, his employer shall,-

(a) if he is paid wages at a weekly rate, pay him as remuneration for that period a sum which bears to that weekly rate the same proportion as that period bears to the total number of normal working hours of a week, or

(b) if he is paid wages at a monthly rate, pay him as remuneration for that period a sum which bears to that monthly rate the same proportion as that period bears to the total number of normal working hours of the month of which that period forms a part.

intervals at **23.**
which wages
shall be paid.

(1) Any Wages Board may, in respect of the trade for which it is established, determine the period of work (not in any case exceeding one month) in respect of which wages shall be paid to workers, and specify the number of days from the end of such

Hours of
work and
weekly
holiday.
[11,5 of 1953]

24.

period within which wages shall be so paid.

(2) Nothing in subsection (1) or in any decision thereunder shall in any way affect the period of notice or warning necessary under any provision of written law other than this Ordinance for the termination of any contract.

(1) Any Wages Board may, in respect of the trade for which it is established-

(a) subject to the provisions of subsections (2) and (3), fix the number of hours constituting a normal working day or a normal working week, inclusive, in the case of a normal working day, of the interval or intervals for meals or rest, and fix the number of hours constituting a normal working month by determining the number of normal working days constituting that month and the number of hours constituting each of those days;

[11,5 of 1953] (b) determine the number and duration of the intervals for meals or rest on a working day, the interval allowed for the purposes of the principal meals being not less than one hour;

[Gazt. Extra.No. 14,984/44 of 15.11.1971] (c) declare that a day in each week shall be allowed by every employer as a holiday to all workers or to any specified class of workers, and what remuneration, if any, shall be paid to workers in respect of such holiday, and the conditions, if any, subject to which such holiday shall be allowed;

[11 5 of 1953] (d) determine the conditions subject to which workers may be employed on any such holiday, but so however, that such conditions shall include the payment of remuneration for such work at a rate not less than the overtime rate, or if no overtime rate has been determined, at one and a quarter times the rate normally applicable to such work, and the grant of a holiday with or without remuneration on a day within a specified number of days next succeeding such day, or, in the case of any special class of workers, the payment of remuneration for such work at a rate not less than one and a half times the rate normally applicable to such work, without the grant of a substitute holiday.

[6,27 of 1957] (1A) Where a holiday is determined under paragraph (c) or paragraph (d) of subsection (1)-

(a) every worker to whom the determination applies shall be entitled to take and shall take such holiday in accordance with the terms of the determination, and

(b) the employer of every such worker shall allow such holiday and be liable to pay remuneration in respect of such holiday in accordance with the terms of the determination,

[11, 5 of 1953] (2) The number of hours constituting a normal working day fixed by a Wages Board in respect of the trade for which it has been established shall not-

(a) where the duration of the interval or intervals specified by that board for meals or rest on such day does not exceed one hour, be more than nine, and

(b) where such duration exceeds one hour, be more than the aggregate of nine hours and the period by which such duration exceeds one hour or, if such aggregate exceeds twelve hours, be more than twelve hours:

Provided, however, that a Wages Board may, taking into consideration the nature of the work performed by any special class of workers in the trade for which that board has been established, fix the number of hours constituting a normal working day in respect of that class of workers to be such number exceeding twelve as that board deems fit.

[11,5 of 1853] (3) The number of working hours constituting a normal working week shall not exceed forty-eight.

[Gaz. Extra. No. 14,984/44 of 15.11.1971] (4) Subject to the provisions of subsection (2), a Wages Board may, in respect of the trade for which it has been established, fix the number of hours constituting a normal working day differently for the different days of the week, differently for the different classes of workers in such trade, and differently for the different areas in which such trade is carried on.

[11, 5 of 1953] (5) The period constituting a normal working day fixed by a Wages Board in respect of the trade for which that board has been established shall be a continuous period unless that board decides otherwise. Where that board decides that such period need not be a continuous period, every employer of workers in such trade shall so arrange that period that it shall not spread over a time exceeding twelve hours or such less number of hours as that board may determine:

Provided, however, that the preceding provisions of this subsection shall not apply in regard to the period constituting a normal working day fixed by a Wages Board under the proviso to subsection (2).

[11, 5 of 1953] (6) The interval allowed to any workers for the purposes of the principal meal shall commence at some time after the third hour and before the penultimate hour of the number of hours constituting the working day on which that interval occurs.

Annual holidays. **25.**
[7,27 of 1957]

(1) A Wages Board may, in respect of the trade for which it has been established-

(a) declare that, subject to the fulfilment of such conditions and the payment of such remuneration as may be specified or determined by that board under paragraphs (b) and (c) of this subsection, such number of days not exceeding thirty as that board may determine, including

such public holidays under the Holidays Act not exceeding nine as that board may specify, shall, in addition to the holidays under section 24, be allowed by every employer in each year as holidays to all workers or to any specified class of workers.

[7.27 of 1957] (b) specify the conditions subject to which any such additional holidays shall be allowed, and

[7.27 of 1957] (c) determine what remuneration, if any, shall be paid to workers in respect of such additional holidays, the conditions, if any, subject to which such remuneration shall be paid, and the conditions, if any, subject to which a worker may be employed on any of the public holidays specified by that board under paragraph (a) of this subsection.

[7.27 of 1957] (2) Where any decision under subsection (1) has been made, then, subject to the provisions of subsection (3)-

(a) every worker to whom such decision applies shall be entitled to take and shall take a holiday or holidays in accordance with the terms of such decision; and

(b) the employer of every such worker shall allow such holiday or holidays and be liable to pay the remuneration determined in respect of such holiday or holidays in accordance with the terms of such decision.

[7.27 of 1957] (3) Where the employment of a worker who has become entitled to any holiday or holidays in any year under subsection (2) is terminated by the employer of that worker or is lawfully terminated by that worker, then, if the employer has not allowed that worker such holiday or holidays, the employer shall be liable to pay the remuneration payable in respect of such holiday or holidays under that subsection to that worker or, if that worker dies before receiving such remuneration, to the legal heirs of that worker.

(4) Where a worker employed in any trade becomes entitled to any holiday or holidays in any year under subsection (2) and dies while so employed without having taken such holiday or holidays, the employer shall be liable to pay such remuneration as may have been payable to that worker in respect of such holiday or holidays under that subsection to the legal heirs of that worker.

[7.27 of 1957] (5) In this section, " year ", with reference to any decision of a Wages Board under this section, means a period of twelve months commencing on the first day of such month as the may determine or, where that board does not so determine, the first day of January.

Computation, of service for purposes of holidays.

[13, 5 of 1953]

26. Where a change of employer occurs in any trade, the service which any worker has rendered in that trade under the old employer shall be deemed to be service under the new employer for the purpose of enabling that worker to be entitled to any holiday by virtue of length of service.

Determination of different rates of wages,

27. A Wages Board shall, in making any decision under this Ordinance, take into consideration the circumstances obtaining in

& c. to suit special circumstances.

particular branches of the trade or particular areas or affecting particular classes of workers, and may, in any such decision, determine different rates of wages, hours of work or holidays, or make such other provision for such circumstances as it may consider expedient.

Publication 28.
Boards.

[8, 40 of 1943]
[[14, 5 of 1953]

(1) Where a Wages Board proposes to make a decision, the board shall cause the proposed decision decisions by to be published in the Gazette and in one Sinhala, Wages one Tamil and one English newspaper, together with a notice specifying a date on or before which objections to the proposed decision will be received by the board.

(2) Every objection preferred in consequence of a notice under subsection (1) shall be made in writing and shall contain a statement of the grounds upon which objection is taken to the proposed decision.

[14,5 of 1953]

(3) The Wages Board shall consider all objections made to a proposed decision in consequence of a notice under subsection (1) and may confirm that decision with or without any amendment.

Procedure for 29.
approval of
decisions by Wages
Boards by Minister.

[15, 5 of 1953]

(1) Every decision made by a Wages Board and confirmed under section 28 shall-

(a) be signed and dated by the chairman, and

(b) be transmitted to the Minister through the Commissioner, together with any report which the Wages Board, the District Wages Committee or the Commissioner may desire to make on any matter to which the decision relates.

(2) The Minister may refer back to a Wages Board for reconsideration any decision transmitted to him under subsection (1) and in every such case the Wages Board shall reconsider the decision and, after such amendment thereof as it may consider desirable, return the decision to the Minister.

(3) No decision transmitted to the Minister under subsection (1) or returned to him under subsection (2) shall have effect unless it has been approved by the Minister. Every decision which has been approved by the Minister shall, together with a notification of such, approval, be published in the Gazette and in one Sinhala, one Tamil and one English newspaper.

(4) Any decision which is approved by the Minister shall come into force on the date on which the notification of such approval is published in the Gazette or on such later date as may be specified in such notification.

Rescission or
amendment of
decisions of Wages
Board.

30. Any decision of a Wages Board which has come into force under section 29, may at any time be rescinded or varied by a subsequent decision of the board, and the provisions of sections 28 and 29 shall apply to every such subsequent decision.

[16, 5 of 1953]

Proof of
decisions of
Wages
Boards.

[17, 5 of 1953]

31 An extract from the Gazette containing a decision of a Wages Board and the notification of approval of such decision by the Minister and purporting to have been printed by the Government Printer, or a copy of such decision and notification purporting to have been certified to be a true copy by the Commissioner of Labour or any of his Deputies or Assistants, may be produced in any court in proof of such decision and approval.

Decisions of Wages Board to **32.** Every decision of a Wages Board under this Ordinance shall, from the date on which such decision comes into force, have effect notwithstanding anything in any written law (other than this Ordinance), and notwithstanding any act done or decision made by any board or person under any such written law.

DETERMINATION OF GENERAL MINIMUM TIME-RATE BY COMMISSIONER

Determination of general
minimum time-rate by
Commissioner in certain
cases.

[10, 40 of 1943]

(1) Where it appears to the Minister-

(a) that a Wages Board cannot be established for any trade, whether by reason of the refusal of any persons to accept appointment as representative or nominated members of that board or by reason of the failure of any trade union, association or organization to approve the appointment of any person as a representative member of that board, or for any other reason; or

(b) that the Wages Board established for any trade has for any reason not determined a general minimum time-rate in any case before the expiry of a period of one year from the date on which that board is established, (whether such board has or has not made the report in the case under section 20 , the Minister may, by Order published in the Gazette, authorize the Commissioner to determine a general minimum time-rate for workers in that trade.

(2) Upon the publication in the Gazette of an Order under subsection (1), the Commissioner shall proceed to determine a general minimum time-rate for workers in the trade specified in the notification and shall for such purpose have the same powers as a Wages Board established for that trade.

(3) The provisions of sections 27, 28 and 29 of this Ordinance shall, mutatis mutandis, apply to every determination by the Commissioner under this section, and when any such determination has come into force under the provisions of section 29 as so applied, it shall be deemed for all the purposes of this Ordinance to be a determination duly made by the Wages Board.

Decisions or Wages Board which is abolished or whose authority is curtailed.
[13, 5 of 1953]

(1) Where a Wages Board established for any trade is abolished and the powers, duties and functions of any other Wages Board are extended to that trade by an Order made under paragraph (b) of subsection (1) of section 8, such of the decisions of the first-mentioned board as relate to that trade and are in force at the date of that Order shall continue in force as if they had been made by such other board subject to their rescission or variation by that board.

(2) Where, by an order made under subsection (1) of section 6, the description of any trade for which a Wages Board has been established is varied by the exclusion of certain activities and where thereafter those activities are included in, or constitute, the description of any other trade to which the provisions of Part II of this Ordinance are applied under that section, such of the decisions of that board as relate to those activities and are in force at the date of that order shall, on the establishment of a Wages Board for the other trade aforesaid, continue in force as if they had been made by the last-mentioned board subject to their rescission or variation by such board.

PROVISIONS RELATING TO SPECIAL CASES

Worker performing two or more classes of work. **35.** Where a worker performs two or more classes of work to each of which a minimum rate of wages is applicable, the employer shall pay to that worker in respect of the time occupied in each class of work, wages at not less than the minimum rate in force in respect of that class.

Worker performing piece-work
[8, 27 of 1957]

36. Where a worker is employed on piece-work and a general minimum time-rate but no general minimum piece-rate has been determined under this Ordinance, the employer of that worker shall be deemed to pay wages at less than the minimum rate unless he shows that the piece-rate of wages paid would yield in the circumstances of the case at least the same remuneration as the general minimum time-rate

Worker waiting for work on employer's premises. **37.** For the purpose of calculating the amount of the wages payable in the case of a worker employed on any work to which a minimum rate of wages is applicable, the worker shall be deemed to have been employed during all the time during which he was present on the premises of the employer, unless the employer proves that he was so present without the employer's consent express or implied, or that he was so present for some purpose unconnected with his work and other than that of waiting for work to be given to him to perform, and in the case of a worker employed on piece-work shall be deemed during any time during which he was so present and was not doing piece-work to have been employed at the general minimum time-rate applicable to workers of the class to which he belongs, or, if no such general minimum time-rate has been determined, at the guaranteed time-rate :

Provided that-

(a) where a worker resides on the premises of the employer he shall not be deemed to be employed during any time during which he is present on the

premises by reason only of the fact that he is so resident; and

(b) a worker while present during normal meal times in a room or place in which no work is being done shall be deemed to be present for a purpose unconnected with his work.

Work done under an **38.**
arrangement made
by way of trade.
[19, 5 of 1953]

(1) Any person who, by way of trade or for any commercial purpose, makes any arrangement express or implied with any other person in pursuance of which such other person performs any work to which a minimum rate of wages is applicable, shall be deemed, for the purposes of this Ordinance, to be the employer of such other person in respect of that work ; and the net remuneration obtainable by such other person in respect of the work, after allowing for his necessary expenditure in connexion with the work, shall be deemed to be wages.

(2) In this section " trade means any commercial undertaking or enterprise.

Non-able- **39.**
bodied
worker.

(1) Where the Commissioner, or any other officer whom the Commissioner may authorize in writing for the purposes of this section; is satisfied that any worker employed or desiring to be employed in any work to which a minimum rate of wages is applicable, is affected by any infirmity or physical injury which renders him incapable of earning that minimum rate, the Commissioner or such officer may, if he thinks fit, grant to that worker, subject to such conditions as may be prescribed, a permit exempting the employment of that worker from the provisions of this Ordinance relating to the payment of wages at less than the minimum rate.

(2) While any permit granted under subsection (1) is in force, in respect of the employment of any worker the employer shall not be liable to any legal proceedings for paying wages to that worker at less than the minimum rate so long as the permit is in force and the conditions subject to which the permit was issued are complied with.

(3) Any permit granted under subsection (1) to any worker may at any time be revoked by the Commissioner or any officer authorized as aforesaid, after giving notice in the prescribed manner to the employer of that worker.

Apprentices **40.**
or learners.

(1) A Wages Board established for any trade may determine the conditions subject to which any workers may be employed in that trade as apprentices or learners.

(2) Where a Wages Board established for any trade determines any conditions under subsection (1), every employer in that trade shall fulfil those conditions in employing any worker in that trade as an apprentice or a learner.

(3) No employer in any trade for which a Wages Board has been established shall, without the written permission of the Commissioner of Labour, employ a worker in that trade as an apprentice or a learner. Such permission may be granted generally in regard to the employment of workers as apprentices or learners or specifically in regard to the employment of workers as apprentices or learners of any particular class.

(4) Where the Commissioner of Labour is satisfied that an employer in any trade for which a Wages Board has been established does not provide facilities for the training of apprentices or learners, or does not fulfil such conditions as are determined by that board under subsection (1), or does not observe the provisions of subsection (5), the Commissioner of Labour may withdraw any permission granted by him to that employer under subsection (3).

(5) Where a worker in any trade, being a person to whom a minimum rate of wages is applicable, is employed as an apprentice or a learner, his employer shall not receive directly or indirectly from him, or on his behalf, or on his account, any payment by way of premium :

Provided that the preceding provisions of this subsection shall not apply to any such payment duly made not later than four weeks after the commencement of the employment in pursuance of any agreement in writing entered into at or about the time of such commencement.

DUTIES OF EMPLOYERS

Employers' **41.**
duty

(1) The employer of workers in any trade for which a Wages Board is established shall, in respect of each wage period, maintain and keep in the premises in which that trade is carried on, one or more registers showing-

- [10, 27 of 1957]
- (a) the name and sex of each worker employed by him, and, in the case of a worker who is a woman or under the age of eighteen years the age of the worker,
 - (b) the class of work performed by each worker employed by him,
 - (c) the wages paid to each such worker,
 - (d) the number of hours of work performed by each such worker,
 - (e) the number of hours of overtime work performed by each such worker,
 - (f) the dates on which wages are paid to each such worker,
 - (g) the holidays allowed to each such worker,
 - (h) the amount of the maternity benefits paid to each such worker,
 - (i) such other particulars as may be prescribed by

regulations or required by any decision of the Wages Board.

[10, 27 of 1957] (1 A) The particulars which are required by subsection (1) to be entered in respect of a wage period in a register maintained under that subsection shall be entered forthwith after the expiry of that wage period, and the particulars entered in such register under paragraphs (d) and (e) of that subsection shall be in respect of each day of the wage period to which those particulars relate.

[10, 27 of 1957] (2) Every person who as an employer maintains or has maintained under subsection (1) any register in respect of any [§ 3,27 of 1962] wage period shall preserve such register for a period of four years commencing on the last day of such wage period, and shall, when required to do so by the Commissioner of Labour or any prescribed officer, produce such register for inspection and furnish a true copy of such register or of any part of such register or permit such a copy to be made.

Exhibition of notices by employers. [11, 27 of 1957] **42.** The employer of any workers in any trade for which a Wages Board is established shall keep exhibited, in such place and in such manner as may be prescribed, a notice setting out the decisions in force of that board together with particulars of such other matters as may be prescribed.

Register to be kept by persons giving out work. [3, 19 of 1945] **43.** Every person giving out work to outworkers in any trade for which a Wages Board is established shall maintain, and keep in the premises used for giving out such work, a register in such form as may be prescribed, containing the prescribed particulars relating to such work and to such workers and the payments made for such work.

Maintenance of other records by employers. [12,27 of 1957] **43A.** Regulations may be made requiring employers in any trade for which a Wages Board has been established to maintain, in addition to the registers or records required by any other provisions of this Ordinance to be maintained by them, such other records in such form, and containing particulars of such matters, as may be specified in the regulations.

Penalty for failure to pay wages, & c. [3, 23 of 1966] **44.** (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-

(a) in the case of a first offence, to a fine not less than one hundred rupees nor exceeding two hundred and fifty rupees;

(b) in the case of a second offence, to a fine not less than two hundred and fifty rupees nor exceeding five hundred rupees; and

(c) in the case of a subsequent offence, to a fine not less than five hundred rupees nor exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment, and

shall in addition be liable to a fine not exceeding fifty rupees for each day on which the offence is continued after conviction.

(2) Every employer who, in any case other than that referred to in subsection (1), 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-

(a) in the case of a first offence, to a fine not less than one hundred rupees nor exceeding two hundred and fifty rupees;

(b) in the case of a second offence, to a fine not less than two hundred and fifty rupees nor exceeding five hundred rupees; and

(c) in the case of a subsequent offence, to a fine not less than five hundred rupees nor exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

[4,36 of 1982]

(3) On conviction of an employer under subsection (1) or subsection (2), the court may in addition to any other sentence, order the employer to pay-

(a) where a worker has not been paid the amount which ought properly to have been paid to that worker, such sum as may be found by the court to represent the difference between such amount and the amount actually paid and the surcharge calculated in the manner set out in subsection (2A) of section 4; or

(b) where no portion of the wages due to that worker has been paid, such sum as may be found by that court to represent such wages and the surcharge calculated in the manner set out in subsection (2A) of section 4.

(4) The power of the court to make an order under subsection (3) for the payment of any sum of money shall not be in derogation of any right of the worker to recover that sum by any other proceedings.

Immediate employer being himself in the employment of another person.

[22, 5 of 1953]

45. Where the immediate employer of any worker is himself in the employment of some other person, and that worker is employed to do any work in the course of and for the purpose of the trade of that other person, that other person shall, for the purposes of this Ordinance, be deemed to be the employer of that worker jointly with the immediate employer.

Liability of contractor in regard to wages due to a worker employed by subcontractor.

[14, 27 of 1957]

45A. Where a person (hereafter in this section referred to as the contractor) who has undertaken to execute any work enters into a contract with any other person (hereafter in this section referred to as the sub-contractor) for the execution by the sub-contractor of the whole or any part of that work, then, if the sub-contractor fails to pay wages in accordance with section 21 to any worker employed by him in the performance of that contract, the contractor shall be liable to pay the wages due to that worker in accordance with that section.

Recovery of sums **46.**

due to workers
under this
Ordinance.

[15, 27 of 1957]
[4, 27 of 1962]

- [15, 27 of 1957] (1) Where an employer has been convicted for failing to pay any sum in accordance with the provisions of this Ordinance, to any worker, then, if a notice in the prescribed form of intention so to do has been served on the employer at any time before the date of commencement of the trial, evidence may be given of any failure on the part of the employer to pay any sum in accordance with the provisions of this Ordinance to that worker or to any other worker or workers at any time during the four years preceding the date on which complaint under section 136 of the Code of Criminal Procedure Act, No. 15 of 1979 was made to court of the offence of which the employer has been so convicted and, on proof of the failure, the court may order the employer to pay such sum as may be found by the court to be due from him to such worker or workers. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.
- [15, 27 of 1957] (2) The power of the court to make an order under subsection (1) shall not be in derogation of any right of the worker to recover any sum due to him by any other proceedings.
- [23, 5 of 1953] (3) Where a worker has not been paid the whole or a part of the amount of any wages or payments required by this Ordinance or by a decision of a Wages Board to be paid or made to him by his employer, the Commissioner of Labour may, if he thinks fit so to do, by written notice require such employer to pay such amount or the balance of such amount to the Commissioner of Labour within the time specified in the notice so that the Commissioner of Labour may remit it to such worker. Where such employer when served with such notice pays such amount or such balance directly to such worker instead of transmitting it to the Commissioner of Labour as required by such notice, he shall be deemed not to have paid such amount or such balance to such worker.

Burden **47.** Where-
of proof.

[16, 27 of
1957]

- (a) any employer is prosecuted for the failure to pay any sum in accordance with the provisions of this Ordinance to any worker, or
- (b) in any case in which any employer is convicted for failing to pay any sum in accordance with the provisions of this Ordinance to any worker evidence is given, under subsection (I) of section 46, of any other failure of that employer to pay any sum in accordance with the provisions of this Ordinance to that worker or any other worker or workers, the burden of proving that the sum was paid shall lie on the employer.

Offences by **48.**
employer.

- (1) Every employer who-
- (a) fails or refuses to allow to any worker any holiday required to be allowed to that worker under any decision

of a Wages Board under this Ordinance; or

(b) commits a breach of any condition of any permit issued in respect of any worker under section 39; or

(c) fails to comply with any provision of any decision of a Wages Board, shall be guilty of an offence and shall be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

[24, 5 of 1953] (2) On the conviction of an employer under subsection (1) for committing a breach of such condition of a permit issued in respect of a worker under section 39 as requires the payment of wages to that worker at a rate not less than the rate specified in that permit, the court may, in addition to any other sentence, order that employer, where no portion of the wages due to that worker has been paid, to pay such wages, or, where only a portion of such wages has been paid, to pay the balance. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

[17, 27 of 1957] (3) On the conviction of an employer under subsection (1) of the offence of failing or refusing to allow a worker any holiday required to be allowed to that worker under any decision of a Wages Board, the court may, in addition to any other sentence, order the employer, where no portion of the remuneration due to that worker in respect of that holiday has been paid, to pay such remuneration, or, where only a portion of such remuneration has been paid, to pay the balance. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

worker for being **49**.
a member of a
Wages Board, &
c.

(1) Every employer who dismisses any worker from his Dismissal of employment by reason merely of the fact that the worker-

(a) is or becomes a member of a Wages Board; or

(b) has given information to any authority with regard to matters under this Ordinance; or

(c) has, after giving reasonable notice to his employer of his intention, absented himself from work through being engaged in duties as a member of a Wages Board; or

(d) is entitled to any benefit under any decision of a Wages Board, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

(2) In every prosecution of an employer for an offence under subsection (1) the burden of proving that the worker was dismissed by reason of some fact other than a fact mentioned in

that subsection shall be upon that employer.

Employer receiving premium in breach of section 40.

50.

(1) Every employer who receives any premium in contravention of any provision of section 40 shall be guilty of an offence and shall be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment.

(2) The court may in addition to any sentence imposed under subsection (1) order the employer to pay the sum found to have been received by him in contravention of the provisions of section 40. Any sum ordered to be paid under this subsection may be recovered in the same manner as a fine.

Disclosure of breach of section 17

51. Every person who discloses any information or does any other act in contravention of any provision in subsection (2) of section 17 shall be guilty of an offence and shall be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment.

PART III

GENERAL APPOINTMENT AND POWERS OF OFFICERS; & C.

Appointment of officers.

52.

(1) There may be appointed such number of officers and servants as may from time to time be required for the purpose of carrying out or giving effect to the provisions of this Ordinance.

(2) The appointment of any person under subsection (1) may be made by name or by office.

Authorization of another officer to act on his behalf.

53. The Commissioner may either generally or specially authorize any Deputy Commissioner or any person appointed under section 52 to exercise, perform or discharge any power, duty or function of the Commissioner under this Ordinance.

Power of employer of returns, c [25, 5 of 1953]

54.

[4,19 of 1945]

(1) The Commissioner may at any time direct to call for the workers in any trade or class of trade or any person giving out work to outworkers in any trade, or every person giving out work to outworkers in any class of trade, to furnish to the Commissioner before a specified date-

(a) a return containing such particulars as the Commissioner may require ;

(b) such information or explanation as the Commissioner may require in respect of any particulars stated in any return so furnished ;

(c) a true copy of any register or record of wages, or of any part of a register or record of wages, required to be kept by such employer or person by or under this Ordinance.

[4,19 of 1945]

(2) A direction under subsection (1) may be given [§ 25,5 of 1953]

by notice published in the Gazette and in two or more newspapers circulating in Sri Lanka.

(3) Any employer or other person furnishing any return or information under subsection (1) may transmit together with the return or information a request in writing that such return or information should be treated as confidential and, where such a request is made, the return or information to which the request relates shall not be disclosed without the consent previously obtained of the employer or person who made the request.

(4) No information (whether contained in a return or not) furnished under subsection (1) shall be so arranged, in any report made or publication issued by or with the authority of the Commissioner, as to facilitate the identification of the information as being information relating to any individual employer or person.

(5) Nothing in the preceding provisions of this section shall be deemed to require or permit any person to disclose any information or to produce any document in any case where the disclosure or production by that person of such information, or document is prohibited by or under the provisions of any written law other than this Ordinance.

Power of **55.**
prescribed

(1) Subject to such conditions and restrictions as may be prescribed every prescribed officer shall have power-

(a) to enter and inspect at all reasonable hours by day or night any premises or place in which workers are employed in any trade or any place in which work is given to outworkers in any trade, for the purpose of examining any register, record of wages, or notice required to be kept or exhibited by or under this Ordinance, or of ascertaining whether the provisions of this Ordinance are being complied with;

[26,5 of 1953] (b) where any such register or record is not available for examination when he is inspecting any such premises or place, to require the production of such register or record on a specified date for examination at such premises or place or at his office;

[18, 27 of 1957] (c) to enter and inspect at all reasonable hours by day or night any premises which he has reason to believe are provided by an employer as a place of abode to any workers employed by that employer in a trade for which a Wages Board has been established, for the purpose of ascertaining whether the provisions of this Ordinance are being complied with;

[12, 40 of 1943] (d) to examine any person whom he finds in any such premises or place and whom he has reasonable cause to believe is an employer or a worker engaged or employed in any trade carried on in such premises or place or a worker to whom work is given out therein;

(e) to take copies of any such register, record of wages, or notice or of any part of any such register, record or notice.

[2, 24 of 1966] (f) where any person has ceased to employ workers in any trade at any premises or place, to require the production of such register or record as is required to be maintained under this Ordinance in respect of the workers who had been employed at such premises or place;

[2,24 of 1966] (g) at a place and time to be specified by such officer to call for, examine and make copies or any agreement for work in respect of any trade or class of trade or relating to outworkers;

[2,24 of 1966] (h) to require any person to be present on any day, at such time and place as may be notified him in writing and furnish such information or explanation as may be required by such officer and answer such questions as may be put to him by such officer for the purpose of ascertaining whether the provisions of this Ordinance had been complied with in relation to the employment of workers in any trade at any place or premises.

(2) Where a Wages Board has been established for any trade in which any labourer as defined by section 3 of the Estate Labour (Indian) Ordinance is employed, any agent appointed under section 8 of the Indian Immigrant Labour Ordinance and any officer authorized by him in writing shall be deemed, as respects that trade, to be officers prescribed under subsection (I) and shall have and may exercise accordingly all the powers of a prescribed officer under that subsection.

Power of Commissioner of Labour or registered trade union to recover by suit money due to a worker.

[19, 27 of 1957]

56. Notwithstanding anything to the contrary in any other written law-

(a) a suit for the recovery of any sum due under this Ordinance from any employer to any worker may be instituted in a court of competent jurisdiction in the name of the Commissioner of Labour or in the name of a trade union which is registered under the Trade Unions Ordinance and of which that worker is a member;

(b) any sums due under this Ordinance from an employer to two or more workers may be sued for in a single suit instituted in the name of the Commissioner of Labour or in the name of a trade union which is registered under the Trade Unions Ordinance and of which those workers are members;

(c) a suit for the recovery of any sum due under this Ordinance from any employer to any worker shall be maintainable if it is instituted within four years after [§5, 27 of 1962] that sum has become due;

(d) in any such suit instituted in the name of the Commissioner of Labour, he may be represented by any Deputy or Assistant Commissioner of Labour or any inspector of labour; and

(e) in any such suit instituted in the name of a trade union, such union may be represented by any of its officers.

Wages to be **57**. The liability of the employer of workers in any trade to pay under this a first of Ordinance any sum of money as wages to any such worker shall be a first trade. charge on the assets of that trade notwithstanding anything in any other law.

[5,19 of 1945]

[27, 5 of 1953]

Certificate of **57A**. Where the employment of any worker, learner or apprentice employed in service. any trade for which a Wages Board has been established is terminated, his employer shall issue to him a certificate containing such particulars as may be prescribed.

[20, 27 of 1957]

OFFENCES

Offences. **58**. Every person who-

(a) fails to furnish the means required by an officer as necessary for any entry or inspection or the exercise of his powers under section 55; or

(b) hinders or molests any officer in the exercise of the powers conferred by that section; or

[6,19 of 1945]

(c) refuses or fails without adequate reason to produce any register, record of wages or notice, or give any information which any officer requires him to produce or give under the powers conferred by that section; or

[21, 27 of 1957]

(cc) prevents or attempts to prevent any other person from answering any question put by a prescribed officer to such other person during an examination of such other person under subsection (1) of section 55; or

(d) makes or causes to be made any register, record of wages or notice which is false in any material particular, or produces or causes or knowingly allows to be produced any such register, record or notice, to any officer acting under the powers conferred by that section, knowing the same to be false; or

(e) furnishes any information to any officer acting under the powers conferred by that section, knowing the same to be false; or

(f) makes default in complying with any direction given by the Commissioner under section 54, or who, when called upon to furnish a return under that section, knowingly makes or furnishes, or causes to be made or furnished, a false return or a return containing any false statement; or

(g) in any case for which no penalty is specially provided, commits a breach of any provision of this Ordinance or of any regulation, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term

not exceeding six months or to both such fine and imprisonment.

MISCELLANEOUS

Liability of
employer's
agent **59.**

(1) Where an offence for which an employer is liable under this Ordinance has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer, and either together with, or before or after the conviction of the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

(2) Where an employer who is charged with an offence under this Ordinance, proves to the satisfaction of the court that he has used due diligence to enforce the execution of this Ordinance and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance, he shall be exempt from any penalty in respect of the offence, without prejudice however to the power of the court under section 44 (3) or section 46 (1) to order him to pay any sum which appears to be due to the worker on account of wages.

Special provisions applicable **59A.**
where persons are employed
to do work under an
arrangement made for any
commercial purpose.
[3,24 of 1966]

(1) Where any person, by way of trade or for any commercial purpose, makes any arrangement, express or implied, with any other person for the execution by such other person of any work and where in pursuance of such arrangement such by way of trade or other person employs workers for the execution of such work, the Commissioner, after such inquiry as he may deem necessary, may, where he considers it expedient so to do-

(a) with the approval of the Minister, direct in writing such first-mentioned person to refrain from having such work executed under such arrangement; or

(b) direct in writing such first-mentioned person to furnish to the Commissioner before a specified date-

(i) where the aforesaid arrangement is in writing, a certified copy of such arrangement, specifying the names and addresses of the parties to the arrangement, together with such other information and particulars relating to such arrangement, and the work for the execution of which such arrangement was made, as the Commissioner may require; and

(ii) where the aforesaid arrangement is not in writing, such information

and particulars relating to such arrangement and the work for the execution of which such arrangement was made as the Commissioner may require.

(2) Every person who makes default in complying with any direction given by the Commissioner under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment, and shall, where the default is in respect of any direction given under paragraph (a) of subsection (1), be liable in addition to a fine not exceeding one hundred rupees for each day on which the offence is committed after conviction.

(3) Where any person, by way of trade or for any commercial purpose, makes any arrangement, express or implied, with any other person for the execution by such other person of any work, then-

(a) the first-mentioned person shall ensure that wages in accordance with the provisions of this Ordinance are paid to any worker employed by such other person in the execution of such work; and

(b) where such other person fails to pay wages in accordance with the provisions of this Ordinance to any worker employed by him in the execution of such work, the first-mentioned person shall, unless he proves to the satisfaction of the court that he exercised all due diligence and took all practicable measures to ensure the payment of such wages by such other person, be liable to pay the wages due to that worker in accordance with the provisions of this Ordinance.

No prosecution Commoner's
sanction and offence.
[6,10 of 1978]

60. No prosecution of any offence under this Ordinance shall be instituted in any court except-

(a) with the written sanction of the Commissioner, and with in six years of

(b) within six years of the commission of the offence.

Court of trial for
offences.

61. All offences under this Ordinance shall be triable summarily by a Magistrate.

Contracting out of
rights or liabilities
under Ordinance.

62. Any contract or agreement, whether made before or after the date on which this Ordinance comes into operation whereby any right of any worker by or under this Ordinance is in any way affected or modified to his detriment or whereby any liability of any employer is in any way

removed or reduced, shall be null and void in so far as it purports to affect or modify any such right or to remove or reduce any such liability.

REGULATIONS

Regulations. 63.

(1) the Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters :-

(a) all matters stated or required in this Ordinance to be prescribed;

(b) all such forms as may be necessary for the purposes of this Ordinance ;

(c) the notice to be given of any matter under this Ordinance, with a view to bringing that matter as far as practicable to the knowledge of persons affected thereby;

(d) the payment of remuneration or allowances to members of Wages Boards, and the mode of computing such remuneration or allowances ;

(e) the payment of allowances to officers employed in enforcing the provisions of this Ordinance and the mode of computing such allowances;

(f) the investigation by or under the directions of the Commissioner of standards of living and conditions of work in any trade.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation, made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall, upon notification of such approval in the Gazette, be as valid and effectual as if it were herein enacted.

INTERPRETATION

interpretation.64. In this Ordinance, unless the context otherwise requires-

[29,5 of 1953] "Assistant Commissioner of Labour" means any person for the time being holding office as an Assistant Commissioner of Labour;

" Commissioner" means the person for the time being holding the office of Commissioner of Labour and includes any person authorized by the Commissioner under section 53 in respect of any particular power, duty or function of the Commissioner under this Ordinance ;

" Deputy Commissioner " means any person for the time being holding office as a Deputy Commissioner of Labour;

[29, 5 of 1953] "employer" means any person who on his own behalf employs, or on whose behalf any other person employs, any worker in any trade, and includes any person who on behalf

of any other person employs any worker in any trade ;

[29, 5 of 1953] " overtime" means time in excess of the number of hours constituting a normal working day or a normal working week;

"prescribed " means prescribed by regulation ;

" regulation" means a regulation made by the Minister under this Ordinance ;

" representative members " means the members of a Wages Board appointed to represent the employers or the workers, as the case may be, in any trade ;

[29, 5 of 1953] "trade" includes any industry, business, undertaking, occupation, profession or calling carried out, performed or exercised by an employer or worker, and any branch of, or any function or process in, any trade, but does not include any industry, business or undertaking which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or to persons who are destitute, dumb, deaf, or blind;

[22,27 of 1957] "wages" includes any remuneration due in respect of overtime work or of any holiday;

[29, 5 of 1953] " wage period " means the period in respect of which wages are payable under this Ordinance to any worker; " worker " means any person employed to perform any work in any trade.

EFFECT OF ORDINANCE

Ordinance to case of conflict with written **65.** Save as otherwise expressly provided in this Ordinance, the provisions of this Ordinance shall have effect notwithstanding anything contained in any written law other than this Ordinance ; and in any case of conflict or inconsistency between the provisions of this Ordinance and such other law, the provisions of this Ordinance shall prevail.