

PARLIAMENT OF CEYLON

1st Session 1956-57



Wages Boards (Amendment) Act, No. 27 of 1957

Date of Assent : April 13, 1957

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L. D.—O. 65/54.

AN ACT TO AMEND THE WAGES BOARDS ORDINANCE,
No. 27 OF 1941.

[Date of Assent: April 13, 1957]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Wages Boards (Amendment) Act, No. 27 of 1957.

Short title.

2. Section 2 of the Wages Boards Ordinance, No. 27 of 1941 (hereinafter referred to as the "principal enactment"), as amended by Act No. 5 of 1953, is hereby further amended as follows:—

Amendment of
section 2 of
Ordinance
No. 27 of 1941.

(a) in paragraph (a) of that section, by the substitution, in the definition of "authorised deduction", for the words "made in the prescribed manner", of the words "made in such manner and subject to such conditions, if any, as may be prescribed"; and

(b) in paragraph (c) of that section, by the substitution, for the words "If he terminates the employment of a worker on any date," of the following:—

"If on any date he terminates the employment of a worker or any worker lawfully terminates employment under him,".

3. Section 3 of the principal enactment, as amended by Act No. 5 of 1953, is hereby further amended as follows:—

Amendment of
section 3 of
the principal
enactment.

(a) in sub-section (1) of that section as follows:—

(i) in paragraph (e) of that sub-section, by the omission of the word "and";

(ii) in paragraph (f) of that sub-section, by the substitution, for the word "wages," of the words "wages, and"; and

(iii) by the addition, immediately after paragraph (f) of that sub-section, of the following new paragraph :—

“(g) particulars of such other matters as may be prescribed.”; and

(b) by the repeal of sub-section (2) of that section and the substitution therefor of the following new sub-section :—

“(2) Every person who as an employer maintains or has maintained under sub-section (1) a wage record in respect of any wage period shall preserve such record for two 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.”

Amendment of
section 4 of
the principal
enactment.

4. Section 4 of the principal enactment is hereby amended as follows :—

(a) by the re-numbering of that section as sub-section (1) of section 4; and

(b) by the addition, at the end of that section, of the following sub-sections :—

“(2) On the conviction of an employer under sub-section (1) of an offence in respect of any worker, the court may, in addition to any other sentence, order the employer to pay such sum as may be found by the court to represent the difference between the amount which ought properly to have been paid to that worker and the amount actually paid, or, if no portion of the wages due to that worker has been paid, to pay such sum as may be found by the court to represent such wages. Any sum ordered to be paid under this sub-section may be recovered in the same manner as a fine.

(3) The power of the court to make an order under sub-section (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.”.

5. Section 22 of the principal enactment, as amended by Act No. 5 of 1953, is hereby further amended as follows :—

Amendment of
section 22 of
the principal
enactment.

(a) by the addition, at the end of sub-section (1) of that section, of the following :—

“ 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.”; and

(b) by the addition, at the end of sub-section (2) of that section, of the following :—

“ 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.”.

Amendment of
section 24 of
the principal
enactment.

6. Section 24 of the principal enactment, as amended by Act No. 5 of 1953, is hereby further amended by the insertion, immediately after sub-section (1) of that section, of the following new sub-section:—

“(1A) Where a holiday is determined under paragraph (c) or paragraph (d) of sub-section (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.”.

Amendment of
section 25 of
the principal
enactment.

7. Section 25 of the principal enactment, as amended by Act No. 5 of 1953, is hereby further amended as follows:—

(a) in sub-section (1) of that section as follows:—

(i) by the substitution, for paragraph (a) of that sub-section, of the following new paragraph:—

“(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 sub-section, such number of days not exceeding thirty as that Board may determine, including such public holidays under the Holidays Ordinance 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,”;

- (ii) in paragraph (b) of that sub-section, by the substitution, for the word "such", of the words "any such"; and
- (iii) in paragraph (c) of that sub-section, by the substitution, for the word "holidays.", of the following:—

"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 sub-section.";
- (b) in sub-section (2) of that section, by the substitution, for the word "made—", of the following:—

"made, then, subject to the provisions of sub-section (3),—";
- (c) in sub-section (3) of that section, by the substitution, for all the words from "Where the employer" to "the employer shall", of the following:—

"Where the employment of a worker who has become entitled to any holiday or holidays in any year under sub-section (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"; and
- (d) by the addition, at the end of that section, of the following new sub-section:—

"(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 that Board may determine or, where that Board does not so determine, the first day of January."

Amendment of
section 31 of
the principal
enactment.

8. Section 31 of the principal enactment is hereby amended by the omission of the words "to an ordinary worker".

Replacement of
section 35 of
the principal
enactment.

9. Section 35 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Apprentices
or learners.

35. (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 sub-section (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 sub-section (1), or does not observe the provisions of sub-section (5), the Commissioner of Labour may withdraw any permission granted by him to that employer under sub-section (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 sub-section 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."

10. Section 36 of the principal enactment, as amended by Act No. 5 of 1953, is hereby further amended as follows:—

Amendment of
section 36 of
the principal
enactment.

(a) in sub-section (1) of that section, by the omission of the words "in the prescribed form";

(b) by the insertion, immediately after sub-section (1) of that section, of the following new sub-section:—

"(1A) The particulars which are required by sub-section (1) to be entered in respect of a wage period in a register maintained under that sub-section 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 sub-section shall be in respect of each day of the wage period to which those particulars relate."; and

(c) by the repeal of sub-section (2) of that section and the substitution therefor of the following new sub-section:—

"(2) Every person who as an employer maintains or has maintained under sub-section (1) any register in respect of any wage period shall preserve such register for a period of two 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."

Amendment of
section 37 of
the principal
enactment.

11. Section 37 of the principal enactment, as amended by Ordinance No. 40 of 1943, is hereby further amended by the substitution, for the words "latest decisions", of the words "decisions in force".

Insertion of
new section
38A in the
principal
enactment.

12. The following new section is hereby inserted immediately after section 38, and shall have effect as section 38A, of the principal enactment:—

" Maintenance
of other records
by employers.

38A. 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."

Amendment of
section 39 of
the principal
enactment.

13. Section 39 of the principal enactment is hereby amended, in sub-section (3) of that section, by the substitution, for the words "actually paid.", of the words "actually paid, or, if no portion of the wages due to the worker has been paid, to pay such sum as may be found by the court to represent such wages."

Insertion of
new section
40A in the
principal
enactment.

14. The following section is hereby inserted immediately after section 40, and shall have effect as section 40A, of the principal enactment:—

" Liability of
contractor in
regard to
wages due to
a worker
employed by
sub-contractor.

40A. 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."

15. Section 41 of the principal enactment is hereby amended as follows:—

Amendment of
section 41 of
the principal
enactment.

(a) in sub-section (1) of that section as amended by Act No. 5 of 1953—

(i) by the substitution, for the expression “pay wages in accordance with the provisions of section 21”, wherever that expression occurs in that sub-section, of the expression “pay any sum in accordance with the provisions of this Ordinance”;

(ii) by the substitution, for the words “together with the summons or warrant,”, of the words “at any time before the date of commencement of the trial,”; and

(iii) by the substitution, for all the words from “order the employer” to “pay the balance.”, of the words “order the employer to pay such sum as may be found by the court to be due from him to such worker or workers.”;

(b) in sub-section (2) of that section, by the substitution, for the word “wages”, of the words “any sum due to him”; and

(c) in the marginal note to that section, by the substitution, for the words “arrear of wages in certain cases.”, of the words “sums due to workers under this Ordinance.”.

16. Section 42 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replacement
of section 42 of
the principal
enactment.

“ Burden
of proof.

42. Where—

(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 sub-section (1) of section 41, 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.”.

Amendment of
section 43 of
the principal
enactment.

17. Section 43 of the principal enactment, as amended by Act No. 5 of 1953, is hereby further amended by the addition, at the end of that section, of the following new sub-section:—

“(3) On the conviction of an employer under sub-section (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 sub-section may be recovered in the same manner as a fine.”.

Amendment of
section 50 of
the principal
enactment.

18. Section 50 of the principal enactment is hereby amended, in sub-section (1) of that section, as follows:—

(1) by the relettering of paragraphs (aa), (b) and (c) of that sub-section as paragraphs (b), (d) and (e) respectively; and

(2) by the insertion, immediately after relettered paragraph (b) of that sub-section, of the following new paragraph:—

“(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;''.

19. Section 51 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of
section 51 of
the principal
enactment.

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

51. 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 two years after 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.”.

Insertion of
new section
51B in the
principal
enactment.

20. The following section is hereby inserted
immediately after section 51A, and shall have effect
as section 51B, of the principal enactment:—

“ Certificate
of service.

51B. Where the employment of any
worker, learner or apprentice employed
in 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.”.

Amendment of
section 52 of
the principal
enactment.

21. Section 52 of the principal enactment is hereby
amended by the insertion, immediately after para-
graph (c) of that section, of the following new
paragraph:—

“ (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 sub-section (1) of section 50; or ”.

Amendment of
section 58 of
the principal
enactment.

22. Section 58 of the principal enactment is hereby
amended by the insertion, immediately after the
definition of “ trade ”, of the following definition:—

“ “ wages ” includes any remuneration due in
respect of overtime work or of any
holiday;”.