

CHAPTER 169

BUDGETARY RELIEF ALLOWANCE OF WORKERS (NO. 1)

Law
No. 1 of 1978.

A LAW TO PROVIDE FOR THE PAYMENT OF A BUDGETARY RELIEF ALLOWANCE BY EMPLOYERS TO WORKERS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1 st December, 1977.]

Short title.

1. This Law may be cited as the Budgetary Relief Allowance of Workers (No. 1) Law.

4. Every worker who has been employed by any employer in any trade, on the day immediately prior to the 1st day of December, 1977, shall for so long as he continues to be a worker of such employer, continue to be so employed on such terms and conditions relating to salary, allowance or other payments in money by whatsoever name or designation called (excluding the special allowance payable under section 3 of this Law) as are not less favourable than those which such worker had enjoyed on the day immediately prior to the 1st day of December, 1977.

Special provisions regarding continuation of employment.

Competent authority.

2. (1) The Commissioner shall be the competent authority for the purposes of this Law.

(2) The competent authority may delegate to any officer of the Department of Labour any power, function or duty conferred or imposed on, or assigned to, such authority by this Law.

Payment of special allowance.

3. With effect from the 1st day of December, 1977, every employer in any trade shall in respect of each month pay to every worker employed by him, an allowance (in this Law referred to as the "special allowance"), calculated on the following basis :—

- (a) in the case of a worker remunerated at a monthly rate, an amount not less than twenty-five *per centum* of the wages or salary due to such worker for the month ;
- (b) in the case of a worker paid at a daily rate, an amount not less than twenty-five *per centum* of the daily rate due to such worker for each day he has worked during the month ;
- (c) in the case of a worker who is employed on a piece-rate basis, an amount not less than twenty-five *per centum* of the wages due to such worker at such piece-rate for the month:

Provided, however, that the special allowance payable under paragraph (a) or paragraph (b) or paragraph (c) shall not in any case exceed fifty rupees.

5. (1) The employer of a worker in any trade shall maintain and keep in the premises in which that trade is carried on, a register setting out—

- (a) the name of each worker employed by him ;
- (b) the class of work performed by each worker employed by him ; and
- (c) the amount paid to each such worker in accordance with section 3 of this Law.

Duty of employer to maintain register.

(2) Every employer who maintains or has maintained a register under subsection (1), shall preserve such register for a period of four years commencing on the 1st day of December, 1977, and shall, when required to do so by the Commissioner, produce such register for inspection or furnish a true copy of such register or permit such a copy to be made.

6. The competent authority shall have the power—

- (a) to enter and inspect at all reasonable hours of the day or night, any place in which workers in any trade

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are employed, for the purpose of examining any register or of ascertaining whether the provisions of this Law are being complied with ; or

- (b) if any such register is not available for examination when he is inspecting such place, to require the production of such register on a specified later date for examination at such place or at the office of such authority ; or
- (c) to take copies of the whole or any part of any such register ; or
- (d) to interrogate any person whom he finds in such place and whom he has reasonable cause to believe is an employer or, a worker employed in any trade carried on in such place ; or
- (e) to direct in writing any employer of workers in any trade to furnish to him on or before a specified date—
 - (i) a return relating to all workers employed by any such employer or any specified class or description of such workers and containing such other particulars as he may require for the purposes of this Law ;
 - (ii) such information or explanation as he may require in respect of any particulars stated in any return furnished by any such employer ; or
 - (iii) a true copy of the whole or any part of any register maintained by any such employer.

Offences and penalties.

7. Every person who—

- (a) fails to furnish the means required by the competent authority as necessary for any entry or inspection or the exercise of his powers under section 6 ; or
- (b) hinders or molests such authority in the exercise of the powers conferred by that section ; or
- (c) refuses to produce any register or furnish any information which such

authority requires him to produce or furnish ; or

- (d) makes or causes to be made in any register, any statement which is false in any material particular, or produces, or causes or knowingly allows to be produced, any register containing a false statement to such authority, knowing the same to be false ; or
- (e) furnishes any information to such authority acting under the powers conferred by that section, knowing the same to be false ; or
- (f) makes default in complying with any directions given by such authority under section 6, or who, when called upon to furnish a return under that section, knowingly, makes or furnishes, or causes to be made or furnished, a return containing any false statement,

shall be guilty of an offence and shall be liable on conviction before a Magistrate 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.

8. The special allowance payable to a worker under this Law shall be deemed for all purposes to constitute part of his wages and accordingly every employer of such worker shall pay such special allowance within the period within which such employer is required by any written law to pay the wages of such worker.

Payment due under this Law to constitute part of a worker's wages.

9. (1) Every employer who fails to pay a sum required to be paid to a worker of such employer under this Law or fails to comply with the provisions of section 4 or section 8 shall be guilty of an offence and shall be liable, on conviction before a Magistrate, 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.

Failure to pay sums due to workers.

(2) Upon conviction by the Magistrate's Court of an employer for failure to pay any sum required to be paid to a worker of such employer under this Law, the court shall, in addition to any other penalty which it may impose for such offence, order such employer to pay such sum to such worker,

within a period specified in the order, and if such sum is not so paid, such sum shall be recovered and paid to such worker on the order of the court, as if it were a fine imposed by the court.

Recovery of sums due to workers in certain cases.

10. (1) Where an employer has been convicted for failure to pay any sum required to be paid to a worker of such employer under this Law, 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 Law to that worker or any other worker or workers at any time during the four years preceding the date on which complaint 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.

(2) In this section "prescribed" means prescribed by regulation made under section 11.

Regulations.

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

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation

which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

12. In this Law, unless the context otherwise requires—

"Commissioner", "employer" and "wages" have the same meanings respectively, as in the Wages Boards Ordinance ;

"trade" includes any industry, business, undertaking, occupation, profession or calling carried on, 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 by any body corporate or unincorporate whose capital is wholly provided by the Government in its capacity as an employer or which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or persons who are destitute, dumb, deaf or blind ; and

"worker" means a person employed in any capacity by any employer under a contract whether oral, written, expressed or implied, to perform any work in any trade, and includes a worker whose salary or wages are regulated by any written law or otherwise and a worker employed on a piece-rate basis but does not include a domestic servant or an employer's personal chauffeur.