

CHAPTER 166

INTERIM DEVALUATION ALLOWANCE OF EMPLOYEES

Act No. 40 of 1968. AN ACT TO PROVIDE FOR THE PAYMENT, OTHERWISE THAN BY EMERGENCY LAWS, OF AN INTERIM DEVALUATION ALLOWANCE BY EMPLOYERS TO INDUSTRIAL AND AGRICULTURAL EMPLOYEES, AND FOR MATTERS CONNECTED-THEREWITH OR INCIDENTAL THERETO.

[18 th November, 1968.]

Short title. **1.** This Act may be cited as the Interim Devaluation Allowance of Employees Act.

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

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

This Act to have force and effect notwithstanding anything in any other written law, &c.

3. The provisions of this Act shall have force and effect notwithstanding anything in any other written law, or in any contract of employment, whether oral, written, express or implied ; and accordingly, in the event of any conflict or inconsistency between such provisions and any such other law or such contract, such provisions shall to the extent of such inconsistency prevail over any such other law or such contract.

Interim devaluation allowance.

4. (1) On and after the 18th day of November, 1968, every employer of any industrial or agricultural employee shall, in respect of each month, pay such employee an interim allowance, in this Act referred to as an " interim devaluation allowance ", calculated at the following rates :—

(a) where such employee is an industrial employee, other than a piece-rated industrial employee, and

(i) is remunerated at a monthly rate and his monthly basic wages do not exceed three hundred rupees, or his monthly consolidated wages do not exceed five hundred and five rupees, at the rate of ten rupees per mensem, or

(ii) is remunerated at a daily rate and his monthly basic wages computed at such daily rate do not exceed three hundred rupees, or his monthly consolidated wages computed at such daily rate do not exceed five hundred and five rupees, at the rate of forty cents per diem for each day in respect of which he is entitled to receive wages ; or

(b) where such employee is an agricultural employee, other than a piece-rated agricultural employee, and

(i) is remunerated at a monthly rate, and his monthly basic wages do not exceed three hundred rupees or his monthly consolidated wages do not exceed five hundred and five rupees, at the rate of seven rupees and fifty cents per mensem, or

(ii) is remunerated at a daily rate and his monthly basic wages computed at such daily rate do not exceed three hundred rupees, or his monthly consolidated wages computed at such daily rate do not exceed five hundred and five rupees, at the rate of thirty cents per diem for each day in respect of which he is entitled to receive wages ; or

(c) where such employee is an industrial or agricultural employee, other than a piece-rated industrial or agricultural employee and is remunerated at a monthly rate, and

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- (i) his monthly basic wages exceed three hundred rupees but do not exceed three hundred and ten rupees in the case of an industrial employee, or three hundred and seven rupees and fifty cents in the case of an agricultural employee, at the rate specified in Part I of the Schedule to this Act and applicable in the case of such employee ; or
- (ii) his monthly consolidated wages exceed five hundred and five rupees but do not exceed five hundred and fifteen rupees in the case of an industrial employee, or five hundred and twelve rupees and fifty cents in the case of an agricultural employee, at the rate specified in Part II of that Schedule and applicable in the case of such employee ; or
- (d) where such employee is a piece-rated industrial employee, at the rate of forty cents in respect of each complete unit of four rupees comprising his monthly remuneration, so, however, that the maximum amount payable to such employee as an interim devaluation allowance in respect of any month shall not exceed the amount determined by multiplying forty cents by the number of days specified in respect of that month in Part III of that Schedule, or by the number of days such employee has worked in that month, whichever is greater ; or
- (e) where such employee is a piece-rated agricultural employee, at the rate of thirty cents in respect of each complete unit of two rupees and seventy cents comprising his monthly remuneration, so, however, that the maximum amount payable to such employee as an interim devaluation allowance in respect of any month shall not exceed the amount determined by multiplying thirty cents by the number of days specified in respect of that month in Part III of that Schedule, or by the number of days such employee has worked

in that month, whichever is greater :

Provided, however, that any such employee who is entitled to a cost of living allowance determined in accordance with the Colombo Consumers' Price Index Figure, or to a special allowance payable under the Wages Boards Ordinance, shall not be entitled, for the duration of the period for which such interim devaluation allowance is payable, to any such cost of living allowance in excess of the amount determined in accordance with the cost of living index figure of 116.3, or to such special allowance in excess of the amount paid for the month of December, 1967, unless such cost of living allowance or such special allowance in respect of any month exceeds the aggregate of the cost of living allowance determined in accordance with the aforesaid cost of living index figure, or the special allowance paid for the said month of December and the interim devaluation allowance in which case such employee shall, in respect of that month, be entitled, in addition to the interim devaluation allowance, to be paid the amount of such excess.

(2) The interim devaluation allowance shall be deemed to be part of the cost of living allowance payable in accordance with the Colombo Consumers' Price Index Figure, or the special allowance payable under the decisions of the Wages Boards constituted under the Wages Boards Ordinance for all purposes, whether of any written law or otherwise, for which such cost of living allowance, or special allowance, as the case may be, is taken into account.

5. Any sum due by way of an interim devaluation allowance to an employee under section 4 shall, for all purposes of any written law or otherwise, be deemed to constitute part of his wages, and accordingly every employer of an industrial or agricultural employee shall pay such sum within the period he is liable to pay the wages of such employee.

Payment due under section 4 to constitute part of an employee's wages.

6. The competent authority shall have power—

Power of entry and inspection.

- (a) to enter and inspect at all reasonable hours of the day or night any place

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in which employees are employed for the purpose of examining any register or record of wages, or of ascertaining whether the provisions of this Act are being complied with ; or

- (b) where any such record or register is not available for examination when he is inspecting such place, to require the production of such register or record 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 record ; or
- (d) to interrogate any person whom he finds in such place and whom such authority has reasonable cause to believe is an employer or an employee engaged or employed in any trade, industry, business or occupation carried on in such place or is an employer or an employee in the establishment or institution in such place.

Power of competent authority to call for returns.

7. (1) The competent authority may direct any employer to furnish to him before a specified date—

- (a) a return relating to all his employees or any specified class or description of such employees and containing such particulars as such authority may require for the purposes of this Act ; or
- (b) such information or explanation as such authority may require in respect of any particulars stated in any return furnished by such employer ; or
- (c) a true copy of the whole or any part of any register or record maintained by such employer.

(2) A direction under subsection (1) of this section may be given by notice published in the Gazette and in two or more newspapers circulating in Sri Lanka.

Special provisions regarding payments under section 4.

8. The amount payable by an employer to an employee by virtue of the operation of the provisions of section 4 shall be in substitution for, and not in addition to, any other payment to which such employee is entitled

from such employer, being a payment which is calculated on the basis of the Colombo Consumers' Price Index Figure, or which is a special allowance under the Wages Boards Ordinance, and is payable under any agreement by whatsoever name or designation called, entered into, or arrived at, under any written law or otherwise.

9. Every person, who having been an industrial or agricultural employee of any employer on the day immediately prior to December 1, 1967, shall, for so long as he continues to be an employee of such employer, be so continued in employment by such employer on such terms and conditions relating to salary, allowances or other payments in money by whatsoever name or designation called, excluding the interim devaluation allowance, as are not less favourable than such employee had or enjoyed on the day immediately prior to that date.

Special provisions regarding continuation of employment.

10. (1) Any employer who fails to pay any sum required to be paid to an employee of such employer under section 4 or who fails to comply with the provisions of section 9 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, in addition, be liable to a fine not exceeding fifty rupees for each day on which the offence is continued after conviction.

Failure to pay sums due under section 4 or failure to comply with section 9.

(2) Upon the conviction by a court of an employer for an offence by reason of the failure of such employer to pay any sum required to be paid to an employee of such employer under section 4, the court may, in addition to any other penalty which it may have imposed for such offence, order such employer to pay such sum to such employee, within a period specified in the order, and if such sum is not so paid, such sum may be recovered and paid to such employee on the order of the court as if it were a fine imposed by the court.

11. Every person who—

Offences.

- (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

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- (b) hinders or molests such authority in the exercise of the powers conferred by that section ; or
- (c) refuses to produce any register or record of wages, or give any information which such authority requires him to produce or give under the powers conferred by that section ; or
- (d) makes or causes to be made any register or record of wages which is false in any material particular, or produces or causes or knowingly allows to be produced any such register or record to such authority acting under the powers conferred by that section, 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 direction given by such authority under section 7, or who, when called upon to furnish a return under the said section 7, knowingly makes or furnishes, or causes to be made or furnished, a false return or a return containing any false statement,

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.

12. (1) Where an offence for which an employer is liable under this Act 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 Act proves, to the

satisfaction of the court, that he has used due diligence to enforce the execution of this Act and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance, such employer shall be exempt from any penalty in respect of the offence, without prejudice however to the power of the court under section 10 (2) to order such employer to pay any sum which appears to be due to the employee under section 4.

13. All offences under this Act shall be triable summarily by a Magistrate.

Court of trial for offences.

14. In this Act, unless the context otherwise requires—

Interpretation.

" agricultural employee " means an employee employed in one or more of the following trades, namely, the tea growing and manufacturing trade, the rubber growing and manufacturing trade, the coconut growing trade, the cinnamon trade, the cocoa, cardamom and pepper growing and manufacturing trade, and the tobacco trade, as defined under and for the purposes of the Wages Boards Ordinance, and includes—

- (a) any such employee engaged on—
 - (i) a rubber plantation less than twenty-five acres in extent ;
 - (ii) a coconut plantation not exceeding ten acres in extent ;
 - (iii) a tobacco plantation not exceeding one acre in extent ;
 - (iv) a cinnamon plantation not exceeding five acres in extent ; or
 - (v) a cocoa plantation not exceeding twenty-five acres in extent;
- (b) a watcher employed on any coconut plantation ;
- (c) a piece-rated agricultural employee which would include any person engaged on weeding or other contract work ;

Liability of employer's agent.

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" Commissioner " means the person for the time being holding the office of Commissioner of Labour and includes any person for the time being holding office as a Deputy Commissioner of Labour or as a Senior Assistant Commissioner of Labour or as an Assistant Commissioner of Labour or as a labour officer ;

" consolidated wages " means wages, other than wages comprised of the following :—

(a) basic wage;

(b) a cost of living allowance, a special living allowance, or any other like or similar allowance ;

" employee " means any employee who is liable to contribute to the Employees' Provident Fund,

established by the Employees' Provident Fund Act, and includes any employee who is liable to contribute to any provident fund or contributory pension scheme which has been declared under that Act to be an approved provident fund or an approved contributory pension scheme, but does not include an employee of a corporation whose capital is wholly provided by the Government, or a local government employee ;

" employer " means any person who on his own behalf employs, or any person who on behalf of any other person employs, any person ;

" industrial employee " means any employee other than an agricultural employee ;

" wages " includes salary.

SCHEDULE

PART I

INTERIM DEVALUATION ALLOWANCE

Industrial Employee

Agricultural Employee

The difference between Rs. 310 and the monthly basic wages,

The difference between Rs. 307.50 and the monthly basic wages.

PART II

INTERIM DEVALUATION ALLOWANCE

Industrial Employee

Agricultural Employee

The difference between Rs. 515 and the monthly consolidated wages,

The difference between Rs. 512.50 and the monthly consolidated wages.

PART III

January	27	days	April	26	days	July	27	days	October	27	days
February	24		May	27		August	27	"	November	26	»
March	27		June	26		September	26		December	27	"