

**CHAPTER 167**

**SPECIAL ALLOWANCES OF WORKERS**

Law No. 17 of 1978. A LAW TO PROVIDE FOR THE PAYMENT OF SPECIAL ALLOWANCES BY EMPLOYERS TO CERTAIN CATEGORIES OF WORKERS, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[17 th February. 1977.]

Short title. **1.** This Law may be cited as the Special Allowances of Workers Law.

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 such authority by this Law.

**PART I**

**PAYMENT OF CERTAIN ALLOWANCES TO PRIVATE SECTOR WORKERS**

Payment of allowance. **3.** (1) With effect from the 17th day of February, 1977, every employer, in any trade, of a worker whose total earnings for the month do not exceed eight hundred rupees shall pay to such worker in respect of each month, an allowance calculated on the following basis :—

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

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

(2) Every employer of a worker whose total earnings for the month exceed eight hundred rupees but are less than eight hundred and fifty rupees, shall, in respect of each month, pay to such worker as allowance an amount equivalent to the difference between eight hundred and fifty rupees and the amount drawn by such worker as salary or wages for that month.

(3) Where any worker referred to in subsection (1) or subsection (2) is paid—

- (i) a non-recurring Cost of Living Gratuity in accordance with, or on the basis of, the provisions of any Collective Agreement or in terms of an Order made by the Minister under section 10 (2) of the Industrial Disputes Act, or
- (ii) a Cost of Living Allowance determined in accordance with the Colombo Consumers' Price Index,

the employer may deduct from the amount payable to such worker as such gratuity or such allowance, as the case may be,—

- (a) where the total earnings of such worker for the month do not exceed four hundred rupees, an amount equivalent to ten *per centum* of the salary or wages of such worker or a sum of thirty rupees, whichever is less ; and
- (b) where the total earnings exceed four hundred rupees, a sum of fifty rupees.

**4.** (1) With effect from the 17th day of February, 1977, every employer, in any trade, of a worker whose total earnings for the month do not exceed eight hundred rupees, shall pay to such worker in respect of each month, in addition to the allowance referred to in section 3, an allowance which is not less than twenty-five rupees : Payment of additional allowance.

Provided that—

(a) where such employer is an employer bound by any Collective Agreement published in Gazette No. 14,975 of September 10, 1971, or by an Order under section 10 (2) of the Industrial Disputes Act, in respect of such Collective Agreement, or is an employer who voluntarily or otherwise pays wages and non-recurring Cost of Living Gratuity which are not less favourable than the amounts payable under any such Collective Agreement, the allowance payable shall be ten *per centum* of the monthly wage payable for the month of January, 1975, to the category or class of workers to which such worker belongs, or twenty-five rupees, whichever is less ; and

(b) where such employer is an employer in the tea growing and manufacturing trade or the rubber growing and manufacturing trade or the cocoa, cardamom and pepper growing and manufacturing trade, or the coconut growing trade, or the cinnamon trade, or the tobacco trade, the allowance payable shall be ten *per centum* of the amount payable to such worker as wages for the number of days he has worked during the month, at the rate of the daily minimum wage payable for the month of January, 1975, to the category or class of workers to which such worker belongs, or twenty-five rupees, whichever is less.

(2) Where a worker is employed on a piece-rate basis or a daily-rate basis, the allowance payable shall be an amount not less than ten *per centum* of the wages payable on a piece-rate basis or a daily-rate basis, as the case may be, for the month of January, 1975, to the category or class of workers to which such worker belongs :

Provided that the allowance payable under this subsection shall not exceed twenty-five rupees per mensem.

(3) Where a worker employed on a monthly rate does not work for the requisite

number of days as prescribed by any written law or contract, for any reason other than the failure of the employer to provide work for such worker, the allowance payable to such worker shall be in proportion to the number of days he has worked for the month.

(4) Every employer of a worker whose total earnings for the month exceed eight hundred rupees but are less than eight hundred and seventy-five rupees shall, in respect of each month, pay to such worker as allowance an amount equivalent to the difference between eight hundred and seventy-five rupees and the amount drawn by such worker as salary or wages for that month.

(5) Notwithstanding the preceding provisions of this section, the allowance determined under subsection (1) shall not be payable to a worker—

(a) to whom Collective Agreement No. 5 of 1967 applies ;

(b) to whom the employer, voluntarily or otherwise, pays wages and a non-recurring Cost of Living Gratuity which are not less favourable than the amount payable under the Collective Agreement referred to in paragraph (a) ;

(c) to whom the employer pays a Cost of Living Allowance determined in accordance ° with the Colombo Consumers' Price Index ;

(d) who is employed in an institution declared to be an approved charity under section 16A of the Inland Revenue Act, No. 4 of 1963, or section 31 (9) (a) of the Inland Revenue Act (No. 28 of 1979), as the case may be ; and

(e) whose employer is bound by an Order under section 10 (2) of the Industrial Disputes Act, in respect of any Collective Agreement published in Gazette No. 14,975 of September 10, 1971, and pays wages and a non-recurring Cost of Living Gratuity in terms of any such agreement, where the total number of workers employed by such employer is less than twenty-five.

Interpretation

5. In this Part of this Law, unless the context otherwise requires—

" 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 by any employer under a contract whether oral, written, express or implied to perform any work in any trade, industry, business, occupation or calling, 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.

allowance payable under any decision made by the Wages Board for the tea growing and manufacturing trade, or the rubber growing and manufacturing trade, or the coconut growing trade, as the case may be, under section 20 (2) (a) (ii) of the Wages Boards Ordinance.

7. (1) Every employer in the textile manufacturing trade employing not less than one hundred workers shall, with effect from the 17th day of February, 1977, pay in respect of each month to each unskilled worker a minimum monthly rate of wages amounting to one hundred and eighty rupees, if such worker has worked for at least twenty-five days during the month.

Minimum monthly rate of wages in the textile manufacturing trade.

(2) The monthly rate of wages referred to in subsection (1) shall be deemed to include the Interim Devaluation Allowance payable under the Interim Devaluation Allowance of Employees Act, but shall not include the allowances referred to in sections 3 and 4 of this Law.

8. (1) Every employer of a worker whose name appears in the check-roll of an estate of not less than one hundred acres in extent, and planted with any one or more of the following crops, that is to say, tea, rubber, coconut, cocoa, cardamom or pepper, shall, with effect from the 17th day of February, 1977, pay as wages to such worker an amount not less than the guaranteed minimum amount in respect of each period of six months after the 17th day of February, 1977, if the worker reports for work on at least one hundred and eight working days during each such period, and works on the days on which work is given to him on so reporting.

Guaranteed minimum wage for estate workers.

(2) Where during any period referred to in subsection (1), a worker referred to in that subsection fails to report for work on at least one hundred and eight working days by reason only of the number of working days in such period being less than one hundred and eight, such worker shall, notwithstanding such failure, be entitled to be paid the guaranteed minimum amount.

(3) In this section—

" daily minimum wage " in relation to a worker, means the aggregate of—

**PART II**

**PAYMENT OF CERTAIN ALLOWANCES TO CERTAIN CATEGORIES OF PRIVATE SECTOR WORKERS**

Payment of additional special allowances to plantation workers.

6. (1) Every employer of a worker in—  
(a) the tea growing and manufacturing trade, or  
(b) the rubber growing and manufacturing trade, or  
(c) the coconut growing trade,

shall, with effect from the 17th day of February, 1977, pay to such worker an allowance (hereinafter referred to as the " additional special allowance ") at such rates as are set out in the First Schedule hereto.

(2) The additional special allowance shall be paid in addition to any special

- (a) the daily wage prescribed by the relevant Wages Board for the trade to which the worker belongs ;
- (b) any amount payable to the worker for a day under this Law ;
- (c) any amount payable to the worker for a day under the Interim Devaluation Allowance of Employees Act ; and
- (d) any amount payable to the worker for a day in accordance with the provisions, or on the basis, of any Collective Agreement ; and

less than one hundred acres in extent shall pay to such worker, in respect of each day he works, a wage supplement computed at such rates as are set out in the Second Schedule hereto.

12. The provisions of the Wages Boards Ordinance shall apply to, and in relation to, the payment of the additional special allowance referred to in section 6 and the minimum monthly rate of wages for workers in the textile manufacturing trade referred to in section 7 as though such payments were required to be made by a decision made by the appropriate Wages Board.

Provisions of the Wages Boards Ordinance to apply in the case of certain allowances.

PART III  
GENERAL

" guaranteed minimum amount " means in respect of each period of six months, the amount equivalent to the average of the daily minimum wage which the worker is entitled to during each such period, multiplied by one hundred and eight.

13. The provisions of this Law 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.

This Law to have force and effect notwithstanding anything in any other written law.

Employer to maintain loose leaf check-roll.

9. (1) Every employer of a worker referred to in section 8 shall maintain a loose leaf check-roll in which shall be recorded the names of the workers who report for work on a working day. Such check-roll shall be kept at the place at which the workers report for work on the estate and shall be open for inspection by any worker of the estate or by a representative of the Estate Committee of the trade union recognized by the employer.

14. Every worker including an unskilled worker who has been employed by any employer in any of the trades specified in this Law, on the day immediately prior to the 17th day of February, 1977, shall, for so long as he continues to be a worker of such employer, continue to be so employed by such employer on such terms and conditions relating to salary, allowances or other payments in money by whatsoever name or designation called, as are not less favourable than those which such worker had enjoyed on the day immediately prior to the 17th day of February, 1977, other than any such allowances as were paid to him under Emergency Regulations made under section 5 of the Public Security Ordinance, and the allowances payable under the preceding provisions of this Law shall be in addition to such salary, allowances or other payments.

Special provision regarding continuation of employment.

Where wage is less than the guaranteed minimum wage.

(2) A representative of the Estate Committee of a trade union recognized by the employer shall have the right to be present on the estate at the times and places at which workers report for work, and after work.

10. Where the amount paid as wages by an employer to a worker referred to in section 8 during any period referred to in that section, is less than the guaranteed minimum amount, such employer shall pay such worker the difference between the guaranteed minimum amount and the amount paid as wages during such period, not later than thirty days after the end of such period.

15. (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, in respect of the workers employed in that trade, showing—

Maintenance of records by employers.

Payment of wage supplement to tea estate workers.

11. With effect from the 17th day of February, 1977, every employer of any worker in the tea growing and manufacturing trade, in any tea estate not

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

(2) Every person who, as an employer, maintains or has maintained under subsection (1) any record shall preserve such record for a period of four years commencing on the date on which the record was required to be maintained under this Law and shall, when required to do so by the Commissioner, produce such record for inspection and furnish a true copy of such record or permit such copy to be made.

**16.** 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 referred to in this Law are employed, for the purpose of examining any register or record of wages, or of ascertaining whether the provisions of this Law 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 his office ; 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 he has reasonable cause to believe is an employer or a worker engaged or employed in any trade carried on in such place ; or
- (e) to direct in writing any employer to whom this Law applies 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 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 or record maintained by any such employer.

**17.** Every person who, on or after the 17th day of February, 1977,— offences and penalties.

- (a) fails to comply with the provisions of section 15 ; or
- (b) 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 16 ; or
- (c) hinders or molests such authority in the exercise of the powers conferred by section 16 ; or
- (d) 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 section 16 ; or
- (e) 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 register or record to such authority acting under the powers conferred by section 16, knowing the same to be false ; or
- (f) furnishes any information to such authority acting under the powers conferred by section 16, knowing the same to be false ; or
- (g) makes default in complying with any directions given by such authority under section 16, or who, when called upon to furnish a return under the said section 16, knowingly, makes or furnishes, or causes to be made or furnished, a false return or a return containing any false statement,

Powers of competent authority.

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.

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

18. Any sum due to a worker under section 3 or section 4 or section 6 or section 7 or section 8 or section 11 shall, for all purposes of any written law or otherwise, be deemed to constitute part of his wages and accordingly every employer of such worker shall pay such sum within the period of his liability to pay the wages of such employee.

Failure to pay sums due to workers.

19. (1) Any employer who fails to pay a sum required to be paid to a worker of such employer under this Law 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.

(2) Upon conviction by the Magistrate's Court of an employer for an offence by reason of the failure of such employer to pay any sum required to be paid to a worker of such employer under this Law, 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 worker, within a period specified in the order, and if such sum is not so paid, such sum may be recovered and paid to such worker on the order of the court.

Regulations.

20. (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.

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

Interpretation.

" child worker " means a male worker under sixteen years of age or a female worker under fifteen years of age ;

" coconut growing trade " has the same meaning as in the Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade and published in Gazette No. 9,961 of March 30, 1949;

" Collective Agreement " has the same meaning as in the Industrial Disputes Act ;

" 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 ;

" earnings " shall have the same meaning as in the Employees' Provident Fund Act ;

" 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 ;

" rubber growing and manufacturing trade " has the same meaning as in the Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade, and published in Gazette No. 10,035 of October 22, 1949;

" tea growing and manufacturing trade " has the same meaning as in the

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Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade, and published in Gazette No. 9,224 of January 7,1944 ;

" textile manufacturing trade " has the same meaning as in the Order made by the Minister in charge of the subject of Labour under section 6 of the Wages Boards Ordinance in respect of that trade and published in Gazette No. 14,763 of August 25, 1967, as amended by the Order published in Gazette No. 53 of March 30, 1973 ;

" trade " in Parts II and III has the same

meaning as in the Wages Boards Ordinance ;

" unskilled worker" has the same meaning as in the decision made by the Wages Board for the textile manufacturing trade, and published in Gazette Extraordinary No. 14,955/19 of April 29, 1971;

" wages " has the same meaning as in the Wages Boards Ordinance ;

" worker " in Parts II and III has the same meaning as in the Wages Boards Ordinance ; and

" working days " in relation to an estate, means the days on which work is done on the estate.

## FIRST SCHEDULE

[Section 6.]

The additional special allowance payable under section 6 to a worker specified in Column I hereunder shall be at the rate set out in the corresponding entry in Column II hereunder.

COLUMN I CLASS OF WORKER	COLUMN II ADDITIONAL SPECIAL ALLOWANCE FOR A NORMAL WORKING DAY
Male worker over 16 years of age	18 cents
Female worker over 15 years of age	12 cents
Child worker	12 cents

## SECOND SCHEDULE

[Section 11.]

COLUMN I WHERE THE MONTHLY AVERAGE NET SALE PRICE OF ALL MID-GROWN TEAS AT THE COLOMBO TEA AUCTIONS FOR THE PREVIOUS MONTH IS—	COLUMN II THE WAGE SUPPLEMENT PAYABLE PER WORKER PER DAY SHALL BE—
(a) Not less than Rs. 2.50 and not more than Rs. 2.74	10 cents
(b) Not less than Rs. 2.75 and not more than Rs. 2.99	20 cents
(c) Not less than Rs. 3.00	30 cents