

## Minimum Wages (Indian Labourers)

### AN ORDINANCE TO AMEND THE LAW RELATING TO INDIAN LABOURERS.

Ordinance Nos,

27 of 1927

34 of 1935

22 of 1945

Act Nos,

22 of 1955

25 of 2000

3 of 2021

Short title.

1. This Ordinance may be cited as the Minimum Wages (Indian Labour) Ordinance.

Construction.

2. This Ordinance shall be read and construed as one with the Service Contracts Ordinance, the Estate Labour (Indian) Ordinance, and the Indian Immigrant Labour Ordinance.

Work other than time work.

3. (1) Where a labourer is employed at work other than time-work for a day or a successive number of days within any calendar month, the wages payable to him for that day or successive number of days, shall not be less than the wages payable to such labourer for such period at the minimum rates of wages prescribed under this Ordinance.  
  
(2) In the case of a labourer paid by the day, any period of work performed by such person exceeding nine hours per day (including time not exceeding one hour taken for the midday meal) shall be paid for at overtime rates, and shall be in addition to the minimum rates of wages payable to the labourer for a day's work. Such overtime rates shall not be less per hour than one-eighth of the minimum rates of wages fixed under this Ordinance.

Child labour.

4. No employer shall knowingly employ for work on estates any child

[2, 3 of 2021]  
[2, 25 of 2000]

below the age of sixteen years, or knowingly permit such child to be employed.

Appointment of  
Estate Wages  
Board.

5. (1) It shall be lawful for the Minister by notification in the Gazette to appoint for any administrative district an Estate Wages Board composed of five members, none of whom shall be members of the Board of Indian Immigrant Labour.
- (2) The said board shall be composed of a chairman (who shall be a public officer nominated by the Minister) and four other members, of whom two shall be employers of Indian labourers working on estates, the remaining two being selected to represent the labourers.
- (3) Such members shall hold office for a period not exceeding three years, and any member leaving Sri Lanka for a period exceeding six months or being absent from three consecutive meetings of an Estate Wages Board shall ipso facto cease to be a member. Any member may resign by notice in writing given to the Commissioner of Labour.
- (4) Any member ceasing to be a member in the manner aforesaid shall be eligible for re-appointment.
- (5) Any vacancy created by death or incapacity to act or in the manner indicated in subsection (3) of this section may be filled by the Minister, and such member shall hold office until the expiration of the three years in question.
- (6) At a meeting of the Estate Wages Board three members shall form a quorum and the chairman shall be entitled to vote and in case of equality of votes shall have a second or casting vote.

Extent of  
jurisdiction of  
Estate Wages  
Board.

6. (1) The Minister may, if he thinks it expedient, establish one Estate Wages Board for two or more administrative districts, and thereupon such board shall be the Estate Wages Board for the combined administrative districts, or the Minister may establish an Estate Wages Board for portions of one, two, or more administrative districts, and thereupon such board shall be the Estate Wages Board for the area so combined.
- (2) The Minister may from time to time alter the boundaries of the area over which any Estate Wages Board has jurisdiction.
- (3) For the purpose of this Ordinance an estate shall be deemed to be subject to the jurisdiction of that Estate Wages Board within

whose area the whole of the estate is situated, or within whose area is that part of the estate where the person resident on the estate and in chief control of the labourers working thereon has his estate office or other place of management.

Expenses of members.

7. It shall be lawful for the Commissioner to make such payments as may be necessary to the members of the Estate Wages Boards to meet the cost of travelling and maintenance in connexion with meetings of such boards from the Immigration Fund created by the Indian Immigrant Labour Ordinance.

Estate Wages Board to fix minimum rates of wages.

8. (1) Subject to the provisions of this Ordinance, an Estate Wages Board shall, from time to time as occasion may require, fix minimum rates of wages for time-work performed on estates within its jurisdiction : Provided that the chairman of such Wages Board shall by notification in the Gazette and in at least one local English\* and one local Tamil\* newspaper, if such are available, give notice of the intention of the Estate Wages Board to fix minimum rates of wages, or where such have been already fixed to alter the same at least one month before the Estate Wages Board proceeds to fix or alter such rates ; and Provided further that such Estate Wages Board may before fixing such minimum rates of wages hear any interested person and his witnesses who may have given due notice of his intention of being present.  
(\* See Article 18 of the Constitution)
- (2) An Estate Wages Board may, if it thinks fit, fix different minimum rates for labourers working in different localities within its jurisdiction, and may fix different rates for different classes of labourers.
- (3) An Estate Wages Board may cancel or vary from time to time any minimum rates of wages fixed under this Ordinance.
- (4) The chairman of an Estate Wages Board shall inform the chairman, of the Board of Indian Immigrant Labour of each decision of the Estate Wages Board fixing, cancelling, or varying a minimum rate of wages, and the Board of Indian Immigrant Labour may confirm, vary, or cancel every such decision.
- (5) The chairman of the Board of Indian Immigrant Labour shall by notification in the Gazette and in at least one Local English\* and one Local Tamil\* newspaper, if such are available, publish

the decision of such Estate Wages Board, and the Board of Indian Immigrant Labour shall not confirm, vary, or cancel such decision until after the expiration of one month from the date of such notification.

(\*See Article 18 of the Constitution.)

Powers of the Board of Indian Immigrant Labour over minimum rates.

9. (1) The Board of Indian Immigrant Labour may from time to time of its own motion fix any minimum rates of wages or cancel or vary any minimum rates of wages which have already been fixed under this Ordinance whenever any Estate Wages Board, upon being required so to do by the Board of Indian Immigrant Labour, shall fail to fix, vary, or cancel such minimum rates within two months or such further period as may be allowed by the Board of Indian Immigrant Labour.
- (2) The Board of Indian Immigrant Labour when acting under this section shall give notice to the public and hear witnesses (if any) as provided in subsection (1) of section 8.

Approval of rates by Minister and publication in Gazette.

10. (1) A minimum rate of wages or a cancellation or variation thereof shall not take effect until it has been approved by the Minister and published in the Gazette. When so published the minimum rate or the cancellation or variation thereof shall be binding on all employers, and shall take effect from a date (being not less than one month from the date of publication) to be fixed by the Commissioner and to be published in the Gazette. Such rate or the cancellation or variation thereof shall also be published in at least one local English\* and one local Tamil\* newspaper, if such are available.
- (2) A notification in the Gazette to the effect that any minimum rate of wages has been fixed, varied, or cancelled with the approval of the Minister under this Ordinance shall be judicially noticed, and shall be conclusive proof of the fact and of the date on which the minimum rate of wages or variation or cancellation thereof takes effect.
- (3) After such publication in the Gazette every employer shall exhibit in some conspicuous place on his estate a notice in the Tamil\* language on a board setting forth the minimum rates of wages applicable to his estate, so that it may be readily seen and read by the labourers.

Liability to issue monthly allowance of rice. [3, 3 of 2021] [3, 25 of 2000]

11.(1) On every estate an allowance of one-eighth of a bushel of unblended rice of good quality shall be issued, free of charge, each month by the employer-

(a) to every Indian male labourer above the age of sixteen years employed on the estate, and

(b) to every Indian widow resident on the estate and having at least one child below the age of sixteen years dependent on her. or to supply

(2) With the written permission of the Commissioner first had and obtained, any employer may, in lieu of the allowance of rice under subsection (1), supply daily, free of charge, one or more meals of rice and curry or such other article of food as may be approved by the Commissioner, to each of the children below the age of sixteen years resident on the estate and dependent on any of the labourers employed or the widows resident thereon.

(3) The permission given by the Commissioner under subsection (2) shall be-

(a) subject to the condition that the meals supplied are at all times of good quality, and that in the aggregate for any month they are not less in value than the allowance of rice that would otherwise have been issued under subsection (1) ; and

(b) liable to be withdrawn at any time by written notice under the hand of the Commissioner, if the foregoing condition is not fulfilled to his satisfaction.

(4) Nothing in this section contained shall be deemed to affect the provisions of section 12 of the Medical Wants Ordinance.

Penalty for failure to pay minimum rates.

12. (1) Any person who employs or pays a labourer to whom a minimum rate of wages fixed under this Ordinance is applicable at a rate of wages less favourable to the labourer than the minimum rate or fails to issue the monthly allowance of rice or in lieu thereof to supply free meals in accordance with section 11, shall on conviction by a Magistrate be liable to a fine not exceeding one hundred rupees for each offence.

(2) In any proceedings against an employer under this section the court shall, whether there is a conviction or not, order the employer to pay in addition to the fine, if any, such sum as may be found by the court to represent the difference between the amount which ought at the minimum rate applicable to have

been paid to the labourer during the period of six months immediately preceding the date on which the plaint was filed or the summons was served and the amount actually paid to him during that period, or to represent the cost of the allowance of rice which ought to have been issued in accordance with section 11 during that period.

Inspection of  
Records.

13. (1) For the purpose of administering this inspection of ordinance, the Commissioner shall have power at all reasonable times, with or without notice, to enter upon any premises on which labourers work and to inspect all records connected with the engagement, registration, payment, and discharge of such labourers. [including any forms II in Schedule B to the Estate Labour (Indian) Ordinance], and to make all such inquiries as may be necessary to ascertain the rates at which wages have been paid to such labourers.

(2) It shall be the duty of every employer to have and keep at an office on the estate every form II in Schedule B to the Estate Labour (Indian) Ordinance delivered to him by a labourer and also proper records of the wages paid to labourers, and any employer who fails to do so, or, when requested so to do by the Commissioner, fails to produce any such form or records, not being forms or records over one year old, or to answer any question relating to any such form or records or to the wages paid by the employer, shall on conviction by a Magistrate be liable to a fine not exceeding one hundred rupees.

(3) Any agent appointed under section 8 of the Indian Immigrant Labour Ordinance and any officer authorized by him in writing shall have the same powers of inspection and making inquiries as are conferred on the Commissioner by this section.

Sanction of  
Commissioner to  
prosecutions.

14. No prosecution under this Ordinance shall be instituted except by or with the written consent of the Commissioner.

Meaning of "  
Commissioner" in  
sections 13 and 14.

15. In each of the two immediately preceding sections 'Commissioner' includes any officer of his department of or above the rank of Inspector who is generally or specially authorized in writing by the Commissioner to act for the purposes of such section.

General penalty.

16. If any person contravenes any provision of this Ordinance, then, if no

penalty is imposed by this Ordinance, he shall, on conviction by a Magistrate, be liable for each offence to a fine not exceeding one hundred rupees.

Translations in  
Tamil of certain  
Ordinances to be  
exhibited on estate.

**17.** Every employer shall exhibit in some conspicuous place on his estate, so that they may be easily seen and read by labourers, translations in Tamil\* of the Service Contracts Ordinance, the Estate Labour (Indian) Ordinance, the Tundu Prohibition Ordinance, the Indian Immigrant Labour Ordinance, and of this Ordinance, as issued by the Government.

Interpretation.  
[4, 3 of 2021]

**18.** (1) In this Ordinance, unless the context otherwise requires-

'Commissioner' means the Commissioner of Labour;

'employer' includes any person who enters into an agreement either expressly or impliedly with any labourer and the duly authorized agent or manager of such person;

'labourer' means a labourer as defined by section 3 of the Estate Labour (Indian) Ordinance;

'minimum rates of wages' means the rates proper in cash or kind or both for an able-bodied unskilled male labourer above the age of sixteen years, for an able-bodied unskilled female labourer above the age of fifteen years, or for an able-bodied child of either sex for time-work.

(2) Every labourer shall be deemed to be able-bodied unless and until the Commissioner shall determine that he is not able-bodied.

(3) Should any question arise as to whether a labourer is able-bodied or not, it shall be determined by the Commissioner, and such determination shall be final.