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THE GAZETTE OF THE REPUBLIC OF SRI LANKA (CEYLON)

EXTRAORDINARY

අංක 243/33 — 1976 දෙසැම්බර් 17 වැනි සිකුරාදා — 1976.12.17

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PART I: SECTION (I)—GENERAL

Government Notifications

P. O. No. W. 68 (70) /76.

PUBLIC SECURITY ORDINANCE (CHAPTER 40)

REGULATIONS made by the President under section 5 of the Public Security Ordinance, upon the recommendation of the Prime Minister.

W. GOPALLAWA,
President.

President's Office,
Colombo, December 17, 1976.

Regulations

1. These regulations may be cited as the Emergency (Estate Workers' Guaranteed Minimum Wage) Regulations.

2. (1) (a) The Commissioner shall be the Competent Authority for the purposes of these regulations.

(b) The Competent Authority may delegate to any officer of the Labour Department any power, function or duty conferred or imposed on such authority by these regulations.

(2) The competent authority shall have the power to enter any estate for the purpose of examining any register, record of wages or checkroll required to be kept under any written law or of examining any worker employed in such estate for ascertaining whether the provisions of these regulations are being complied with.

3. The provisions of these regulations shall have force and effect notwithstanding anything in any other written law or in any contract of employment whether oral, written, expressed or implied and accordingly, in the event of any conflict or inconsistency between the provisions of these regulations and such other law or contract, the provisions of these regulations shall prevail over any such law or such contract.

4. These regulations shall apply to every worker whose name appears in the checkroll 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 and pepper.

5. The amount paid as wages by an employer to a worker to whom these regulations apply shall not be less than the guaranteed minimum amount—

(a) in respect of the period commencing on August 1, 1974, and ending on December 31, 1974, if such worker reports for work on at least 90 working days during such period, and, where work is provided to him on so reporting, if he works on the days on which work is so provided ; and

(b) in respect of each period of six months after the period referred to in paragraph (a), if he reports for work on at least 108 working days during each such period, and where work is provided to him on so reporting, if he works on the days on which work is so provided.

6. Where during any period referred to in regulation 5, a worker to whom these regulations apply fails to report for work on at least 90 working days or 108 working days, as the case may be, due to and due only to the number of working days in such period being less than 90 or 108, as the case may be, such worker shall, notwithstanding such failure, be entitled to be paid the guaranteed minimum amount.

7. Every employer of a worker to whom these regulations apply shall maintain a loose-leaf checkroll in which shall be recorded the names of the workers who report for work on a working day, such checkroll shall be kept at the place at which the workers report for work on the estate and shall be open for inspection by a representative of the Estate Committee of the Trade Union recognized by the employer and by any worker of the estate.

8. 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.

9. (1) Where the amount paid as wages by an employer to a worker to whom these regulations apply, during any period referred to in regulation 5, 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 30 days after the end of such period.

(2) Upon conviction by a Court of an employer for an offence by reason of the failure of such employer to pay the amount required to be paid to a worker under paragraph (1), the Court may, in addition to any other penalty it may impose for such offence, order such employer to pay such amount to such worker within a period specified in such order and if such amount is not so paid, such amount may be recovered on the order of Court as if it were a fine imposed by the Court.

10. In these regulations, unless the context otherwise requires, "Commissioner" and "employer" shall have the same meanings respectively as in the Wages Boards Ordinance (Chapter 236).

"Collective Agreement" shall have the same meaning as in the Industrial Disputes Act.

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

- (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 regulations made under the Public Security Ordinance,
- (c) any amount payable to the worker for a day under the Interim Devaluation Allowance of Employees Act, No. 40 of 1968, and
- (d) any amount payable to the worker for a day in accordance with the provisions, or on the basis of, any Collective Agreement.

"guaranteed minimum amount" means—

- (a) in respect of the period referred to in paragraph (a) of regulation 5, the amount equivalent to the average of the daily minimum wage which the worker is entitled to during such period, multiplied by 90 ; and
- (b) in respect of each period of six months referred to in paragraph (b) of regulation 5, the amount equivalent to the average of the daily minimum wage which the worker is entitled to during each such period, multiplied by 108.

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