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THE GAZETTE OF THE REPUBLIC OF SRI LANKA (CEYLON)

EXTRAORDINARY

අංක 243/38 — 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.

THE 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.

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

W. GOPALLAWA,
President.

Regulations

1. These regulations may be cited as the Emergency (Private Sector) Additional Allowance Regulations.
2. (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.
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. (1) On or after March 1, 1975, every employer, in any trade of a worker whose total earnings for the month do not exceed eight hundred rupees, shall in respect of such month including the month of March 1975, pay to such worker an allowance which is not less than twenty-five rupees.

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 any such Collective Agreement, or is an employer who voluntarily or otherwise, pays wages and a 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 of such worker for the month of January 1975, 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 worked during the month, at the rate of the minimum daily wage of the worker for the month of January 1975, or twenty-five rupees whichever is less.

(2) Where a worker is employed on a piece rate or daily rate basis the amount payable under these regulations shall be a sum not less than ten *per centum* of the wages payable to him on piece rate or daily rate as the case may be, based on the wage rate for January 1975 ;

Provided, that the amount payable under these regulations shall not exceed twenty-five rupees per month.

(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 him with work, the allowance payable to such worker shall be in proportion to the number of days he has worked.

(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 including the month of March 1975, 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 these regulations, the allowance referred to therein 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 Consumer's Index ;
- (d) employed in an institution declared to be an approved charity under section 16A of the Inland Revenue Act, No. 4 of 1963, as amended by Act No. 6 of 1969 ;
- (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 such Agreements, where the total number of workers employed by such employer is less than twenty-five.

6. The allowance payable by an employer to a worker under the provisions of regulation 4, shall also be payable in accordance with such provisions in respect of the month of February 1975, and, notwithstanding the provisions of regulation 7, the employer shall pay the allowance in respect of the month of February 1975, on or before March 20, 1975.

7. The amount payable under these regulations to any worker in any trade shall for the purposes of any written law be deemed to constitute part of his wages and accordingly the employer shall pay such sum within the period he is liable to pay the wages of such worker.

8. Every worker who has been employed by any employer in any trade immediately prior to March 1, 1975, shall for as long as he continues to be a worker of such employer be so continued to be employed by such employer on such terms and conditions relating to salary, allowance 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 March 1, 1975, and the allowance payable under these regulations shall be in addition to such salary, allowance or other payments.

9. Upon the conviction by a Court of an employer for an offence by reason of the failure of such employer to pay any sums required to be paid to a worker under regulation 4 or 6, the Court may in addition to any other penalty it may have imposed for such offence, order such employer to pay such sum to such worker within a period specified in such order and if such sum is not, so paid, such sum 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 ”, “ employer ” and “ wages ” shall have the same meanings respectively as in the Wages Boards Ordinance (Chapter 136) ;
- “ Collective Agreement ” shall have the same meaning as in the Industrial Disputes Act ;
- “ earnings ” shall have the same meaning as in the Employees Provident Fund Act, No. 15 of 1958 ;
- “ 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 industrial 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 the persons who are destitute, dumb, deaf or blind ;
- “ worker ” means a person employed by any employer under a contract whether oral, written, expressed 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.