



TERMINATION OF EMPLOYMENT OF
WORKMEN (SPECIAL PROVISIONS)
(AMENDMENT) LAW, No. 4 of 1976

OF

THE NATIONAL STATE ASSEMBLY

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*Termination of Employment of Workmen
(Special Provisions) (Amendment)
Law, No. 4 of 1976*

L. D.—O. 25/74.

A LAW TO AMEND THE TERMINATION OF EMPLOYMENT
OF WORKMEN (SPECIAL PROVISIONS) ACT, No. 45
OF 1971.

BE it enacted by the National State Assembly of the
Republic of Sri Lanka as follows:—

1. This Law may be cited as the Termination of
Employment of Workmen (Special Provisions)
(Amendment) Law, No. 4 of 1976.

Short title.

2. Section 2 of the Termination of Employment of
Workmen (Special Provisions) Act, No. 45 of 1971,
hereinafter referred to as the "principal enactment",
is hereby amended as follows:—

Amendment of
section 2
Act No. 45
of 1971.

(1) by the substitution, for paragraph (f) of
subsection (2) of that section, of the following
new paragraph—

“(f) any decision made by the Commissioner
under the preceding provisions of this
subsection shall be final and conclu-
sive, and shall not be called in question
whether by way of writ or otherwise—

(i) in any court, or

(ii) in any court, tribunal or other
institution established under
the Industrial Disputes Act.”;

(2) by the renumbering of subsection (3) of that
section as subsection (4) of that section;

(3) by the insertion, immediately before the
renumbered subsection (4) of that section, of
the following new subsection:—

“(3) Any person who fails to comply with
any decision made by the Commissioner
under subsection (2) shall be guilty of an
offence and shall, on conviction after trial
before a Magistrate, 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

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(4) in renumbered subsection (4) of that section, by the substitution, for all the words from “and such termination shall be deemed” to the end of that subsection, of the following:—

“and such termination shall be deemed to include—

(a) non-employment of the workman in such employment by his employer, whether temporarily or permanently, or

(b) non-employment of the workman in such employment in consequence of the closure by his employer of any trade, industry or business.”.

Amendment of
section 3 of
the principal
enactment.

3. Section 3 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(1) by the relettering of paragraphs (c), (d), (e), (f), (g) and (h) of that subsection, as paragraphs (d), (e), (f), (g), (h) and (i) of that subsection;

(2) by the insertion, immediately before the relettered paragraph (d) of that subsection, of the following new paragraph:—

“ (c) to the termination of employment of any workman who has been employed by an employer where such termination was effected by way of retirement in accordance with the provisions of—

(i) any collective agreement in force at the time of such retirement, or

(ii) any contract of employment wherein the age of retirement of such workman is expressly stipulated; or ”; and

(3) by the substitution, for the relettered paragraph (h) of that subsection, of the following new paragraph—

“ (h) to any public corporation, in its capacity as an employer; or ”.

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4. The following new section is hereby inserted immediately after section 6, and shall have effect as section 6A, of the principal enactment:—

Insertion of
new section
6A in the
principal
enactment.

“ Provisions relating to termination of scheduled employment by closure of any trade, industry or business.

6A. (1) Where the scheduled employment of any workman is terminated in contravention of the provisions of this Act in consequence of the closure by his employer of any trade, industry or business, the Commissioner may order such employer to pay to such workman on or before a specified date any sum of money as compensation as an alternative to the reinstatement of such workman and any gratuity or any other benefit payable to such workman by such employer.

(2) Where the Commissioner orders any sum of money to be paid to a workman under subsection (1) the Magistrate's Court having jurisdiction in the area where such workman is or was employed by his employer shall, if satisfied on the written petition of such workman that payment of such money has not been made within the time specified in that behalf by the Commissioner, make order that the amount of such money shall be paid by such employer to such workman and that such amount if not paid in compliance with the order, be recovered in like manner as a fine imposed by the Court, and the amount so recovered shall be paid to such workman.”.

5. Section 14 of the principal enactment is hereby amended as follows:—

Amendment of
section 14 of
the principal
enactment.

(1) by the relettering of paragraph (f) of that section as paragraph (g); and

(2) by the insertion, immediately before the relettered paragraph (g) of that section, of the following new paragraph—

“ (f) (i) fails without cause, which in the opinion of the Commissioner is reasonable, to appear before the

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Commissioner at the time and place mentioned in any summons issued under subsection (2) of section 12 of this Act; or

- (ii) refuses or fails without cause, which in the opinion of the Commissioner is reasonable, to produce and show to the Commissioner any document or other thing which is in his possession or power and which is in the opinion of the Commissioner necessary for arriving at the truth of the matters being inquired into by the Commissioner; or
- (iii) refuses to be affirmed or sworn as a witness before the Commissioner; or "

Repeal of section 16 of the principal enactment and the Schedule to the principal enactment.

6. Section 16 of the principal enactment and the Schedule to the principal enactment are hereby repealed.

Insertion of new sections 17A and 17B in the principal enactment.

7. The following new sections are hereby inserted immediately after section 17, and shall have effect as sections 17A and 17B, of the principal enactment:—

" Appearance before the Commissioner.

17A. In any proceedings at any inquiry held by the Commissioner, the employer or the workman may be represented by an officer of a trade union of which such employer or workman is a member.

Offence of contempt against or in disrespect of the Commissioner.

17B. (1) Where any person—

- (a) insults or intimidates the Commissioner during the progress of any inquiry conducted by such Commissioner;
- (b) interferes with the lawful process of such Commissioner,

such person shall be deemed to commit the offence of contempt against or in

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disrespect of the authority of such Commissioner.

(2) Every offence of contempt committed against or in disrespect of the authority of such Commissioner shall be punishable by the High Court established under the Administration of Justice Law, No. 44 of 1973, within whose jurisdiction such offence was committed.

(3) Every complaint of contempt committed against or in disrespect of the authority of such Commissioner shall be communicated to the High Court within whose jurisdiction such offence was committed, by letter signed by such Commissioner.

(4) The High Court may, upon receiving a communication referred to in subsection (3), take cognizance of and try in a summary manner under subsection (2) of section 41 of the Administration of Justice Law, No. 44 of 1973, such offence of contempt committed against or in disrespect of the authority of such Commissioner.

(5) In any proceedings against any person for the offence of contempt committed against or in disrespect of the authority of such Commissioner, such Commissioner shall not be liable to be summoned as a witness by the first-mentioned person but the High Court may, if it considers it necessary to do so, examine such Commissioner."

8. Section 19 of the principal enactment is hereby amended as follows:—

- (1) by the omission of the definition of "amend";
- (2) by the insertion, immediately before the definition of "Commissioner", of the following definition:—

" "collective agreement" has the same meaning as in the Industrial Disputes Act; "

Amendment of
section 19
of the
principal
enactment.

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(3) by the insertion, immediately after the definition of "Local Government Service Commission", of the following definition:—

“ public corporation ” means any corporation, board or other body which was or is established by or under any written law, other than the Companies Ordinance, with capital wholly or partly provided by the Government by way of grant, loan or other form;’;

(4) by the substitution, for the definition of "scheduled employment" of the following new definition:—

“ scheduled employment ” means employment in—

(a) any trade, in respect of which a notification has been published in the *Gazette* under subsection (2) of section 6 of the Wages Boards Ordinance of an order made under subsection (1) of that section and shall include the work of any worker referred to therein but excluded from the provisions of such order;

(b) every shop and every office within the meaning of the Shop and Office Employees (Regulation of Employment and Remuneration) Act; or

(c) every factory within the meaning of the Factories Ordinance;’;

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(5) by the insertion, immediately after the definition of "scheduled employment", of the following definitions:—

“ trade union ” means any trade union (whether of employer or of workman) registered under the Trade Unions Ordinance;

“ worker ” has the same meaning as in the Wages Boards Ordinance;’.

9. The provisions of this Law other than the provisions of section 6 thereof shall be deemed for all purposes to have come into force and effect on May 21, 1971.

Restrospective
effect of
provisions of
this Law.