

# CONTENTS

	PAGE
INTRODUCTION .....	i
POLICY STATEMENT .....	ii - iii
(1) EMPLOYMENT .....	1
(2) HOURS OF WORK .....	2 - 3
(3) WAGES AND OVERTIME PAYMENT .....	3 - 4
(4) HOLIDAYS .....	4 - 5
(5) LEAVE .....	5 - 6
(6) INDUSTRIAL SAFETY .....	7 - 8
(7) INDUSTRIAL HYGIENE & WORKERS WELFARE .....	8 - 9
(8) EMPLOYMENT INJURY .....	9
(9) TRADE UNION AND COLLECTIVE BARGAINING RIGHTS OF EMPLOYEES .....	10 - 11
(9A) FACILITIES TO TRADE UNION REPRESENTATIVES .....	11
(10) EMPLOYEES' COUNCIL .....	11 - 12
(11) COMMUNICATIONS POLICY .....	12 - 13
(12) GRIEVANCE AND GRIEVANCE ADJUSTMENT PROCEDURE .....	13 - 14
(13) DISCIPLINARY PROCEDURE .....	14 - 15
(14) TERMINATION OF EMPLOYMENT .....	15 - 16
(15) COLLECTIVE BARGAINING AND DISPUTE SETTLEMENT PROCEDURE .....	16 - 18
(16) SUPERANNUATION BENEFITS .....	18 - 19
(17) ROLE OF THE BOI .....	19
(18) DATE OF COMMENCEMENT .....	19
APPENDIX A .....	20
APPENDIX B .....	21
SCHEDULE I .....	22
SCHEDULE II .....	23
SCHEDULE III .....	24

# INTRODUCTION

The Board of Investment (BOI) of Sri Lanka promotes and facilitates labour management co-operation and industrial harmony in the enterprises coming under its purview and, towards that end, provides advisory services and guidance to employers and employees through its Industrial Relations Officers.

This Manual embodies the BOI Policy Statement on Labour Standards and Employment Relations, lays down good industrial relations principles and practices and sets out the basic terms and conditions of employment to be observed by BOI enterprises operating both within and outside the Export Processing Zones (EPZs) in Sri Lanka.

Labour laws of the country are also applicable to all enterprises in the country, including BOI/EPZ enterprises, and the Ministry and Department of Labour are responsible for labour administration functions, including labour law enforcement and industrial relations.

BOI enterprises are expected to observe the industrial relations principles and practices laid down in the Manual, the provisions of the relevant labour laws and terms and conditions of employment no less favourable than the basic standards set out in this Manual. They are also required to maintain a healthy and harmonious industrial relations climate conducive for higher efficiency and productivity.

If any clarification or assistance is required in this regard, please contact the Director, Senior Deputy Director or Deputy Director of the Industrial Relations Department of the BOI.

		Tele	Fax
Contact Telephone Nos:	Head Office -	011-2427125	011-2387148
		011-2427119	
		011-2430516	
		011-2473101	
		011-2399879	
		011-2427124	011-2265801
	KEPZ-	011-2252359	011-2253207
	BEPZ-	011-2465215	011-2465233
	KgEPZ/SRO-	091-2283455	091-2283370
	KIP / CRO	081-2423952	081-2420091
	HEPZ-	034-2269296	034-2269296
	SIP-	036-2231081	036-2231083
	WEPZ-	033-2282841	033-2282364
	MwEPZ-	037-2298147	037-2296041
	PwEPZ-	037-2244657	037-2244657
	NWRO-	037-2277040	037-2277036
(Thulhiriya)			

***Date of Commencement : 31<sup>st</sup> March 2004***

## **POLICY STATEMENT**

As a matter of policy, the Board of Investment (BOI) of Sri Lanka supports the **Global Compact** proposed by the Secretary-General of the United Nations and addressed to the Business Community, which incorporates, inter alia, the core labour standards of the International Labour Organisation (ILO).

The BOI is also committed to promoting the application of the principles underlying the **Global Compact** and the related International Labour Standards by the employers in the BOI enterprises, both within and outside the Export Processing Zones.

Accordingly, the Labour Standards and Employment Relations in the BOI enterprises will be governed, inter alia, by the following policies and principles:-

- Respecting the right of the workers to form and join trade unions of their own choosing.
- Respecting the right of the workers to bargain collectively through their trade unions or, in the absence of a representative trade union, through other organisation or body consisting of their elected representatives in the workplace.
- Affording protection to workers' representatives and trade union officers against any act prejudicial to them, including dismissal based on their status or activities as workers' representatives.
- Eliminating forced or compulsory labour.
- Abolishing child labour.
- Eliminating discrimination in employment, occupation and remuneration against workers on such grounds as race, sex, colour, religion, political opinion.
- Ensuring stability in employment.
- Providing safe and hygienic working conditions.
- Establishing appropriate machinery for consultation and co-operation between elected representatives of workers and employers on matters of mutual concern.

- Establishing grievance procedures for the examination of workers' grievances.
- Offering fair wages and benefits and conditions of employment to workers.
- Eliminating harsh and inhumane treatment of workers.
- Eliminating excessive working hours and overtime work.
- Affording appropriate facilities to workers' representatives in the undertaking to carry out their functions promptly and efficiently.
- Formulating effective communication policy within the workplace to promote rapid dissemination and exchange of information relating to various aspects of the undertaking and to the social conditions of the workers.
- Providing advisory services on labour and industrial relations matters to employers and employees and promoting and facilitating effective

# **(1) EMPLOYMENT**

## **1.1. Classification of Workers**

### **1.1.1 Trainees**

Those undergoing training for a period of not less than 6 months/ 156 working days are classified as trainees.

### **1.1.2 Un-skilled**

Work which does not involve any training is classified as un-skilled work.

### **1.1.3 Semi-skilled**

On successful completion of a training period of 6 months, a worker is classified as semi-skilled.

### **1.1.4 Skilled**

A worker with the requisite skills for the job is classified as a skilled worker.

## **1.2. Recruitment and Retirement**

Minimum age for recruitment shall be 18 years. The normal age of retirement is 55 years. However, extension beyond 55 years can be granted at the discretion of the management.

Persons who have attained the age of 16 years but below the age of 18 years can be employed, subject to the following conditions:-

- a) Persons under the age of 18 years cannot be employed for more than 50 hours of overtime during any month.
- b) Persons under the age of 18 years cannot be employed after 10.00 p.m. and before 6.00 a.m.

## **1.3. Prohibition of Forced or Compulsory Labour**

No employer in any BOI enterprise shall use any form of forced or compulsory labour.

## **1.4. Prohibition of Child Labour**

No employer in any BOI enterprise shall use child labour either directly or indirectly through sub-contractors.

## **1.5. Equal Status**

Male and female workers shall be accorded equal opportunity in employment and occupation and paid equal remuneration for work of equal value.

## **1.6. Contract of Employment**

A written contract of employment embodying terms and conditions of service including the designation or category of the employee, normal hours of work, rate of pay, period of training if any, probationary period, leave, holidays and superannuation benefits, has to be issued to every worker including trainees and acknowledgement of receipt obtained by the employer.

## **1.7. Certificates of Employees**

**1.7.1** Original Certificates of employees are meant only for purposes of scrutiny of their authenticity. No employer should keep any original certificate of an employee in his custody beyond the completion of three (3) months from the date of commencement of employment of the employee.

**1.7.2** On termination of employment / resignation employee's certificates, if any, in the custody of the employer should be returned to the employee at least within 30 days from the date of termination of employment / resignation.

## **(2) HOURS OF WORK**

### **2.1. Normal Working Day.**

#### **2.1.1. One-Shift Operation**

##### **Monday to Friday**

9 hours per day inclusive of an interval of one hour for a meal or rest.

##### **Saturday**

A short working day of 6, 6 ½ or 7 hours inclusive of an interval of one hour for a meal or rest, as the case may be, as determined by the Wages Board for the respective trade (e.g 6 hours in the case of Textile Manufacturing, Security Service, Tyre and Tube Manufacturing, Tyre Re-building, Rubber & Plastic Goods Manufacturing Trades, 6 ½ in the case of Garment Manufacturing and Hosiery Manufacturing and Engineering Trades and 7 hours in the case of Rubber Export and Tea Export Trades).

#### **2.1.2. Two/ Three-Shift Operation**

##### **Monday to Friday**

8 hours per day inclusive of an interval of half an hour for a meal or rest.

##### **Saturday**

A short working day of 5 ½ hours inclusive of an interval of half an hour for a meal or rest.

#### **2.1.3. For office employees, any day in the week can be granted as a half a day of 5 hours duration.**

### **2.2. Night Work**

#### **2.2.1. There are no restrictions on employment of male workers on night shift.**

#### **2.2.2. Employment of female workers on night work from 10.00 p.m. to 6.00 a.m. on the following day will be allowed as a third shift, subject to the following conditions:-**

- a) Written consent of the worker to be available.
- b) The employer to obtain prior approval from the Department of Labour for night work. The Industrial Relations Department of the BOI will provide assistance upon request.
- c) Payment of 1 ½ times the daily rate of wages for the normal night shift.
- d) Maximum of 10 days night work per female worker in any one month.
- e) A worker employed between 6.00 a.m. and 6.00 p.m. not to be employed on night shift on same day.
- f) A worker employed on night work to be allowed an adequate period for rest after such work.

- g) Matron / female supervisors to be present during the shift.
- h) Refreshments, medical and rest room facilities to be made available.
- i) Transport facilities to be made available for use in an emergency.
- j) Persons under the age of 18 years cannot be employed on night work.

### **(3) WAGES AND OVERTIME PAYMENT**

#### **3.1. Wage Rates**

Employees of BOI enterprises will be paid wages in accordance with such rates as may be notified by the BOI from time to time.

#### **3.2. Payment of Wages**

**3.2.1.** All employees to be paid a monthly wage. No wages to be paid on daily rate or piece rate or on contract basis.

**3.2.2.** All employees shall be paid their wages within ten (10) days of the expiry of the wage period.

**3.2.3.** Only authorised deductions such as cash advances, loans obtained by the employees, etc with the consent of the employees, income tax, employees contribution to EPF and any other deductions approved by the Commissioner of Labour can be made from wages. The aggregate of such deductions should not exceed -

- a) 50% of the wages due for the period in the case of employees covered by decisions of Wages Boards for all trades other than Tea, Rubber, Cocoa and Coconut growing trades, and
- b) 60% of the wages due for the period in the case of office employees.

Aggregate deductions do not include deductions authorised to be made from employees' wages by any written law such as Inland Revenue Act, EPF Act, etc.

**3.2.4.** For the purpose of calculating no-pay deductions, holiday payments etc., the daily salary shall be arrived at by dividing the monthly salary by 30 days in the case of office employees and the monthly wages by 25, 26 or 30 according to the relevant Wages Board, decisions in the case of factory employees eg: 25 in the case of Motor Transport Trade, Nursing Home Trade, Security Service, 26 in the case of Garment Manufacturing Trade, Hosiery Manufacturing Trade and Textile Manufacturing Trade and 30 in the case of Printing Trade, Tyre, Tube Manufacturing, Tyre Re-building, Rubber and Plastic Goods Manufacturing Trade.

**3.2.5.** Proper wages records indicating basic wage, allowances, overtime, Sunday/ Public Holiday earnings and deductions shall be maintained and kept in the Enterprise, as required by the relevant law.

**3.2.6.** Employees should be paid wages for the days on which the employer is unable to provide work.

- 3.2.7. On termination of services, an employee's salary shall be paid within two (2) working days of such termination.

### 3.3. Payment of Overtime

- 3.3.1. Any work performed in excess of the normal working day (see 2.1.) to be treated as overtime work and shall be remunerated accordingly.
- 3.3.2. Every hour of such work should be paid at 1 ½ times the normal hourly rate of wages which is determined by dividing the monthly rate of wages by 200 in the case of factory employees and 240 in the case of office employees.
- 3.3.3. In calculating hours of overtime employment, any fraction of an hour less than half an hour shall be treated as half an hour, unless otherwise determined by the relevant Wages Board for any trade.

For example, under the decisions of the Wages Boards for the Garments Manufacturing Trade, Hosiery Manufacturing Trade and Textile Manufacturing Trade overtime rate for any fraction of an hour will be determined proportionately.

- 3.3.4. No factory employee who is-

- a) a female shall be employed on overtime work in excess of 60 hours a month,  
and
- b) under the age of 18 years shall be employed on overtime work in excess of 50 hours a month.

## (4) HOLIDAYS

### 4.1. Weekly Holiday

- 4.1.1. Sunday shall be the weekly holiday for factory workers. It is an unpaid holiday. If a worker is employed on a Sunday on account of urgent work, he shall be paid at not less than 1 ½ times the daily rate of wages.

$$\frac{(\text{monthly salary})}{26} \times 1 \frac{1}{2}$$

In addition, a day off shall be given within the 6 days succeeding such Sunday. Any work performed on a Sunday in excess of the normal working day (see 2.1) to be remunerated at double the hourly rate of wages.

$$\frac{(\text{monthly salary})}{200} \times 2$$

- 4.1.2. Office employees to be granted one whole day and one half day paid holiday per week on any day in the week. If a statutory holiday falls on such day an alternative half holiday or whole holiday to be granted either in the same week or in the week immediately succeeding.



#### **4.2. Poya Holiday**

The full moon Poya Day of each month is a holiday with pay for monthly paid employees. If an employee is required to work on such day he shall be paid an extra half day's wage in addition to the monthly wage. When a Poya Day falls on a weekly holiday or public holiday, no additional holiday need be give to employees in lieu of the Poya Day.

#### **4.3. Public Holidays**

Public holidays declared by the government for the mercantile sector and those prescribed by the relevant Wages Board, shall be allowed as holidays with full remuneration. There are 8 such holidays at present, namely.

1. The Tamil Thai Pongal Day
2. National Day
3. The Day prior to the Sinhala & Tamil New Year Day
4. The Sinhala and Tamil New Year Day
5. May Day
6. The Day following the Wesak Full Moon Poya Day
7. Milad-Un-Nabi (Holy Prophet's Birthday)
8. Christmas Day

#### **4.4. Employment of Workers on Public Holidays**

If a worker is employed on a Public Holiday he shall be paid in respect of that days wages not less than double the daily rate of wages or be granted an extra holiday in lieu thereof with pay.

### **(5) LEAVE**

#### **5.1. Vacation Leave / Annual Holidays**

- 5.1.1 An office employee shall be granted 14 days vacation leave with pay in respect of the second and any subsequent year if he has been continuously in employment during the year. (i.e. 1<sup>st</sup> January - 31<sup>st</sup> December)
- 5.1.2. In respect of the first year of employment leave to be granted on a pro-rata basis depending on the date of commencing employment - ie. commencing within the first quarter - 14 days, second quarter - 10 days, third quarter - 07 days, and last quarter - 04 days. Qualifying period shall be reckoned from the date of recruitment.
- 5.1.3. A factory employee shall be granted annual holidays with pay, up to a maximum of 14 to 21 days, in accordance with the formula determined by the Wages Board for the relevant trade. For example, the number of days annual holidays applicable to employees in the Garments and Hosiery manufacturing Trades shall be determined by applying the following formula: 
$$\frac{218 - 274 \text{ days}}{4} = 14 \text{ days}$$

Maximum number of annual holidays vary according to the formula adopted by the particular Wages Board.

- 5.1.4. Vacation leave / Annual holidays earned during a particular year has to be taken in the succeeding year on days mutually agreed upon by employer and employee.
- 5.1.5. On termination of employment, payment to be made for any leave standing to the credit of an employee.

## **5.2 Casual Leave**

An office employee has to be granted 7 days casual leave with pay from the second year of employment and on the basis of one day per every two month's service during the first year of employment.

## **5.3 Sick Leave**

Sick leave may be granted at the discretion of the management. Medical certificates to be produced by the employee to cover such leave.

## **5.4 Maternity Leave**

- 5.4.1. A female factory employee shall be allowed 12 weeks (84) days leave with pay if the confinement results in the issue of a live child and the employee has no child or has one child at the date of such confinement.
- 5.4.2. In case she has two or more children or where confinement does not result in the issue of a live child, she shall be allowed 6 weeks (42 days) leave with pay.
- 5.4.3. An employee is entitled to utilize leave up to a maximum of 14 days prior to confinement and the balance of leave after confinement.
- 5.4.4. A female office employee shall be granted maternity leave with pay for 84 working days on the above basis. However, such leave shall be in addition to other paid leave/holidays she is entitled to.
- 5.4.5. Payment for period of leave to be made on the basis of monthly salary on the normal pay day.
- 5.4.6. A factory employee who is nursing a child under one year of age is entitled to in any period of nine hours two nursing intervals at such times as she may require. Each nursing interval so provided shall be-
- (a) not less than thirty, (30) minutes where a creche or other suitable place for nursing of the children is provided by the employer for the nursing of children.
- (b) not less than one (01) hour where a creche or other suitable place is not provided by the employer for the nursing of children. The nursing interval shall be in addition to the intervals provided for meals/rest.
- 5.4.7. Office employees are not entitled to nursing intervals, but employers are encouraged to consider granting the same facility as in the case of factory employees.

- (5.A) For the purposes of Sections (2), (3), (4) and (5) of the Manual, an employee who is engaged in any trade for which no Wages Board has been established shall deemed to be an employee governed by the decisions of the Wages Board for the Garment Manufacturing Trade.

## **(6) INDUSTRIAL SAFETY**

- 6.1** Every moving part of prime movers, every part of the transmission machinery and every dangerous part of other machinery should be guarded.
- 6.2** Practicable steps should be taken to prevent any person falling into vessels, structures, sumps or pits which contain dangerous liquids either by covering or fencing them.
- 6.3** Employees engaged in hazardous work should be provided with suitable personal protective equipment such as gloves, goggles, ear protectors, respirators etc., as necessary.
- 6.4** Female workers should not be employed in cleaning or lubricating any machinery which is in motion.
- 6.5** Hoists, lifts, cranes and other lifting machines should be protected and also be tested by a competent person at least once in every 12 months. Safe working loads should be marked on such machines.
- 6.6** Chains, ropes and lifting tackle should be maintained in good condition. Safe working loads must be marked on them and such limits should not be exceeded.
- 6.7** All practicable steps should be taken to remove any fumes which may be present and to prevent ingress of fumes, before workers are employed in confined spaces such as tanks, vats, pits, pipes etc. Persons entering should be provided with suitable breathing apparatus belts and ropes.
- 6.8** Steps should be taken to prevent fires and explosions in processes which could give rise to accumulation of dust, gases or vapor.
- 6.9** Fired and non-fired pressure vessels and their fittings should be manufactured to the British standard or any other equivalent standard.
- 6.10** Boilers and all fittings should be properly maintained. They should be tested and certified at least once in every period of 12 months by an authorized officer.
- 6.11** Every steam receiver, air receiver and gas receiver should be properly maintained and "safe working pressure" marked on it. Such receivers should be tested and certified at least once in two (02) years by an authorized officer.
- 6.12** In stacking material in stores areas, pathways free of obstruction should conform to the requirements of the Ceylon Electricity Board.
- 6.13** Electrical wiring and fittings should be maintained properly and should conform to the requirements of the Ceylon Electricity Board.
- 6.14** All doors in a factory except the sliding doors should be constructed to open outwards. Such doors should not be locked or fastened in such a manner that they cannot be easily and immediately opened from inside.

- 6.15. A fire alarm, and means of escape in case of fire should be provided in every factory. Such means of escape and pathways should be properly maintained and kept free from obstruction.
- 6.16. A plan for the evacuation of employees in an emergency such as fire or an explosion to be prepared and practiced so that all persons employed are familiar with the routine to be followed in such situation.

## **(7) INDUSTRIAL HYGIENE & WORKERS' WELFARE**

### **7.1 Over Crowding**

To avoid over crowding in factories, a cubic space of 400 cu.ft. per person employed should be maintained in each and every room. Space over a height of 14 feet should not be taken into account in calculating the cubic space.

### **7.2 Temperature & Ventilation**

Reasonable temperature should be maintained in each work room so that workers could work in comfort. Suitable steps should be taken to maintain the circulation of fresh air in each work room and facilities should be provided to remove all fumes, dust and other impurities injurious to health that may be generated in the course of any process or work carried out in the factory.

### **7.3 Lighting**

Sufficient and suitable lighting should be provided in every part of the factory in which persons are working or passing. In areas where persons are regularly employed the intensity of illumination shall not be less than 400 lux. (40 ft candles) at a height of 3 ft. from the floor. In other parts of the factory over which persons employed pass, the intensity should not be less than 50 lux. (5 ft candles). For operations that need sustained attention higher illumination should be provided. Lighting should be provided in such a manner as to avoid glare.

### **7.4 Sanitary Conveniences**

Sufficient number of sanitary conveniences with accessible water taps should be provided and maintained for male and female workers separately on the ratio of one per every 25 workers. Where the number of male workers exceeds 100, if urinals are provided on the basis of one per every 50 males, it is sufficient to provide one sanitary convenience for 25 males up to 100 and one for every 40 males in excess of 100. The sanitary convenience should have adequate ventilation and lighting and should be kept clean at all times.

### **7.5 Drinking Water & Washing Facilities**

7.5.1. An adequate supply of drinking water for the use of the employees shall be provided. Sufficient number of cups to be made available at each point of supply except when water is delivered in an upward jet. The storage tank should have at least half of the requirement available in it.

7.5.2. Washing facilities to be provided separately for males and females on the basis of one wash basin for every 20 persons employed at a time. Sufficient number of showers also to be provided wherever the workers need to take a shower after their work.

## **7.6. Meal Room**

A meal room with sufficient number of tables and seating accommodation to accommodate at least: 1/3 of the workforce at a time shall be provided. Minimum floor area (excluding fittings, kitchen & service area) per person using the meal room shall be 10 sq. ft. Sufficient number of taps/wash basins should be provided in the meal room. Meal room should be kept clean at all times.

## **7.7 Changing Rooms and Lockers**

Changing rooms to be provided separately for male and female workers. Each worker to be provided with a locker for the purpose of keeping any articles and clothes not used during work.

## **7.8 Facilities for Resting**

Suitable facilities for resting have to be provided and maintained for the use of all female workers whose work is done standing.

## **7.9 First-Aid Room**

A well equipped first-aid room (sick room) with a trained Nurse or trained First-Aid Attendant and adequate facilities should be provided.

# **(8) EMPLOYMENT INJURY**

## **8.1. Accidents**

- 8.1.1.** The occupier of a factory has to give written notice of any industrial accident which results in the death of a person or disables a person from earning his full wages for a period of over 3 days or makes a person unconscious as a result of heat exhaustion, electrical shock or inhalation of un-respirable or poisonous fumes or gases.
- 8.1.2.** Such accident must be intimated to the District Factory Inspecting Engineer / Labour Dept. Labour Secretariat Colombo 5 on Form 10 (Notice of Accident under Section 61) of the Factories ordinance with a copy to the Industrial Relations Dept. of the BOI.

## **8.2. Employment Injury Compensation**

- 8.2.1.** Workmen's compensation, at present rates shall be paid to a worker in respect of an injury caused due to an accident arising out of and in the course of employment or disease which is of an occupational origin.
- 8.2.2.** Where the occupier of a factory opts to take an insurance policy to cover such risks he should obtain such a policy from a recognised insurance organisation.

- (8.A.)** Where there is any inconsistency or conflict between the provisions contained in Section (1)-(8), save and except Section (5A), of this Manual and the relevant statutory provisions, the latter shall prevail.

## **(9) TRADE UNION AND COLLECTIVE BARGAINING RIGHTS OF EMPLOYEES**

- (i) The employees of BOI enterprises shall have the right to form and join trade unions of their own choosing and to bargain collectively, subject to the provisions of the Trade Unions Ordinance and the Industrial Disputes Act.
- (ii) A trade union representing the employees in any BOI enterprise shall have the right to enter into collective bargaining negotiations with the employer, on behalf of the employees whom it seeks to represent, with a view to concluding a collective agreement, provided the union has the right to bargain collectively with such employer in accordance with the provisions of the Industrial Disputes Act.
- (iii) Every employer of employees in a BOI enterprise shall respect the right of the employees to form and join trade unions of their own choosing and to bargain collectively.
- (iv) No employer in any BOI enterprise shall -
  - (a) require an employee to join, or refrain from joining any trade union, or to withdraw from, or to refrain from withdrawing from his membership of a trade union of which he is a member, as a condition of his employment,
  - (b) dismiss an employee by reason only of his membership of a trade union or of his engaging in trade union activities,
  - (c) give any inducement or promise to an employee for the purpose of preventing him from becoming, or continuing to be a member, office-bearer or representative of a trade union,
  - (d) prevent an employee from:-
    - (i) forming a trade union ; or
    - (ii) supporting a trade union by financial or other means,
  - (e) interfere with the conduct of the activities of a trade union,
  - (f) dismiss, or otherwise take disciplinary action against, any employee or office bearer of a trade union, -
    - (i) for any statement made by such employee or office-bearer in good faith before any tribunal or person in authority ; or
    - (ii) for any statement regarding acts or omissions of the employer relating to the terms and conditions of employment of the members of such trade union made by such employee or office-bearer, in pursuance of an industrial dispute for the purpose of securing redress or amelioration of working conditions of such members ;
  - (g) refuse to bargain with a representative trade union (i.e. a union which has the right to bargain collectively with the employer of the employees in the enterprise on whose behalf it seeks to bargain in accordance with the provisions of the Industrial Disputes Act, Chapter 131)

- (v) Where both a recognised trade union having bargaining status and an Employees' Council exist in an enterprise, the employer shall not use the Employees' Council to undermine the position of such trade union and its representatives and shall encourage co-operation on all relevant matters between the Employees' Council and trade union concerned.

## **(9.A) FACILITIES TO TRADE UNION REPRESENTATIVES**

### **(i) Union Committee Meetings**

The employer shall allow up to two (02) hours duty leave every month for a meeting of the Executive Committee of a representative enterprise-union and the branch union committee of a representative union operating from outside the enterprise/export processing zone, and provide the necessary premises and facilities for the conduct of the meetings of the union/branch union.

### **(ii) Right of Access of Trade Union Representatives to BOI Enterprises/EPZs**

A duly nominated representative of a trade union who is not employed in a BOI enterprise but whose trade union has members employed therein, whether within or outside the export processing zone, shall be granted access to the enterprise / export processing zone, with due respect for the rights of property and management, provided the union -

- a) seeks access to the enterprise for the purpose of performing representation functions,
  - b) has obtained the consent of the employer for such access which may not be unreasonably withheld, with due respect to the need to maintain the smooth functioning of the enterprise concerned,
- and
- c) having satisfied the above requirements, obtained an entry permit from BOI authorities for the entry sought, in the case of an enterprise located within an export-processing zone.

## **(10) EMPLOYEES' COUNCIL**

- 10.1 The BOI will facilitate the establishment of Employees' Councils in BOI enterprises pursuant to the Guidelines issued by the BOI, as a measure of promoting employees' participation in decision-making on matters affecting them and labour-management consultation and co-operation on matters of mutual concern at the enterprise level.
- 10.2 The Council will consist of elected representatives of eligible employees of an enterprise representing the different departments of the enterprise and the different categories of workers employed therein.



## 10.3 Objects and Functions

10.3.1. The objects and functions of the Council shall be

- (a) The regulation of relations between the employees and the management of the enterprise.
- (b) The promotion and maintenance of effective participation of employees in the affairs of the enterprise through consultation and co-operation between the employees and the management of the enterprise on matters of mutual concern to both parties.
- (c) The representation of employees in collective bargaining and industrial disputes
- (d) The contribution to the promotion and maintenance of industrial peace and improvement of efficiency and productivity in the enterprise and
- (e) The promotion of the interests, welfare and well-being of the employees generally.

10.3.2. Where both a recognised trade union having bargaining status and an Employees' Council exist in an enterprise the Employees' Council shall not represent the employees in collective bargaining and settlement of industrial disputes concerning terms and conditions of employment.

10.4. No employer in a BOI enterprise shall -

- (i) interfere with the conduct of the activities of the Employees' Council.
- (ii) dismiss or otherwise take disciplinary action against any member of the Employees' Council for or on account of any act or thing done in carrying out his duties and functions in his capacity as a member of the Council.
- (iii) prevent a member of the Council from carrying out his functions promptly and efficiently.

## **(11) COMMUNICATIONS POLICY**

11.1 In implementing a Communications Policy within an enterprise, the management should communicate to the workers and the Employees' Council or the trade union at the branch level, as appropriate, information on matters of interest to the workers relating to the operation and future aspects of the enterprise and to the present and future situation of the workers so far as disclosure of the information will not cause damage to the parties.

11.2 In particular, the Management should give information regarding -

- a) general conditions of employment, including engagement, transfer and termination of employment;



- b) job descriptions and the place of particular jobs within the structure of the undertaking;
- c) possibilities of training and prospects of advancement within the undertaking;
- d) general working conditions;
- e) occupational safety and health regulations and instructions for the prevention of accidents and occupational diseases;
- f) procedures for the examination of grievances as well as the rules and practices governing their operation and the conditions for having recourse to them;
- g) personnel welfare services (medical care, health, canteens, housing, leisure, savings and banking facilities, etc.);
- h) social security or social assistance schemes in the undertaking;
- i) the establishment and functioning of Employees' Councils, including the scope, powers and functions of the Council;
- j) the details about the grievance procedure, collective bargaining and dispute settlement procedures established within the enterprise;
- k) the general situation of the undertaking and prospects or plans for its future development;
- l) the explanation of decisions which are likely to affect directly or indirectly the situation of the workers in the enterprise;
- m) methods of consultation and discussion and of co-operation between the management and its representatives on the one hand and the workers and their representatives on the other.

## **(12) GRIEVANCE AND GRIEVANCE ADJUSTMENT PROCEDURE**

### **12.1 Definition:**

Grievance means disagreement or dissatisfaction of a minor nature connected with the day-to-day work or conditions of work or prevailing rules and which has still not become a matter of concern to the employees collectively or which is a violation of the terms of employment.

### **12.2 Grievance Adjustment Procedure**

**12.2.1** If an employee has a grievance, the following procedure should be followed to adjust such grievance:

- i) The aggrieved employee should take up the grievance with his immediate supervisor if there is one
- ii) The Supervisor should endeavour to discuss the grievance with the employee and attempt to resolve it within a period of 3 days.

- iii) If the matter remains unresolved, it will be referred to the next level i.e. Executive In-Charge or Line Manager in the form of a report of the grievance and the efforts made to resolve the grievance.
  - iv) If the attempt to resolve the grievance by the Line Manager fails, he will in turn make a complete report to the Personnel/HRM Department. At this stage, the employee should be permitted to bring his Branch Union officials, if he is a member of a union and the officials of the Employees' Council if he is not a member of any union to assist him in resolving the matter. In such cases, the Branch Union or the Employees' Council representative should be permitted to discuss the matter with the Human Resource Manager / Personnel Manager.
- 12.2.2 The Human Resources Manager / Personnel Manager should permit the employee and his Branch Union / Employees' Council representatives (not more than two) to discuss the problem and arrive at a solution which would be acceptable to all parties.
- 12.2.3 If the employee and the Branch Union / Employees' Council are not satisfied, the Human Resources Manager or the Personnel Manager should inform the union / Employees' Council representatives to make written submission stating the position of the employee and why he considers the treatment meted out to him unfair, so that the matter could be considered by the higher management.
- 12.2.4 The Human Resources Manager / Personnel Manager should attempt to resolve the grievance within a period of one (01) month from the date on which it is first reported to him.
- 12.2.5 In the event of the grievance raised by the employee being an industrial dispute within the meaning of the Industrial Disputes Act or where the dispute is one which is of general application and connected with terms of employment set-out in letters of appointment or collective agreement, the Branch Union / Employees' Council should seek a settlement of the dispute in accordance with the Dispute Settlement Procedure set out in Section 15.2. of this Manual.

## **(13) DISCIPLINARY PROCEDURE**

The following basic rules concerning disciplinary procedure should be observed by an employer in instituting disciplinary proceedings against any employee:-

### **13.1 Preliminary Investigation**

A preliminary investigation to be carried out by a management officer into any alleged offence with a view to ascertaining the exact facts. Findings of this investigation to be made available in writing with statements of witnesses and employee as relevant.

### **13.2 Warnings**

If in the opinion of the employer an offence warrants a warning, the same shall be conveyed to the worker in writing and acknowledgement obtained from him. If he refuses to accept the warning, it must be given in the presence of two (02) witnesses who would certify to that effect.

### **13.3. Show-Cause Notice**

When it is proposed to proceed further, a Show-Cause Notice setting out the charges of alleged misconduct shall be issued to the worker giving at least 3 days for him to furnish his explanation. An extension of period may be granted on the request of an employee if circumstances are reasonable. Show-Cause Notice to be issued within 10 days of date of alleged offence.

### **13.4. Domestic Inquiry**

If the employer is not satisfied with the explanation given by the employee to the charges preferred against him, a domestic inquiry shall be conducted into the charges. Such inquiry to be held within 15 days from the date of receipt of the letter of explanation of the employee. Principles of natural justice to be followed at such inquiry.

The inquiry should be concluded as soon as possible.

### **13.5. Final Action**

After holding a domestic inquiry, the finding on each of the charges and punishment imposed on the employee if any, to be notified to the employee in writing within 15 days of conclusion of inquiry.

### **13.6. Suspension / Interdiction**

A worker may be suspended from service without pay on a written order issued by the employer -

- 13.6.1. Pending an inquiry on charges of misconduct which warrant dismissal eg: theft, misappropriation, insubordination.
- 13.6.2. In order to avoid a breach of peace or damage to the property or disturbance of the business of the employer.
- 13.6.3. As a punishment for misconduct after due inquiry.

## **(14) TERMINATION OF EMPLOYMENT**

### **14.1. Disciplinary**

An employer can terminate the services of an employee on disciplinary grounds (eg: misconduct, fraud, refusal to carry out lawful orders, etc.) provided the normal disciplinary procedure has been followed. For wrongful termination of services an employee can seek redress in the Labour Tribunal before the expiry of six (6) months from the date of such termination.

### **14.2. Non - disciplinary**

- (a) In the case of workers who have been in employment for more than one (01) year, lay-off, retrenchment or termination of services for reasons other than on disciplinary grounds can be effected only with either the prior written consent of the worker or the prior written approval of the Commissioner of Labour.

- (b) Whenever lay-off, retrenchment, closure or termination of services of employees due to non-disciplinary reasons such as economic or technological reasons become necessary, the employer shall make an application to the Commissioner of Labour (Industrial Relations) in accordance with the provisions of the Termination of Employment of Workmen Act, 1971, seeking his approval for effecting such lay-off, retrenchment or termination.
- (c) Where an application for the termination of employment of workers on grounds of lay-off, retrenchment, closure or other non-disciplinary reasons is received, the Commissioner of Labour is required to grant or refuse, such application after due inquiry **within two (2) months of the date of application.**
- (d) In granting an application for the termination of employment of workers on grounds stated in Paragraph (c) above, the **Commissioner of Labour will determine the quantum of compensation payable to such workers in accordance with the formula set out in SCHEDULE II hereto. The quantum of compensation payable according to this formula is specified in SCHEDULE III hereto.**

#### 14.2.1 Certificate of Service

On cessation of employment, an employee should be issued with a certificate of service, indicating the nature of work preformed by him, the period of his employment and the rate of wages received by him.

## **(15) COLLECTIVE BARGAINING AND DISPUTE SETTLEMENT PROCEDURE**

### 15.1. Definition :

- (a) "Collective Agreement" means an agreement which is between -
  - (i) any employer or employers, and
  - (ii) any workmen or any trade union or trade unions consisting of workmen and

which relates to the terms and conditions of employment of any workmen, or to the privileges, rights or duties of any employer or employers of any workmen or any trade union or trade unions consisting of workmen, or to the manner of settlement of any industrial dispute.

- (b) "industrial dispute" means any dispute or difference between an employer and a workman or between employers and workmen or between workmen and workmen connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, or the termination of the services, or the reinstatement in service, of any person, and for the purposes of this definition "workmen" includes a trade union consisting of workmen;

- 15.2. The following procedure will apply where a trade union which has been recognized for purposes of collective bargaining in an enterprise or, **in the absence of such trade union in the enterprise**, the Employees' Council, on behalf of the employees -

- submits claims to the management with a view to concluding a collective agreement, or
- raises an industrial dispute with a view to reaching a settlement:-
  - a) Employer to respond to the claims or to the disputed matters, as the case may be, within two (02) weeks
  - b) A meeting between the parties to be convened by the employer within two (02) weeks thereafter and negotiations to continue with a view to reaching an agreement or settlement as expeditiously as possible.
  - c)
    - i) Where the parties reach an agreement on the claims a "Collective Agreement" will be concluded and signed by them. A copy of the agreement to be sent by the parties to the Commissioner of Labour, (Industrial Relations) for registration.
    - ii) Where a Collective Agreement is concluded between an Employees' Council, on behalf of the employees and the enterprise, the parties shall draw up the Agreement in accordance with the draft format provided in **APPENDIX - A** hereto.
    - ii) Where the parties reach a settlement on the disputed matters, the terms of settlement shall be drawn up as a Memorandum of Settlement and signed before the Mediation Officer of the Department of Labour assigned to the EPZ or the Assistant Commissioner of Labour of the respective District, as the case may be.
  - d) Where the negotiations on the claims are not successful, the Union / the Employees' Council may take up the matter as an "Industrial Dispute" with the Mediation Officer of the Department of Labour assigned to the EPZ or the Assistant Commissioner of Labour of the respective District, as the case may be.
  - e) The Mediation Officer / Assistant Commissioner of Labour of the District will endeavour to settle the dispute as expeditiously as possible.
  - f) Where the attempts made by the Mediation Officer / Assistant Commissioner of Labour of the District do not result in a settlement, either party to the dispute may take up the matter with the Commissioner of Labour, (Industrial Relations,) for settlement.
  - g)
    - i) Where the dispute is settled at any stage of the conciliation proceedings, the parties to the dispute will sign a Memorandum of Settlement.
    - ii) Where the settlement is reached between an Employees' Council of an enterprise and the enterprise the Memorandum of Settlement for the purpose shall be drawn up in accordance with the format provided in **APPENDIX - A** hereto.

- h) Where the conciliation efforts of the Commissioner of Labour, (Industrial Relations) result in failure, the parties to the dispute should consider submitting the disputed matters for settlement by voluntary arbitration under Section 3 (1) (d) of the Industrial Disputes Act.
- i) Where the parties to the dispute do not consent to voluntary arbitration and the Union / Employees' Council decides to call a strike, the latter should :-
  - i) consider giving at least 14 days notice in writing of the intended strike to the employer with a copy to the Director of Industrial Relations BOI, and the Mediator from the Department of Labour in the Zone or the Assistant Commissioner of Labour of the respective District, as the case may be.
  - ii) not commence the strike until the expiry of 14 days from the date of such notice.

## **(16) SUPERANNUATION BENEFITS**

### **16.1. Employees Provident Fund**

- 16.1.1. An amount equivalent to 20% of the employee's total earnings has to be remitted to the Fund before the last working day of the succeeding month in respect of all employees from the date of commencement of their employment.
- 16.1.2. Employee's contribution is 8% and the employer has to contribute an amount equivalent to 12% of the employee's total earnings.
- 16.1.3. "Earnings" include wages, cost of living allowance and similar allowances, payment in respect of holidays & leave, cash value of food provided by the employer (only where applicable) and meal allowance but excludes overtime payments.
- 16.1.4. Payment for work done during normal working hours on weekly holidays, poya days or public holidays should be considered as earnings for the computation of E.P.F and E.T.F. contributions.
- 16.1.5. Contributions to the EPF shall be remitted to the Central Bank of Sri Lanka before the last working day of the succeeding month. Failure to do so will result in the payment of a surcharge ranging from 5% to 50%.

### **16.2. Employees Trust Fund**

Employer to remit an amount equivalent to 3% of the toatal monthly earnings of the employee before the last working day of the succeeding month. There is no contribution from the employee.

- 16.2.1. Receipts for payment of E.P.F. and E.T.F. should be kept in the premises of the enterprise.

### **16.3. Gratuity**

- 16.3.1.** An employee who has completed five years service shall be paid a gratuity on cessation of his employment irrespective of whether he has retired or resigned or his services have been terminated by the employer.
- 16.3.2.** Such gratuity shall be computed at the rate of half a month's salary for every year of completed service based on the consolidated salary last drawn by the employee.
- 16.3.3.** Payment to be made within 30 days of cessation of employment. Failure to do so will result in the payment of a surcharge ranging from 10% to 30%.
- 16.3.4.** An enterprise which employs fifteen or more workers is liable to pay such gratuity.

## **(17) ROLE OF THE BOARD OF INVESTMENT OF SRI LANKA**

The Industrial Relations Department of the Board of Investment of Sri Lanka advises and assists the enterprises in maintaining a cordial and harmonious industrial relations climate. Officers from this Department will offer advisory services and guidance to employers and employees in fostering closer labour - management co-operation at the enterprise level on all aspects in the area of industrial relations. Enterprises should bring to the notice of the Department any apprehended or existing disputes or problems faced by them in this area so that they could be attended to promptly with a view to speedy settlement by the appropriate authorities.

## **(18) DATE OF COMMENCEMENT**

This Manual shall come into effect from 31<sup>st</sup> March 2004 and shall supersede the previous Manual that was in operation until 30<sup>th</sup> March 2004.

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

Collective Agreement entered into  
between  
the employees of (state the name and address of the Company)  
whose names are described in Schedule I attached hereto,  
of the one part,  
and  
(state the name and address of the Company)  
of the other part.

Dated this.....day of ..... 2010

.....  
For and on behalf of  
(state name of the Company)

- 1) .....  
President,  
Employees' Council
  
- 2) .....  
Secretary/ Member  
Employees' Council  
For and on behalf of the  
the employees of  
(state name of the Company)

.....  
Witness

.....  
Witness



THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

MEMORANDUM OF SETTLEMENT

Entered into  
between  
the employees of (state the name and address of the Company)  
whose names are described in Schedule I attached hereto,  
of the one part,  
and  
(state the name and address of the Company)  
of the other part.

Dated this.....day of ..... 2010

.....  
For and on behalf of  
(state name of the Company)

- 1) .....  
President,  
Employees' Council
- 2) .....  
Secretary/ Member  
Employees' Council  
For and on behalf of the  
the employees of  
(state name of the Company)

.....  
Witness

.....  
Witness

## SCHEDULE I

*(State the Name of the Company here)*

No.	NAME OF EMPLOYEE	SIGNATURE
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		

## SCHEDULE II

### TERMINATION OF EMPLOYMENT OF WORKMEN ACT. FORMULA FOR PAYMENT OF COMPENSATION

Number of Years of Service Completed at the Date of Termination	Number of Months Salary to be paid as Compensation for each Year of Service	Maximum Compensation (Cumulative) Months Salary
1 to 5	2.5	12.5
6 to 14	2.0	30.5
15 to 19	1.5	38.0
20 to 24	1.0	43.0
25 to 34	0.5	48.0

- Note : (1) However, if at the time of the termination of his services a workman has less than Four(04) years left of his services, he shall be paid either the aggregate salary for the period of denied service or compensation computed according to the above Formula, whichever is less, and if the period of denied service is more than Four (04) years, compensation shall be computed according to the above Formula.
- (2) No amount in excess of Rupees One Million Two Hundred and Fifty Thousand (Rs. 1,250,000/-) shall be paid to any workman as compensation computed according to the above Formula.

For the purpose of this Formula -

“Salary” means the basic salary or wages plus cost of living allowance or any other similar allowance; and

“Year” means a completed period of twelve (12) months and in relation to the first year in employment, includes One Hundred and Eighty (180) days of service.

## SCHEDULE II

### TERMINATION OF EMPLOYMENT OF WORKMEN ACT.

#### QUANTUM OF COMPENSATION PAYABLE TO WORKERS AS PER THE FORMULA SET OUT IN SCHEDULE II

<i>Number of Years of Service Completed at the Date of Termination</i>	<i>Number of Months Salary to be paid as Compensation for each Year of Service</i>	<i>Maximum Compensation (Cumulative) Months Salary</i>
1	2.5	2.5
2	2.5	5.0
3	2.5	7.5
4	2.5	10.0
5	2.5	12.5
6	2.0	14.5
7	2.0	16.5
8	2.0	18.5
9	2.0	20.5
10	2.0	22.5
11	2.0	24.5
12	2.0	26.5
13	2.0	28.5
14	2.0	30.5
15	1.5	32.0
16	1.5	33.5
17	1.5	35.0
18	1.5	36.5
19	1.5	38.0
20	1.0	39.0
21	1.0	40.0
22	1.0	41.0
23	1.0	42.0
24	1.0	43.0
25	0.5	43.5
26	0.5	44.0
27	0.5	44.5
28	0.5	45.0
29	0.5	45.5
30	0.5	46.0
31	0.5	46.5
32	0.5	47.0
33	0.5	47.5
34	0.5	48.0