

SRI LANKA

EMPLOYMENT AND INDUSTRIAL RELATIONS GUIDE FOR INVESTORS

Published by :

The Employers' Federation of Ceylon

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PREFACE

We are delighted to present to you this joint publication which aims to provide a comprehensive insight into the vibrant landscape of employment and industrial relations in Sri Lanka.

The Board of Investment of Sri Lanka and the Employers' Federation of Ceylon welcome all potential investors considering Sri Lanka as their destination of choice for future investments. Our nation has witnessed remarkable growth and development in recent years, making it an attractive hub for business across various sectors. This joint publication will be a valuable resource for you to navigate through the intricacies of employment and industrial relations in our Country.

We have endeavoured to compile a wealth of information that will equip you with the necessary knowledge and understanding to foster positive relationships with your employees, comply with legal obligations and create a harmonious working environment. Sri Lanka prides itself on its skilled workforce, strong work ethic and quality of deliverables/services, all of which contribute to the success of businesses operating within our shores.

Within the pages of this Guide, you will find detailed explanations of employment laws and regulations including employment rights and benefits. We understand that establishing and maintaining effective industrial relations are crucial for sustainable growth and mutually beneficial partnerships.

We extend our appreciation to all those who contributed to this publication. A special reference is owed to Mr. Ruvinda Welikala, Industrial Relations Advisor of the Employers' Federation Ceylon who worked tirelessly to make this publication a reality.

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INTRODUCTION

In Sri Lanka there are several key partners who are involved and are responsible for the regulation/development of the field of employment. At the outset it is important to have a brief understanding as to who they are and the role they play in the field of employment.

1.1 THE MINISTRY OF LABOUR AND FOREIGN EMPLOYMENT

Vision – “A satisfied productive labour force”

Mission – “Contribute towards the socio-economic development through the promotion of industrial peace and harmony, social protection rights at work and productivity”

The Ministry of Labour and Foreign Employment in Sri Lanka is a Government Ministry responsible for the regulation and oversight of labour-related matters and foreign employment opportunities.

The Ministry formulates and implements policies, programs and regulations concerning labour relations, industrial safety, wages, working conditions and social security for workers in Sri Lanka. It also focuses on facilitating overseas employment opportunities for Sri Lankan workers while ensuring their protection and welfare.

The following Departments, Statutory Institutions and Public Corporations are operated under the Ministry.

- Department of Labour
- National Institute of Labour Studies
- Employees' Provident Fund
- National Institute of Occupational Safety and Health
- Office of the Commissioner of Workmen's Compensation
- National Productivity Secretariat

Contact Info -

Ministry of Labour and Foreign Employment

6th Floor

Mehewera Piyasa

Narahenpita

Colombo 05

Tel No- 0112581991

Email- info@labourmin.gov.lk

1.2 DEPARTMENT OF LABOUR

Vision - "A Country with everlasting industrial peace for an internationally competitive economy"

Mission - "To contribute to the socio-economic development of Sri Lanka through the establishment of a decent work environment within secured industrial peace, while protecting labour rights"

Department of Labour, regulated under the Ministry of Labour and Foreign Employment is a government agency headed by the Commissioner General of Labour and is responsible for the administration and enforcement of labour-related laws and regulations in the Country.

The Commissioner General of Labour performs specific functions through the Department as well as through the labour officers placed in district labour offices located in each District. The Department of Labour has a key role in dispute settlement under the Industrial Dispute Act.

Contact Info –

Department of Labour
Labour Secretariat

No.41

Kirula Road

Colombo 05

Sri Lanka

Website: <https://labourdept.gov.lk/>

1.3 BOARD OF INVESTMENT OF SRI LANKA (BOI)

Vision – “To make Sri Lanka the most preferred destination for sustainable investment in Asia”

Mission – “BOI will work in a positive and speedy manner to fulfil Sri Lanka’s potential to attract and retain quality investment that leads to an enhanced export base, and brings more and better jobs, enhanced knowledge and skills through new technologies and innovation”

The Board of Investment of Sri Lanka is structured to function as a central facilitation point for investors. It operates as an autonomous statutory body. It was formed in terms of the Greater Colombo Economic Commission (GCEC) Act No.14 of 1978 and was subsequently reconstituted as the Board of Investment of Sri Lanka. It has a Board of Directors drawn from the private and public sectors, and there are several departments that function within the BOI that are geared to facilitate the investment process.

The BOI promotes and facilitates labour management co-operation and industrial harmony in the enterprises coming under its purview and, provides advisory services and guidance to employers and employees through its Industrial Relations Officers.

The first Export Processing Zone (EPZ) under BOI was established in Katunayake in 1978. At present, there are EPZs in Katunayaka, Biyagama, Koggala, Seethawaka, Horana, Wagawatta, Mirijjawela, Kandy, Mawathagama, Polgahawela, Wathupitiwala, Malwatta, Mirigama, Bingiriya and two new zones are under development in Eravur and Arbokka.

In addition to the BOI-administered zones, there are specialized sector-specific privately owned industrial parks, namely MAS Fabric Park – Thulhiriya (apparel and related industries), ORION City IT Park – Colombo 9 (IT/Knowledge services)

BOI Companies observe standards which are better than the minimum standards stipulated by law. It regularly reviews terms and conditions of employment and monitors the standards observed by companies coming under its purview.

BOARD OF INVESTMENT OF SRI LANKA 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 Organization (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 organization 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)

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World Trade Centre
Echelon Square
Colombo 01
Sri Lanka

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(For further information in reference to the services provided by BOI, please refer Part 10 of this Guide)

1.4 EMPLOYERS FEDERATION OF CEYLON (EFC)

Vision - "To promote social harmony through productive employment"

Mission – "To encourage workers, their organisations and the Government to cooperate with business for the attainment of the following objectives:

- *To make employees more efficient and quality conscious*
- *To achieve better terms and conditions of employment*
- *To prevent industrial strife and, where disputes have arisen to resolve them in a fair and expeditious manner.*
- *To generate employment opportunities.*
- *To provide members with services to achieve the objectives of growth and stability.*

The EFC was established in 1929 and is the principal employer organization in Sri Lanka. It is a member of the International Organization of Employers (IOE) and is the national employer constituent of the International Labour Organization (ILO). It is also a member of the Confederation of Asian Pacific Employers (CAPE).

It has a member base of 700+ representing manufacturing, agriculture and service sectors, directly employing approximately 800,000 persons. In addition, 10 Diplomatic Missions have secured membership in the EFC.

The EFC has direct membership but has an Affiliated Associations Group in order to unite divergent interests at the national level on labour policy issues. The affiliated organizations are:

1. The Ceylon Chamber of Commerce
2. The National Chamber of Commerce of Sri Lanka
3. Sri Lanka Apparel Exporters' Association
4. Organization of Professional Associations of Sri Lanka
5. Women's Chamber of Industry and Commerce Sri Lanka
6. The Colombo Tea Traders' Association
7. The Planters' Association of Ceylon
8. The Tourist Hotels Association of Sri Lanka
9. The American Chamber of Commerce in Sri Lanka
10. The Ceylon National Chamber of Industries
11. The Exporters Association of Sri Lanka
12. The Industrial Association of Sri Lanka
13. Industrial Services Bureau
14. Sri Lanka Tea Factory Owners' Association

15. The Federation of Chambers of Commerce & Industry of Sri Lanka
16. Council for Business with Britain
17. The European Chamber of Commerce of Sri Lanka
18. Chamber of Construction Industry of Sri Lanka
19. The Business for Peace Alliance
20. Sri Lanka Association for Software Services Companies
21. The International Chamber of Commerce
22. Board of Investment of Sri Lanka
23. The National Chamber of Exporters of Sri Lanka
24. Chamber of Commerce and Industries of Yarlpanam
25. Matara District Chamber of Commerce and Industry
26. Sabaragamuwa Chamber of Commerce and Industry
27. Moneragala District Chamber of Commerce and Industry
28. Galle District Chamber of Commerce and Industries
29. Chamber of Commerce and Industry of the Central Province
30. Hambantota District Chamber of Commerce

The EFC Secretariat consists of thirty five (35) professionals and provides a wide range of services on labour/employment law, industrial relations and Human Resource Management. Its advisory services include both verbal and written advice on labour laws and industrial relations issues. Services also include legal representation before Labour Courts and Labour authorities, training, research and publications and collective bargaining/dispute settlement negotiations. The EFC also engages in lobbying and advocacy on behalf of the private sector. In addition, EFC provides Labour Market Information and a multitude of services in relation to Human Resource Management.

Contact Info –

The Employers' Federation of Ceylon
385 J3, Old Kotte Road
Rajagiriya
Sri Lanka

Website- www.employers.lk

(For further information on services provided by the EFC, please refer Part 11 of this Guide)

1.5 TRADE UNIONS

In terms of the Trade Unions Ordinance, any union of employees or employers should be registered thereunder, for them to function as a legitimate Trade Union.

The Employers' Federation of Ceylon, over 50 years ago, adopted a policy of recognizing Unions that had at least 40% representation in a workplace on the understanding that this recognition is voluntary and subject to withdrawal if the union itself was not prepared to reciprocate the recognition with responsible conduct. In 1999 an amendment to the Industrial Disputes Act was introduced incorporating this policy into law and recognizing a Trade Union which has a representation of 40% or more as the bargaining agent of the respective employees to negotiate on their behalf with the employers.

Sri Lanka is a signatory to ILO Conventions No. 87 on "Freedom of Association" and No.98 on "Collective Bargaining". These Conventions are regarded as two of the core labour standards in relation to Trade Unions, their rights and obligations.

Trade Unions are either industry based, or company based. Some national Unions are affiliated with political parties.

Social dialogue and the use of Labour Department Officials to conciliate are beneficial in preventing industrial disputes. The purpose of the conciliation proceedings is to facilitate settlement of disputes, especially where parties are unable to arrive at a mutually satisfactory settlement on their own.

As at 31/12/2022, the Labour Department trade union division has registered 2053 active unions. More information can be obtained from the Labour Department Trade Union Division.

Contact Info -

Assistant Commissioner of Labour
Trade Union
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Colombo 05
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1.6 THE INTERNATIONAL LABOUR ORGANIZATION (ILO)

The ILO is the only tripartite United Nations (U.N.) agency, since 1919. It brings together governments, employers and workers representatives of the Member States to set labour standards, develop policies and devise programmes promoting decent work for all women and men.

Sri Lanka has been a member of the ILO since June 1948 and the Employer Constituent of the ILO is the Employers' Federation of Ceylon (EFC).

The ILO assists in a member nation's development with technical assistance and ensures, as far as possible, that the fundamental rights at work are protected.

It supports efforts by the international community and by nations to achieve full employment, raise living standards, share the fruits of progress fairly, protect the life and health of workers and promote co-operation between workers and employers in order to improve productivity and working conditions, towards which end, the ILO promotes Conventions and Recommendations setting out minimum labour standards.

The Member States subscribe to the principles written in the ILO constitution and cooperate in its work.

A LIST OF RECTIFICATIONS OF INTERNATIONAL LABOUR CONVENTIONS – SRI LANKA

Fundamental		
Convention		Date
C029	Forced Labour Convention, 1930 (No. 29)	05 Apr. 1950
C087	Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	15 Sep. 1995
C098	Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	13 Dec. 1972
C100	Equal Remuneration Convention, 1951 (No. 100)	01 Apr. 1993
C105	Abolition of Forced Labour Convention, 1957 (No. 105)	07 Jan. 2003
C111	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	27 Nov. 1998
C138	Minimum Age Convention, 1973 (No. 138)	11 Feb. 2000
C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	01 Mar. 2001

Governance (Priority)		
Convention		Date
C081	Labour Inspection Convention, 1947 (No. 81)	03 Apr. 1956
C122	Employment Policy Convention, 1964 (No. 122)	03 Feb. 2016
C144	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	17 Mar. 1994
Technical		
Convention		Date
C011	Right of Association (Agriculture) Convention, 1921 (No. 11)	25 Aug. 1952
C018	Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)	17 May 1952
C026	Minimum Wage - Fixing Machinery Convention, 1928 (No. 26)	09 Jun. 1971
C045	Underground Work (Women) Convention, 1935 (No. 45)	20 Dec. 1950
C080	Final Articles Revision Convention, 1946 (No. 80)	19 Sep. 1950
C090	Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)	18 May 1959
C095	Protection of Wages Convention, 1949 (No. 95)	27 Oct. 1983
Convention		Date
C096	Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) Has accepted the provisions of Part III	30 Apr. 1958
C099	Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)	05 Apr. 1954
C103	Maternity Protection Convention (Revised), 1952 (No. 103)	01 Apr. 1993
C106	Weekly Rest (Commerce and Offices) Convention, 1957	27 Oct. 1983

		Date
C110	Plantations Convention, 1958 (No. 110) Has excluded Parts II, III, V, VI, X and XII pursuant to Article 3, paragraph 1(b)	24 Apr. 1995
C115	Radiation Protection Convention, 1960 (No. 115)	18 Jun. 1986
C116	Final Articles Revision Convention, 1961 (No. 116)	26 Apr. 1974
C131	Minimum Wage Fixing Convention, 1970 (No. 131)	17 Mar. 1975
C135	Workers' Representatives Convention, 1971 (No. 135)	16 Nov. 1976
Convention		Date
C160	Labour Statistics Convention, 1985 (No. 160) Acceptance of Articles 7,8,10,12,13 and 15 of Part II has been specified pursuant to Article 16, paragraph 2, of the Convention	01 Apr. 1993
C185	Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)	02 Dec. 2016
	Amendments of 2016 to the Annexures of the Convention No. 185	08 June 2017
MLC 2006	Maritime Labour Convention, 2006 (MLC, 2006) In accordance with Standard A4.5(2) and (10), the Government has specified the following branches of social security: old-age benefit; employment injury benefit; invalidity benefit and survivors' benefit.	12 Jan. 2017

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Website: <https://www.ilo.org/colombo/lang--en/index.htm>

SALIENT FACTS ABOUT THE CURRENT LABOUR MARKET IN SRI LANKA

2.1 INTRODUCTION

The Democratic Socialist Republic of Sri Lanka covers a land area of 65,610 sq. km stretching to a maximum length of 433 km. and a width of 226 km. The 2022 midyear population was 21.7 million. The country is divided into 9 provinces and 25 administrative districts. The capital city is Sri Jayawardenapura Kotte and the other major cities in the country are Kandy, Kurunegala, Gampaha, Galle, Matara, Anuradhapura, Hambantota, and Jaffna.

Although Sri Lanka is a small island in the Indian Ocean, it has a wide diversity in culture and socio-economic aspects. Free education is one of the most important welfare benefits afforded to the population of this country. Free education from year one up to university guarantees to every citizen the right to formal education. As a result of this, Sri Lanka has been able to achieve a high literacy rate of over 93.2%, which is among the highest in the world.

2.2 LABOUR FORCE AND EMPLOYMENT

Labour force participation Rate

Year	Total Labour ('000 persons)	Total%	Male%	Female%
2016	8,311	53.8	75.1	35.9
2017	8,566	54.1	74.5	36.6
2018	8,387	51.8	73	33.6
2019	8,592	52.3	73	34.5
2020	8,467	50.6	71.9	32
2021	8,553	46.9	71	31.8

Source: Department of Census and Statistics, [Labour Force Survey- Annual Report 2016, 2017,2018,2019,2020 and 2021]

Labour Force and Employment

	2019	2020	2021
Household population ('000)	16,424	16,739	17,134
Labour Force ('000)	8,592	8,467	8,553
Employed Persons ('000)	8,181	7,999	8,114
Public Sector ('000)	1,216	1,183	1,235
Private Sector ('000)	3,521	3,411	3,410
Unemployed ('000)	411	467	439

Source: Department of Census and Statistics [Labour Force Survey- Annual Report 2019, 2020 & 2021], Central Bank Annual Report 2015,2016 & 2017

Currently employed persons by Employment Status

	2018	2019	2020	2021
Employees	57.8	57.9	57.5	57.3
Public sector Employees	14.5	14.9	14.8	15.2
Private sector Employees	43.3	43	42.7	42
Employers	2.8	2.6	2.5	2.7
Own Account Workers	32.3	32.5	33.2	33.4
Unpaid Family Workers	7.2	7.0	6.8	6.6

Source: Department of Census and Statistics [Labour force survey- Annual Report 2018, 2019, 2020 and 2021]

According to the Quarterly Labour Force Survey (QLFS) report – 4th quarter, conducted by the Department of Census & Statistics covering the whole country, the labour force, which is defined as the economically active population aged 15 years and above, increased to 17.2 million in 2021. The number of employed persons, on average, stood at 8.1 million during 2021 showing a marginal increase from the previous year.

During the 2021 the total number of employed persons in Sri Lanka was estimated as 8.1 million of which about 46.9 % engaged in the services sector, 27% in the industries sector and 26.1% in the agriculture sector. (Annual labour force survey 2021- 4th quarter)

EMPLOYMENT

(SALIENT FEATURES GOVERNING EMPLOYMENT IN SRI LANKA)

3.1 INTRODUCTION

Sri Lanka has implemented several constitutional safeguards to protect the rights and interests of the labour force. These safeguards are aimed at ensuring fair and just treatment, providing social and economic protection, and promoting the overall well-being of workers.

It should be noted that some of the below-mentioned safeguards are further complimented by labour laws, regulations and policies that provide additional protection for workers in Sri Lanka. It is essential that workers are aware of the safeguards that have been implemented by the legal system enabling them to seek legal assistance in the event their rights are violated.

3.2 CONSTITUTIONAL SAFEGUARDS IN REFERENCE TO EMPLOYMENT

3.2.1 Right to Employment

Employment is a matter of vital importance to a workman. Not just employment but employment commensurate with his education, skills and competencies.

The Constitution does not guarantee a right to employment to any person, but in the State Policy and its fundamental duties, there is a commitment by the State towards increasing the avenues of employment. Where employment is available, whether in the public or private sector, the Constitution guarantees equality of opportunity without discrimination, subject to the right of the employer to determine suitable and acceptable criteria for eligibility and selection.

3.2.2 Right to Work/Engage in Business

Article 14 (1) (g) of the Constitution guarantees to a citizen "the freedom to engage by himself or association with others in any lawful occupation, profession, trade, business or enterprise".

In the case of some occupation, it would be legitimate to prescribe the possession of certain qualifications or requirement of registration with an appropriate authority or the obtaining of a licence.

3.2.3 Freedom of Association and to Form and join Trade Unions

The freedom to form and join a trade union is expressly guaranteed by Article 14(1)(d) of the Constitution, which together with Article 14(1)(c) on the freedom of association, ensures to any citizen the benefit of joint action in relation to employment.

It is unlawful for an employer to require an employee to resign from membership of his trade union for any reason.

3.2.4 Freedom from Discrimination

The right to equality is guaranteed by the Constitution. Article 12 ensures freedom from discrimination on grounds of race, religion, language, caste, sex, political opinion, place of birth, or on any one of such grounds.

3.3 TYPES OF EMPLOYMENT

3.3.1 Permanent Employment

A Monthly Contract of Employment is one which is renewed automatically every month until an employee reaches his/her age of retirement or where either party decide to terminate the contract prior

to retirement. Such employment is referred to as 'permanent employment' and or 'regular employment'.

3.3.2 Probation

The period of probation is a period of trial during which the probationer's capacity, conduct or character is tested before he is admitted to regular employment. A probationer should normally be either confirmed or not at the end of the probationary period. For the purpose of confirmation, the probationer must perform his services to the satisfaction of his employer. In the absence of mala fides, the employer is the best judge of whether an employee's period of probation has been satisfactory or not so that a Court will normally not interfere with the employer's decision not to confirm a probationer unless there is evidence of mala fides.

3.3.3 Fixed-Term Contract of Employment

A Fixed Term Contract of Employment is one which is entered into for a fixed period. It represents a consensual termination of a contract in that it terminates automatically as a result of mutual agreement on the arrival of the particular date without the necessity for either party to terminate it.

3.3.4 Casual Employees

A casual employee is one who has no right to expect daily or regular employment and conversely the employer will have no right to expect him/her to report for work. In other words, a casual employee may report for work as and when he/she likes and he/she can be employed as and when the employer pleases. The practice of having casual employees to substitute for absence of permanent employees is very common. However, it must be borne in mind that the Termination of Employment (Special Provisions) Act applies to an employee who has worked 180 days in a period of 12 months.

(Please see Termination of Employment of Workmen (Special Provisions) Act No.45 of 1971 under Part 8 of this Guide.)

3.3.5 Temporary Employees

A temporary employee is one who is employed to perform a particular job, based on a temporary need e.g., a substitute for an employee on maternity leave.

It is always preferable to employ a temporary worker on a contract of employment which defines the time period to which the contract is limited. If the nature of the job is such that it is not possible to stipulate the period of the temporary employment by reference to the date on which it will cease, the contract should state that it will automatically terminate on completion of the particular job. However, the temporary contract may be terminated earlier if the need no longer exists.

3.3.6 Seasonal Workers

Employees engaged in employment, which is seasonal, are termed "Seasonal Workers", e.g., in a residential hotel during the tourist season the need arises to increase the staff to meet the increased demand which is not necessarily consistent throughout the year.

There is no obligation on an employer to renew the contract in the succeeding year in reference to "Seasonal Workers". Seasonal employment is common in agriculture, tourism, confectionary and soft drink manufacturing industries.

3.3.7 Apprenticeship or Training

A Contract of Apprenticeship is one where the employer agrees to teach the apprentice his trade so that the apprentice learns and acquires the necessary skill to perform the job for which he will be trained. The apprentice in turn agrees to learn the particular trade of the employer and serve the employer during the period of training. During the pendency of the contract, the employer is obliged to pay an allowance

and not a wage to the apprentice as an apprentice enters into a Contract of Apprenticeship not necessarily to earn money by such contract, but with the intention of being trained and thus acquire skills which would be of value to him in securing employment.

The State Apprenticeship Scheme is handled by the National Apprenticeship & Industrial Training Authority (NAITA).

3.3.8 Part-Time Employment

Part time employment in Sri Lanka is available in various sectors and industries. Many students, individuals seeking supplemental income, and retirees opt for part time work to meet their financial needs. Part time employment can be divided into many sectors and delivery services has gain more prominence among the said industries.

3.3.9 Trainee/ Un-skilled /Semi-skilled/ Skilled (Applicable for BOI registered Companies)

It is to be noted that a further categorization in employment can be made based on the skill level of an employee which is applicable in BOI registered companies. In accordance with the said categorization, if an individual undergoes training for a period of not less than 6 months/156 working days, he/she is classified as a trainee.

If an individual employee does not require any training for the work he/she has been recruited for, the employee will be categorized as an un-skilled worker and once an employee successfully completes the 6 months training period the said employee will be categorized as a semi-skilled worker.

Finally for an employee who has acquired the skill level that is required for the job, then the said employee will be categorized as a skilled worker.

3.4 TERMS OF EMPLOYMENT

It is noted that the terms of employment in Sri Lanka can vary depending on the specific job role, industry and company. Below mentioned are some of the principal statutes that govern the terms of employment.

3.5 PRINCIPAL STATUTES

3.5.1 The Shop and Office Employees' Act

The Shop and Office Employees' Act provides for the regulation of hours of employment in shops and offices, regulation of remuneration, fixing of wage periods and also provides for authorized deductions from remuneration and for matters connected therewith. The Act also deals with health and welfare of employees, maternity benefits, weekly holidays, annual holidays, statutory holidays and leave.

The Shop and Office Employees' Act is applicable to shops and offices and to all those who are employed wholly or mainly in and about the business of a shop or office in Sri Lanka.

The Act, however, has exempted certain categories of employees and premises from the operation of the Act. For instance, persons employed in the capacity of a Watcher or Caretaker are exempted from the operation of the Act and persons employed as Sales Representatives or in similar or comparable field activities are exempted from the provisions in the Act regarding hours of employment.

3.5.2 Wages Boards Ordinance

Under the Wages Boards Ordinance of Sri Lanka, wages boards can be established for specific industries or trades for the purpose of regulating and determining minimum wages and other employment conditions such as working hours, leave entitlement, etc., in the said industries. At present, there are 44 Wages Boards that have been established under the Wages Boards Ordinance.

The Wages Boards are,

1. Baking Trade
2. Batik Trade
3. Beedi Manufacturing Trade
4. Biscuit and Confectionery Manufacturing Trade
(Including chocolate manufacturing)
5. Brick and Tile Manufacturing Trade
6. Building Trade
7. Ceramic Products Manufacturing Trade
8. Cigar Manufacturing Trade
9. Cinema Trade
10. Cinnamon Trade
11. Cocoa, Cardamom and Pepper Growing and
Manufacturing Trade
12. Coconut Growing Trade
13. Coconut Manufacturing Trade
14. Coir Mattress and Bristle Fibre Export Trade
15. Dock, Harbour and Port Transport
16. Engineering Trade
17. Flower Ornamental Plants, Vegetables & Fruits
Cultivation & Export Trade
18. Garment Manufacturing Trade
19. Glassware Manufacturing Trade
20. Hosiery Manufacturing Trade
21. Hotel and Catering Trade
22. Ice, Aerated Water, Fruit Juices and Jam Manufacturing
Trade
23. Janitorial Service Trade
24. Journalist Trade
25. Liquor and Vinegar Trade
26. Match Manufacturing Trade
27. Metal Quarry & Metal Crushing Trade
28. Motor Transport Trade
29. Nursing Home Trade
30. Paddy Hulling Trade
31. Plumbago Trade

32. Prawn Culture and Exports Trade
33. Pre-School Services Trade
34. Printing Trade
35. Retail and Wholesale Trade
36. Rubber Export Trade
37. Rubber Cultivation & Raw Rubber Processing Trade
38. Rubber (including Tyre Manufacturing and Rebuilding)
Plastic and Petroleum Resin Products Manufacturing
Trade
39. Security Service Trade
40. Tanning Footwear and Leather Goods Manufacturing
Trade
41. Tea Export Trade
42. Tea Growing and Manufacturing Trade
43. Textile Trade
44. Tobacco Trade

The decisions of the Wages Boards are applied depending on either the trade of the employer or the particular job performed by the employee. For example, the Wages Board for the Engineering Trade and the Wages Board for the Motor Transport Trade would determine the minimum terms applicable to individual workmen in a single establishment.

The Wages Boards decide on the minimum wages payable, overtime rates, leave, holidays and payment of special allowances as applicable to the respective trade.

Wages are fixed by Wages Boards on the basis of tripartite (Employer/Employee/Government) discussions and voting in the relevant Board. The minimum wage payable to an employee shall be subject to the minimum wage stipulated in the National Minimum Wage Act No 3 of 2016.

Where a monthly rate has been determined, an employer can still place workers on a piece rate, but he would have to ensure that the minimum monthly rate is paid to the employee.

Any employee called upon to wait for work is entitled to payment of his full wages for that period. However, this does not apply to employees who are present on the premises by reason only of the fact that they reside on the premises of the employer.

Wages are not due to persons who are on strike or who refuse to work when work is available. However, where an employee is prepared to work and is denied work by the employer, then he/she is entitled for wages.

3.5.3 National Minimum Wage of Workers' Act No.03 of 2016

A national minimum wage was introduced for the first time in Sri Lanka by the National Minimum Wage of Workers' Act No.03 of 2016, with effect from 01st January 2016.

The current minimum monthly wage applicable is Rs.12,500/- and the daily wage is Rs.500/-

Section 3(2) of the National Minimum Wage of Workers' Act No. 03 of 2016 states that all employers in any industry or service shall be required to pay the national minimum wage rates notwithstanding the provisions of any other written law. Not complying with the said provisions will be considered as an offence.

3.5.4 The Factories Ordinance

The Factories Ordinance makes provision for the safety, health and welfare of workers in premises defined as 'factory' under this ordinance.

Broadly speaking, any premises on which persons are employed in manual labour, for the purposes of making of any article or part of any article, or altering, repairing etc. of any article, or adapting for sale of any article, or slaughter of cattle, goats, horses etc., or the confinement of animals while awaiting slaughter at any other premises, of trade or for purposes of gain etc.

The Ordinance cites specific borderline instances with the object of making the scope of the legislation wide as possible. As to what constitutes a Factory depends to a large extent on the operations performed and whether manual labour is involved.

3.5.5 Minimum Retirement Age of Workers Act No. 28 of 2021

It is important to note that before the implementation of the Minimum Retirement Age of Workers Act, the retirement age of an employee was determined as per the terms of the letter of appointment which was agreed upon by the employer and the employee or through the terms of collective agreements.

However, through the implementation of the Act, which came into effect on 17th November 2021, irrespective of the provisions on retirement in any other written law, Collective Agreement, contract of service or any other form of contract of service the minimum age of retirement will be 60 years.

It is to be noted that extensions of service beyond 60 years can be granted at the discretion of the management of the company.

3.6 LETTER OF APPOINTMENT

Letters of appointment are a requirement under the Shop and Office Employees' Act wherein employers set out basic terms of employment in writing to an employee. It has now become a standard practice to issue letters of appointment in any industry/sector.

The letter of appointment should be in a language that the employee is conversant in. If not, a translation should be provided. The letter of appointment is of great evidential value in proving the specific contractual obligations/financial benefits agreed to between the parties.

The duplicate of the letter should be signed and acknowledged by the employee and should be retained in the personal file of the employee.

A Labour Tribunal, Arbitrator or the Commissioner of Labour could, by assessing the facts, decide whether in a particular situation there is a contract of employment, despite the fact that there is a written document which refers to a particular person otherwise than an employee.

To ascertain the actual relationship between parties, tests such as the following are applied by Courts.

- The control test - Who supervises/controls the person? Who has the right to hire and fire?
- The integration test - What is the integral or core business and is the person a vital part of that process.
- The 'economic reality test' - Is the person in business on his own account?

The existence of an employment relationship based on these common law tests has become quite significant and important in the context of various work arrangements employers adopt in their workplaces.

3.7 WORKING HOURS

Shop and Office Employees' Act

The normal period during which any person may be employed in a shop or office on any one day should not exceed eight (8) hours and should not exceed forty-five (45) hours in any one week. In effect, a person may be employed for eight hours during five days of the week and five hours on the sixth day. These working hours exclude meal intervals.

Wages Boards Ordinance

Will be decided in accordance with the specific wages board decisions.

BOI recommendations for companies registered under the BOI

One Shift Operations

The working hours for BOI registered companies would be Monday to Friday, 9 hours per day inclusive of an interval of one hour for a meal or rest.

Saturday, which is the short working day will consists of 6, 6 ½ or 7 hours inclusive of an interval of one hour for a meal or rest 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).

Two Shift/Three Shift Operations

Companies operate Monday to Friday 8 hours per day/per shift inclusive of an interval of half an hour for a meal or rest.

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

3.8 NIGHT WORK

General practice regarding night work

Night shift employment for male workers in Sri Lanka is a common practice in various industries, including manufacturing, healthcare, transportation, and hospitality sector. Many organizations require 24-hour operations which requires the presence of employees working during the night. For male workers there are no restrictions in employing them in the night due to the specific requirement of the industry. This will be the same for the BOI registered companies.

However, when employing a female worker during night in following cases, no restrictions will apply,

- a) A woman holding responsible position of a managerial or technical character in an Industrial undertaking.
- b) Employment of women in health and welfare services who are not ordinarily engaged in manual work.
- c) Where only members of the same family are employed.
- d) The Minister of Labour may, could permit by order published in the Government Gazette, that a woman can be employed in an Industrial Undertaking in the night covering the period between 7.00 p.m. and 11.00 p.m. provided that she cannot then work at any time during the eleven hours immediately following 11.00pm.

Apart from the above exceptions if a female worker who has attained the age of 18 years is employed in an Industrial Undertaking and factories in the night between the hours of 10.00 p.m. to 5.00 a.m., then, as per the provisions of the Employment of Women, Young Persons and Children Act, No. 47 of 1956, the following procedure must be followed.

- a) A female worker cannot be compelled to work at night against her will. Therefore, written consent should be obtained from the female worker.
- b) The written sanction of the Commissioner General of Labour (CGL) must be obtained prior to employing female workers in the night after 10.00 p.m. To obtain the sanction, written consent given by each female worker should be produced to the CGL.
- c) If a female worker was employed between the hours of 6.00am to 6.00 p.m., such female worker cannot be employed after 10.00 p.m.

- d) For any female employee working in the night after 10.00 p.m. must be paid not less than one and a half times the normal payment received by her.
- e) A female warden must be appointed by the company when females are engaged in night work.
- f) Rest rooms and refreshments must be provided to the female employees by the company.
- g) No female employee can be employed on more than ten (10) days of night work during any month.
- h) Transport facilities to be made available in an emergency.

All BOI registered companies are subject to the above procedure and upon request, assistance will be provided when obtaining approval from the Commissioner General of Labour for employment of females in the night.

3.10 OVERTIME

Overtime means the practice of working additional hours beyond the regular working hours permitted for a day or the week in terms of the law. An employee is required to perform reasonable overtime and in the event he/she refuses to perform reasonable overtime, unless there is a valid reason for the refusal, it can amount to misconduct.

Overtime work should be remunerated at 1 ½ times the normal hourly rate and a proportionate amount for less than an hour.

With reference to the payment of overtime for an employee covered under a Wages Board, the rate and the time period may differ in accordance with the specific wages board decisions.

In relation to executive grade employees, there is an administrative relaxation granted by the Department of Labour on payment of overtime.

Following restrictions have been placed on female workers performing overtime under the Factories Ordinance.

- (a) A female employee not less than eighteen years (18) of age can be employed on overtime up to sixty (60) hours per calendar month.
- (b) Young Persons between sixteen (16) and eighteen years (18) of age can be employed on overtime up to fifty (50) hours a month.
- (c) The total number of hours worked including overtime but exclusive of intervals for meals or rest should not exceed sixty (60) in any week.
- (d) The total number of hours of work for a day including overtime and intervals for meals or rest should not exceed twelve (12) hours.

Even under the above-mentioned conditions, no employer can engage a female worker on overtime if the said female employee is pregnant or a nursing mother for a period of 1 year from the date of the birth of the child or a female worker who has delivered a still born child for a period of 3 months from the date of that still birth.

3.11 WAGES/REMUNERATION AND BENEFITS

Remuneration

Generally, in Sri Lanka, employees are paid salaries on a monthly basis and casual employees on a daily rate, but for purposes of convenience, computed weekly. Remuneration could consist of time-rated pay, piece rates, and in addition incentives, commissions and allowances that are offered based on terms and conditions agreed. In the hotel and catering

sector the service charge paid to employees is not regarded as part of remuneration.

A cost of living payment, is considered part of remuneration although an annual lump sum to compensate for increases in inflation, etc., may not be treated as such.

If wages are due daily, as in the case of casuals, the payment should be made at the end of the day. Weekly wages are due within three days of the end of the period, fortnightly wages within seven days and monthly wages within 10 days.

However, the common practice is to make payment by the 25th of the same month in which the salary is earned.

Where a Wages Board exists for a trade, the rate prescribed is the minimum. Employees or their Unions may negotiate higher salaries with individual employers.

Deductions from wages

In accordance with the Wages Boards Ordinance and the Shop & Office Employees' Act employers are legally bound to pay wages in legal tender without any deduction other than authorized deductions. Any deduction of wages which are not authorized by law will run the risk of being prosecuted for making illegal deductions.

Authorized deductions can be categorized in to three parts as mentioned below,

- Deductions imposed by statute or deductions which are part of an order, process or decree of Court.
- Deductions which are made subject to the approval of the Commissioner General of Labour.

- Deductions which can be made without the approval of the Commissioner General of Labour.

Whereas deductions imposed by statute are those relating to the collection of income tax at source, ETF, EPF deductions and deductions on account of approved provident funds, pension schemes, etc.

With regard to Shop and Office Employees Act, the total authorized deductions that can be made at any one time should not exceed 60% of the remunerations due to a worker.

With regard to Wages Boards employees, the total authorised deductions should not exceed 50% of the wages due to the worker. However, the total deductions can go up to 75% in relation to Trades specified through a gazette by the Minister.

BOI recommendations on payment of wages for the companies registered under the BOI

The recommendations issued by the BOI can be followed by the respective companies at their discretion. Accordingly, wages should be paid in line with such rates as may be notified by the Government from time to time subject to the parameters of the law of the land. Furthermore, there are separate specific parameters set for the companies to follow as listed below.

- All employees to be paid a monthly wage. No wages to be paid on daily rate or piece rate or on contract basis.
- All employees shall be paid their wages within ten (10) days of the expiry of the wage period.
- Only authorized deductions such as cash advances, loans obtained by the employees, etc., with the consent of the employees, income tax, employee's 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.

When calculating the aggregate deductions, deductions made in accordance with any written law such as the Inland Revenue Act, EPF Act, etc., should be excluded.

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. E.g.: 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.

Proper wages records indicating basic wage, allowances, overtime, Sunday/Public Holiday earnings and deductions shall be maintained and kept in the company premises, as required by the relevant law. Employees should be paid wages for the days on which the employer is unable to provide work. On termination of services, an employee's salary shall be paid within two (2) working days of such termination.

Benefits

In Sri Lanka apart from the wages paid, an employee will be entitled to various types of benefits which depend on the employment contract, industry and the Company policy, etc.

Other benefits on which a monetary value could be placed are: -

- (a) Medical benefits – Usually given only to the employees. Insurance schemes are available for this purpose.
- (b) Meals or meal allowances
- (c) Uniforms
- (d) Bonuses
- (e) Incentives – These must be distinguished from piece rates, the latter being a system of computing wages.
- (f) Transport and other allowances

Bonus

Bonuses are discretionary payments unless specifically agreed to in letters of appointment or collective agreements. Bonuses, if paid, can be: -

(a) Customary Bonus

A customary bonus is paid on fixed quantum or tied to a fixed formula irrespective of profit or loss.

(b) Profit Bonus

The bonus will only be applicable if the company has made a profit in a specific financial year which will enable the employees to be entitled to a profit bonus. The said bonus payment will be determined by the management. However, some companies have agreed upon formulas which have been negotiated through the Collective bargaining process.

(c) Incentive/Production Bonus

These are paid monthly, quarterly and seldom on an annual basis. The concept is to give a lump sum, as a reward to higher production or productivity demonstrated individually or collectively.

(d) Attendance Bonus

These payments are made by employers as means of encouraging employees to maintain regular attendance at work. They are paid usually on a monthly or quarterly basis. Those who have been on no pay for unauthorized absence are generally not paid any part of the bonus. The scheme usually permits a day or two of authorized leave for the employee. Leave taken after a fixed point will disentitle the employee from any payment at all.

In relation customary and profit bonus, although considered as discretionary payments, non-payment may lead to industrial disputes.

3.12 LEAVE

Leave is a legal entitlement of an employee. Some companies tend to grant leave over and above the legally stipulated minimum which is considered a better benefit offered to the employee. Leave entitlement will depend on whether the employee is covered under the Shop and Officer Employees Act or a particular Wages Board.

Annual Leave

In terms of the Shop and Office Employees Act, during the first calendar year of employment, an employee is not entitled to utilize annual leave. If the employee is in continuous employment until the end of the first calendar year, he earns a certain quota of leave, which can be taken in the succeeding calendar year. Leave earned to be utilised during the second calendar year will be calculated on the following basis.

- 14 days – if employment commenced on or after 1st January and before 1st April.
- 10 days – if employment commenced on or after 1st April and before 1st July.

- 07 days – if employment commenced on or after 1st July and before 1st October.
- 04 days – if employment commenced on or after 1st October.

In accordance with the Wages Boards decisions, a worker who has been in continuous employment for a period of one year under one employer and has worked for the required number of days as specified by the decisions of the respective Wages Board, the employee will be entitled in the succeeding year to the number of holidays as specified by said Wages Board. In this context, a year means a continuous period of 12 months commencing on the first day of such month as the specific Wages Board may determine and, in the event, board has not determined the specific month then the 12 months period will commence from the first day of January each year.

Casual Leave

In addition to the annual leave entitlement, employees covered under the Shop and Office Employees Act, will be entitled to not more than 07 days of casual leave in a year.

In the first year of employment, leave will be apportioned at the rate of one day for every completed two months of employment. The first year of employment means the period up to the end of December of that year.

Sick/Medical Leave

There is no separate category for leave as sick leave in terms of the law. However, in practice some companies offer sick leave to employees in addition to annual and casual leave available under the law. The number of days that will be granted as sick leave will be decided through the employment contract, company policies or the collective bargaining process.

Leave to Vote at Elections

If an employee who is qualified to vote at the Parliamentary /Presidential/Provincial Council/Local Government Elections will be entitled for paid leave of not less than two (2) of four (4) hours, as the case may be, to enable him/her to exercise his/her vote.

Approved No-pay

No pay leave to an employee will be granted only in situations where the employee has exhausted his leave entitlement where the employee requires leave for a genuine concern. It will be within the discretion of the employer to decide whether to grant leave to the said employee.

3.13 HOLIDAYS

Weekly Holiday

As per the provisions of the Shop and Office Employees Act an employee will be entitled to a paid holiday of one and a half days (1.5) where he/she has worked for not less than twenty-eight (28) hours (exclusive of overtime and intervals for meals, etc.,) in any week. The holiday can be allowed within the same week or the week immediately after.

It is to be noted that the Shop and Office Employees Act does not stipulate the days on which the weekly holiday should be allowed in a week. Therefore, the holiday can be allowed on any day within the week.

The Act defines a "week" as the period commencing midnight of a Saturday and ending on the midnight on the succeeding Saturday.

Most Wages Boards allow one (1) day as the weekly holiday. Whether it is a paid holiday will depend on the decisions of the respective Wages Board.

Statutory Holidays

At present, the following holidays have been declared as Statutory (Mercantile) Holidays in Sri Lanka.

- Tamil Thai- Pongal Day
- The Independence Day (4th February)
- The day prior to the Sinhala and Tamil New Year Day
- The Sinhala and Tamil New Year Day
- May Day
- The Day following Vesak Full Moon Poya Day
- Milad-Un-Nabi (Holy Prophet's Birthday)
- Christmas Day

As per the provisions of the Shop and Office Employees Act, an employee is entitled to the following in relation to a statutory holiday.

- a) The holiday on full pay; or
- b) If the employee is required to work on the holiday, a holiday in lieu before the end of the calendar year; or
- c) For work during normal working hours, an additional day's pay. In such an event, no holiday in lieu needs to be granted.

It is important to note that if an employer requires an employee to work on a statutory holiday, the prior permission of the Commissioner General of Labour should be obtained. It is usually sufficient to apply by letter to the Commissioner General of Labour for permission. No employee can be expected to work beyond the normal working hours during the statutory holiday.

In the event a statutory holiday falls on a day which is normally the employee's customarily weekly holiday, the employee will be entitled to a weekly holiday which will be granted within the same week or within the subsequent week.

Statutory holidays applicable in terms of Wages Boards will be decided by each Wages Board accordingly. For example, the Wages Board for the

Baking Trade has decided that all 8 statutory holidays are holidays for the trade while the Wages Board for Coconut Growing has recognized only 4 holidays.

Poya Holidays

All employees are entitled to a holiday on a Full Moon Poya Day. However, an employee maybe employed on a full moon Poya day provided that the employee is paid not less than 1 ½ times the normal daily wage. If a Full Moon Poya Day falls on a statutory holiday or what is customarily a weekly full holiday or half holiday, an alternative holiday need not be granted in lieu.

3.14 MATERNITY BENEFITS

The statutory provisions in relation to maternity benefits and leave are contained in the Shop and Office Employees' Act and the Maternity Benefits Ordinance. The Shop and Office Employees' Act applies to female employees of "shops" and "offices" as defined in the said Act, and the Maternity Benefits Ordinance applies to women workers not covered under the Shop and Office Employees Act.

As per the Shop and Office Employees' Act and its amendments, any woman who gives birth to a live child will be entitled for leave for a total of 84 working days, which may be taken on the basis of 14 days pre-confinement and 70 days post-confinement. In the event the confinement doesn't result in the birth of a live child, the leave entitlement will be 42 working days.

In accordance with the Maternity Benefits Ordinance, any woman who gives birth to a live child will be entitled to twelve (12) weeks leave which will be calculated excluding the intervening holidays. The said leave entitlement can be utilized as two weeks pre-confinement and ten weeks post confinement. In the event the confinement doesn't result in the birth of a live child, the leave entitlement will be six (6) weeks.

Furthermore, an employer is legally obligated to provide the female employee who is nursing a child under one year of age, two nursing intervals within a period of nine (9) hours at such times as she may require. If the employer has provided a crèche or a suitable place for the employee to nurse the child the interval shall be thirty (30) minutes each and if there are no such facilities, the interval shall be one (1) hour each.

The law states that an employee cannot be terminated because of pregnancy, confinement or illness consequent on her pregnancy. Regulations are also made with regard to the employment of pregnant females on certain types of hazardous work.

3.15 GENERAL RESTRICTIONS PLACED ON EMPLOYMENT

There are statutory restrictions as well as ethical restrictions placed on employment aiming to prevent situations of forced or compulsory labour and the use of child labour directly or indirectly. These rules are applicable to all employers including BOI registered Companies. Some of these restrictions are stated below for easy reference.

Restrictions on Employment of Persons Under 18 Years of Age

The law prohibits the employment of any person who is under sixteen (16) years of age.

Persons under eighteen (18) years of age shall not be employed in or about the business of a shop or office before 6.00 a.m. or after 6.00 p.m., on any day provided that any male who has attained the age of sixteen (16) years can be employed in or about the business of a hotel, restaurant or place of entertainment between 6.00 p.m. and 10.00 p.m.

Restrictions on Employment of Females

A female in a shop or office cannot be employed before 6.00 a.m. or after 8.00 p.m., provided, however, that a female who is over 18 years of age

SUPERANNUATION BENEFITS

4.1 INTRODUCTION

For employees in the private sector, superannuation benefits are granted through legally mandated schemes which are maintained through contributions made by the employer as well as the employee. The main legally mandated schemes that are applicable in Sri Lanka are given below.

4.2 EMPLOYEES' PROVIDENT FUND

4.2.1 Employees and persons covered

At present almost every employment (including casual employees) is covered under the Employees' Provident Fund Act irrespective of the number of persons employed. However, there are categories of employees who are exempted by the Act. Namely,

- Domestic service
- Self-employed persons
- Certain undertakings where only the family members are employed
- A person who is holding office as director earning a director's fee.
- A person who is a partner in a partnership.
- Local authority employees (Municipal/Urban/Town or Village Council) for whom superannuation benefits are provided under any other written law.

- A person whose superannuation benefits are granted by a Fund or a Scheme established outside of Sri Lanka.
- A contributor to an approved Provident Fund or Pension Scheme
- Spouse of an employer
- Person under 16 years of age
- Undertaking carried on mainly to give industrial training to juvenile offenders, orphans or to persons who are destitute, dumb, deaf or blind.
- Charitable institutions or institutions maintained solely for the purpose of religious worship or any social service, which employ less than 10 employees.
- Trainees engaged through the National Apprentice and Industrial Training Authority (NAITA)

4.2.2 Rate of Payment

Under the EPF Act, the employer is required to contribute a minimum of 12% of the total earnings of the employee while the employee contributes 8% from the total earnings. The employer is required to deduct the employee's contribution from his total earnings and send it together with the employer's contribution to the EPF before the end of the following month.

Total earning of the employee will include the following as per the Act,

- a) Basic wage or salary
- b) Cost of Living Allowance or Special Living Allowance or other similar allowances
- c) Payment in respect of holidays
- d) Cash value of any cooked or uncooked food as assessed by the Commissioner General of Labour in prescribed employments

- e) Meal allowance
- f) Remuneration paid by way of commissions to employees
- g) Remuneration paid at piece rates
- h) Budgetary relief allowances prescribed law

4.2.3 Payment of Benefits

Payment of benefits would arise on the employee reaching 55 years in the case of males and 50 years in the case of females. Payment may also be possible where the employee is leaving the country or is retiring on medical grounds, or, in the case of females on marriage.

4.2.4 Claims

In order to obtain the benefit, the employee must make a request via **Form K**. In the event the employee is deceased a request must be made via **Form L** by his nominees or executors or administrators or heirs, as the case may be.

4.2.5 Surcharge

Delay of monthly remittances to the Fund will cause a surcharge to be imposed on the employer. The surcharge can range from 5% (for a delay not exceeding 10 days) - 50% (for a delay of 12 months or more) depending on the period of delay.

4.3 PRIVATE PROVIDENT FUNDS

Where any provident fund or contributory pension scheme has been in existence on 1st June 1958, the employer or administrators of such fund or scheme were required within the three months of the date when such employment has been declared as covered employment to apply to the Commissioner General of Labour for approval. Where the Commissioner General of Labour is of the view that the fund satisfies the legal requirements, approval will be granted to continue such private provident fund or pension scheme, accordingly.

In February 1996, the provision to establish private Provident Funds/Pension Schemes was removed.

4.4 EMPLOYEES' TRUST FUND

The Employees' Trust Fund was established through the Employees' Trust Fund Act where employers are required to contribute 3% of the employee's total earnings to the Trust Fund. The employee is not required to make any contribution to the Fund.

4.4.1 Covered Employment

The covered employment is same as the EPF Act and following employees are exempted from the purview of the ETF Act,

- Employees in domestic service in any household
- Employees in institutions or organizations maintained solely for the purpose of religious worship or social service or as a charitable institution employing less than ten (10) persons
- Employees of any undertaking carried on mainly to give industrial training to juvenile offenders, orphans or to persons who are destitute, dumb, deaf or blind.
- Certain undertakings where family members are employed.

The definition of earnings on which ETF is payable is similar to that stipulated under the EPF Act.

4.4.2 Surcharge

Delay of monthly remittances under the Act, will cause surcharges to be imposed on the employer. The surcharge can range from 5% (for a delay not exceeding 10 days) - 50% (for a delay of 12 months) depending on the period of delay.

4.5 GRATUITY

The gratuity entitlement of an employee is covered under the Payment of Gratuity Act.

4.5.1 Employees who are Eligible for Gratuity

An employer, who employs fifteen (15) or more workman (including casuals and apprentices), is liable to pay gratuity in terms of the Payment of Gratuity Act, to an employee who has completed not less than 5 years of uninterrupted service.

Therefore, the following categories are exempted from the payment of gratuity,

- A workman who does not have five (5) completed and uninterrupted years of service under the employer
- A person employed as a domestic servant or as a personal chauffeur in a private household.
- An employee entitled to a pension under any non-contributory pension scheme.
- An employee of an employer who has employed less than 15 employees throughout the period of 12 months prior to the cessation of his employment.

4.5.2 Calculation and payment of Gratuity

For a monthly rated workman, half month's wage or salary for each year of completed service computed at the rate of wages or salary last drawn by the workman will be Payable as Gratuity. For any other employee, fourteen (14) days wages or salary for each year of completed service computed at the rate of wage or salary last drawn by the workman will be the payment due.

The wage or the salary will include the basic or consolidated wage or salary, cost of living allowance, special living allowance and other similar allowances and piece rates.

An employee will be entitled to the payment of gratuity,

- At the cessation/termination of a workmen's service
- Where the termination is by death of a workman, the gratuity will be payable to the heirs of the workman.

4.5.3 Forfeiture of Gratuity

Under Section 13 of the Payment of Gratuity Act, the employer is entitled to forfeit an employee's gratuity if his services are terminated for fraud or wilful damage or causing loss to the employer and the loss is quantifiable.

INDUSTRIAL RELATIONS

5.1 INTRODUCTION

Industrial relations in Sri Lanka refers to the interaction and maintaining relationships between employers, employees, trade unions and the government. The status of industrial relations will play a crucial role in shaping the work environment, employment conditions and labour rights in the country. It promotes decent work, protection of labour rights and maintaining a harmonious relationship between the employers and the employees. Many steps and efforts are being taken to strengthen these relations and address the ongoing challenges which are vital for the sustainability of the economic development and social progress of the Country.

It is to be further noted that BOI registered companies which are typically involved in export-oriented industries have different rules and regulations that are implemented as BOI recommendations. Therefore, apart from the standard practices of Collective Bargaining, BOI registered companies will implement policies such as grievance handling in order to promote a healthy working environment.

5.1 GENERAL ASPECTS OF COLLECTIVE BARGAINING IN SRI LANKA

Collective bargaining in Sri Lanka refers to the process of negotiations between employers and trade unions or workers associations/ employee councils with the aim of reaching mutually acceptable agreement on the terms and conditions of employment. This is an important aspect of industrial relations in Sri Lanka and plays a significant role in determining wages, working hours, benefits and other employment related matters.

As indicated previously, trade unions in Sri Lanka plays an important role in representing the interests of workers. They are organized across

various sectors, including manufacturing, service, agriculture and public administration.

5.1.1 Formation of a Trade Union

Trade unions are regulated under the Trade Unions Ordinance. Once a union is formed, it shall apply for registration within three (3) months of its commencement, in terms of the Ordinance. An application for registration should be signed by at least seven (7) members of the union.

In the event a union is not registered under the Trade Unions Ordinance it will be considered as an unlawful association. In such an event the Ordinance will prevent the unregistered union from initiating industrial action of any sort.

Under the Ordinance following categories are excluded from forming a Trade Union,

- Judicial Officers
- Members of the Armed Forces
- Police Officers
- Prison Officers
- Members of a Corp under the Agricultural Corps Ordinance

5.1.1 Recognition of a Trade Union as a Collective Bargaining Agent

For the purpose of recognition as a collective bargaining agent it is mandatory that the Trade Union possesses 40% of membership of the employee category they are representing.

5.1.3 Check Off

Check off is a facility (not a legal requirement) that is granted to Trade Unions by the employer at their discretion, where the employer will deduct union subscription from the wages of an employee who is a

member of the union and has consented to such deduction and directly remit the said subscription to the union.

When check-off is granted, an agreement will be executed between the union and the employer, binding the union to follow a dispute settlement procedure including a period of notice if strike action is contemplated.

5.1.4 Unfair Labour Practices

Under the Industrial Disputes Act, the following acts are considered as unfair labour practices,

- Refusing to bargain with the Trade Union which has in its membership not less than forty per centum (40%) of the workman on whose behalf such Trade Union seeks to bargain.
- Requiring a workman to join or refrain from joining any Trade Union or to withdraw or refrain from withdrawing his membership of a Trade Union as a condition of his employment.
- Dismiss a workman by reason only of his membership of a Trade Union or his engaging in Trade Union activities.
- Give any inducement or promise to a workman for the purpose of preventing him from becoming or continuing to be a member, office-bearer, or representative of a Trade Union.
- Preventing a workman from forming a Trade Union or supporting a trade union financially or by other means

- Interfering with the conduct of the activities of a Trade Union
- Dismiss or otherwise take disciplinary action against any workman or office bearer of the Trade Union for any statement made by such workman in good faith before any Tribunal or person in authority or for any statement regarding acts or omissions of the employer.

If one or more of the above acts are committed, it will be considered as an offence under the Industrial Disputes Act.

5.1.5 Negotiations and Collective Agreements

The Industrial Disputes Act provides for the parties to enter into Collective Agreements covering terms and conditions of employment and settlement of disputes.

A Collective Agreement will be binding on the parties (Employer/Trade Union/Respective Employee Category) referred to in the Agreement and its terms become implied terms in the contract of employment.

5.1.6 Termination/Extension of a Collective Agreement

A Collective Agreement will come into effect on the date specified in the Agreement or in the event the Collective Agreement has been gazetted, the Agreement will come into effect on the date the gazette has been issued.

5.2 Trade Union Action

Trade Union actions in Sri Lanka refer to the collective efforts and activities undertaken by labour unions to advocate for the rights and interests of the workers. In a situation where a Trade Union is dissatisfied with a decision of an employer or with a policy decision of

the Government, individually or collectively a Trade Union may resort to a Trade Union action.

5.2.1 Strikes

Under the Industrial Dispute Act, a strike can be defined in the following manner.

"The cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are or have been so employed, to continue to work or to accept employment."

A strike becomes illegal only if:-

- (a) It is an essential service as declared under the Industrial Disputes Act and no notice has been duly given in terms thereof.
- (b) Where it challenges or violates a decision of a Labour Tribunal, Arbitrator or Industrial Court.
- (c) Where it is in violation of a Collective Agreement.
- (d) Where it is in violation of an essential services order under the Public Security Ordinance.
- (e) Where a dispute has already been referred to Arbitration or an Industrial Court.

During the period of a strike no wages will be paid to employees who are part of the said strike.

Following are some of the BOI recommendations on the subject.

- **Union Committee Meetings**

The employer shall allow up to two (02) hours of 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.

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 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.

5.3 EMPLOYEES' COUNCIL

The Employee Council, also known as Worker's Council or Employee Representative Council is a representative body that functions within the workplace. Its primary purpose is to serve as a platform for

communication and negotiations between employees and employers, promoting collaboration and addressing workplace issues.

In a situation where an Employee Council exists while a recognized Trade Union with the bargaining strength is also present in a company, the employer shall not use the Employee 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.

BOI recommendations in reference to the Employees' Councils

The BOI will facilitate the establishment of Employees' Councils in BOI companies 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.

Following are some of the objectives of an Employees' Councils,

- The regulation of relations between employees and the management of the enterprise.
- The promotion and maintenance of effective participation of employees in the affairs of the enterprise, through consultation and cooperation between the employees and the management of the enterprise on matters of mutual concern to both parties.
- The representation of employees in collective bargaining and settlement of industrial disputes.
- The contribution to the promotion and maintenance of industrial peace and improvement of efficiency and productivity in the enterprise.

- The promotion of interests, welfare, and well-being of the employees in the enterprise generally.

Where both a recognized 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.

The constitution of an Employees' Council is as follows:

- Not less than five (5) and not more than ten (10) worker representatives elected by the workers themselves, if necessary by secret ballot.
- Elections are monitored by the BOI and Department of Labour.
- Meetings should be held at least once a month.
- The Council is empowered to discuss any matter affecting the employees of the enterprise with the management.
- The employer and the Council are expected to make every endeavour to bring about a settlement within 30 days, and if this is not possible, refer the matter to the BOI.
- The Labour Department is brought in after a further period of 30 days.
- The employer and the Council are expected to refrain from any act likely to impair the efficiency and productivity of the enterprise.

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.

No employer in a BOI enterprise shall interfere with the conduct of the activities of the Employees' Council or 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 or prevent a member of the Council from carrying out his functions promptly and efficiently.

GRIVENCES/DISPUTE RESOLUTION

6.1 INTRODUCTION

Resolving disputes and grievances of employees in an organization is crucial in order to ensure the continuation of an organization. Addressing such employee grievances or ensuring the resolution of a dispute will create a harmonious work environment and ultimately enhance the overall productivity by boosting employee morale.

To ensure the effective grievance and dispute resolution, many local companies have established clear policies and procedures which includes training of employees regarding conflict resolution. Such policies and procedures will ensure the confidentiality and impartiality throughout the process. By prioritizing the resolution of grievances and disputes, companies can create a positive work environment that benefit both employees and the company.

6.2 COMMUNICATION POLICY

A well-established communication policy will significantly reduce the number of grievances and disputes that arise among the employees in the company. Having a proper communication policy in the company is essential in terms of the BOI recommendations. The salient features of the BOI recommended communication policy are mentioned below.

- In implementing a Communication 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.
- 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.

6.3 GRIEVANCE HANDLING POLICY

Many companies, including those registered under the BOI, have implemented grievance handling policies to address employee concerns and disputes in a fair and an effective manner. While specific policies may vary across organizations there are common features that can be identified in many policies.

An employee grievance refers to a formal complaint or concerns raised by an employee regarding their work environment, treatment or any other work-related matter. A grievance can occur among a group of employees or individually.

Common features of a grievance handling policy are mentioned below which an employee/s with a grievance can adopt to resolve the grievance. The steps and the structure of the grievance handling policies can be changed by the company depending on the company structure and other circumstances.

As per the recommendations made by the BOI, the companies registered under the BOI are encouraged to implement the following structure as a grievance handling policy,

- 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 three (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/she 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 or 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.
- v. The Human Resources Manager/Personnel Manager should permit the employee and his Branch Union/Employees' Council representatives (not more than two) to discuss the grievance and arrive at a solution which would be acceptable to all parties.
- vi. 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 a written submission stating the position of the employee and why he/she considers that the solution provided is unfair, so that the grievance could be considered by the higher management.
- vii. 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.

6.4 STATE INTERVENTION IN GRIEVANCE/DISPUTE RESOLUTION

In the event of a grievance raised by the employee or an industrial dispute cannot be resolved internally within the organization, such grievance/dispute may be resolved through state intervention.

The Industrial Disputes Act provides for the prevention, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto. The key provisions for dispute settlement included in the Industrial Disputes Act are enforced by the Department of Labour.

The methods provided for settlement include conciliation, voluntary or compulsory arbitration and settlement of industrial disputes through Collective Agreements. There are also provisions in the Act for a dispute to be referred by the Minister for settlement to an Industrial Court, but such references are very rarely made.

6.4.1 Conciliation

The Commissioner General of Labour or a person authorized by him (Labour Officers) in writing may settle a dispute through conciliation. If the matter is not settled, the Commissioner or the Authorized Officer can make a recommendation to the parties for the settlement of the dispute. The parties can either accept or reject the recommendations. If, however, the parties do not respond within fourteen (14) days, it will be deemed that the parties have accepted the recommendations of the Commissioner. A settlement is binding on the parties, trade unions, employers and workmen referred to in the settlement. The terms of settlement are deemed to be terms in the Contract of Employment between the employer and workman bound by the settlement.

6.4.2 Arbitration

If a labour officer after due inquiry fails to settle a dispute, such officer shall prepare a comprehensive report setting out the steps taken by him for its investigation and settlement together with his recommendation for the settlement of the dispute. Such report is then submitted to the Commissioner General of Labour, where it may be considered to be referred to arbitration. There are two types of arbitrations,

- Voluntary Arbitration – Voluntary Arbitration takes place where the parties to an industrial dispute agree to refer the dispute for settlement by an arbitrator. The arbitrator may be chosen by the parties or by the Commissioner. This mechanism is built into several Collective Agreements.
- Compulsory Arbitration - Compulsory arbitration arises where the Minister of Labour refers an industrial dispute for settlement by an Arbitrator appointed by him, without considering the consent of the parties to such reference being made. An Award of an Arbitrator is deemed to continue in force up to the date specified in the Award or until it is repudiated. During the pendency of an Award, employees are prohibited from engaging in strike action in connection with a matter which has been settled in terms of the Award.

An Award of an Industrial Court, is binding for the length specified therein. Where no date or period is so specified, it shall continue in force indefinitely, in which case a party bound would have to appeal to the Court for review.

PART SEVEN

INDUSTRIAL SAFTY

7.1 INTRODUCTION

It is important to create a safe and healthy environment for employees, minimizing the risk of accidents, injuries, and occupational hazards. Therefore, it is crucial for companies to prioritize industrial safety to protect their employees, enhance productivity and comply with the legal requirements. Implementing a comprehensive safety conscious culture will contribute to a safer working environment within the workplace. Apart from the legal framework, many companies have taken steps internally to safeguard the standards of occupational safety and health (OSH) of the employees.

7.2 INDUSTRIAL SAFETY STANDARDS IMPLEMENTED IN BOI REGISTERED COMPANIES

Ensuring industrial safety standards is a priority in the companies registered under BOI. Following are some of the standards that are recommended by the BOI.

- Every moving part of prime movers, every part of the transmission machinery and every dangerous part of other machinery should be guarded.
- Practical 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.
- Employees engaged in hazardous work should be provided with suitable personal protective equipment such as gloves, goggles, ear protectors, respirators etc., as necessary.
- Female workers should not be employed in cleaning or lubricating any machinery which is in motion.

- 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.
- 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.
- 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.
- Steps should be taken to prevent fires and explosions in processes which could give rise to accumulation of dust, gases or vapor.
- Fired and non-fired pressure vessels and their fittings should be manufactured to the British standard or any other equivalent standard.
- Boilers and all fittings should be properly maintained. They should be tested and certified at least once in every period of twelve (12) months by an authorized officer.
- 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.

- In stacking material in store areas, pathways free of obstruction should conform to the requirements of the Ceylon Electricity Board.
- Electrical wiring and fittings should be maintained properly and should conform to the requirements of the Ceylon Electricity Board.
- 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.
- 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.
- A plan for 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.
- Employment injury - 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 three (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. Such accidents must be intimated to the District Factory Inspecting Engineer/Labour Department, Labour Secretariat, Colombo 5 on Form 10 (Notice of Accident under Section 61) of the Factories Ordinance with a copy to the Industrial Relations Department of the BOI.

7.2.1 Industrial Hygiene and Workers' Welfare standards recommend by BOI

- **Overcrowding**

To avoid overcrowding 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.

- **Temperature and 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.

- **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 manner as to avoid glare.

- **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 twenty-

five (25) workers. Where the number of male workers exceeds 100, if urinals are provided, it should be on the basis of one per every fifty (50) males, it is sufficient to provide one sanitary convenience for twenty-five (25) males up to hundred (100) and one for every forty (40) males in excess of hundred (100). The sanitary convenience should have adequate ventilation and lighting and should be kept clean at all times.

- **Drinking Water and Washing Facilities**

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.

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.

- **Meal Room**

A meal room with sufficient number of tables and seating to accommodate at least 1/3 of the workforce at a time shall be provided. Minimum floor area (excluding fittings, kitchen and 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.

- **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.

- **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.

- **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.

7.3 FACTORIES ORDINANCE

The Factories Ordinance applies to all factories and aims to ensure the safety, health and welfare of workers employed in these establishments.

7.3.1 Registration and Licencing

Factory owners are required to register their establishments with the appropriate authority and obtain a license before commencing operations. The registration and licencing process involves submitting necessary documents, plans and compliance with certain conditions.

7.3.2 Safety and Health Standards

The Ordinance sets out provisions related to various safety and health aspects in factories. It includes requirements for the maintenance of machinery, precautions against fire and explosions, provisions for adequate lighting and ventilation, control of hazardous substances, and sanitation facilities.

7.3.3 Inspection and Enforcement

Factory inspectors appointed by the Government have the authority to inspect factories to ensure compliance with the provisions of the Ordinance. The said inspectors have the authority to issue improvement notices, suspend operations, and take legal action against factories that are non-compliant with the provisions of the Ordinance.

7.4 WORKMAN'S COMPENSATION ORDINANCE

The said Ordinance establishes a legal framework that provides compensation and benefits to workers who sustain injuries, disabilities or death arising out of and in the course of their employment.

7.4.1 Coverage and Applicability

The Ordinance applies to workers employed in any industry, trade or occupation including manual labour, clerical work and professional services. As per the provisions of the Ordinance, employers are primarily responsible for compensating workers for injuries, disabilities or death resulting from accidents arising out of and in the course of employment. Through the amendments made to the Ordinance in 2022, the applicability of the Ordinance has been expanded by adding the following,

"Workmen who are injured while coming to work from their place of residence to the workplace or while returning to their place of residence from the workplace."

Therefore, apart from the injuries sustained arising out of and in the course of employment, injuries sustained by the employee while traveling to work and returning after work to their place of residence will be covered as per the new amendment.

The employer will be excluded from liability in the following instances where the injury does not result in the death of the employee.

- Workman been under the influence of liquor or drugs
- Wilful disobedience of an order expressly framed for the security of the workman
- Wilful removal or disregard of any safety guard or device provided for the safety of the workman.

7.4.2 Compensation

Death or Total Permanent Disablement

In the event the employee suffers from a permanent total disablement due to an injury and the said disablement has affected the earning capacity of the employee, then the employer will be liable to pay compensation as per Schedule I of the Ordinance which provides percentages of earning capacity loss due to specific injuries suffered by the employee.

E.g.: Total loss of hearing due to an injury will be equal to 60% earning capacity loss and hearing loss in one ear will be equal to 30% earning capacity loss.

In terms of the Ordinance where a death results from an injury arising out of and in the course of employment, an employee would be entitled to compensation as set out in Schedule IV of the Ordinance mentioned below, which depends on the wage drawn by him/her. The same will apply in the event the employee has suffered a total permanent disablement. By considering the loss of earning capacity percentage and wages of the employee, the liability of the employer can be calculated.

Schedule IV of the Workmen's Compensation Ordinance

Monthly wages of the workman injured		Death of workman	Permanent disablement of workman	Half monthly compensation for workman temporary disabled of workman
Rs.	Rs.	Rs.	Rs.	Rs.
0	10,000	1,140,000	1,200,000	5,000
10,001	12,500	1,180,000	1,240,000	5,625
12,501	15,000	1,220,000	1,280,000	6,875
15,001	17,500	1,260,000	1,320,000	8,125
17,501	20,000	1,300,000	1,360,000	9,375
20,001	22,500	1,340,000	1,400,000	10,625
22,501	25,000	1,380,000	1,440,000	11,875
25,001	27,500	1,420,000	1,480,000	13,125
27,501	30,000	1,460,000	1,520,000	14,375
30,001	35,000	1,510,000	1,570,000	16,250
35,001	40,000	1,560,000	1,630,000	18,750
40,001	45,000	1,610,000	1,680,000	21,250
45,001	50,000	1,660,000	1,730,000	23,750
50,001	55,000	1,710,000	1,780,000	26,250
55,001	60,000	1,760,000	1,830,000	28,750
60,001	70,000	1,820,000	1,890,000	32,500
70,001	80,000	1,880,000	1,960,000	37,500
80,001	90,000	1,940,000	2,000,000	42,500
90,001	100,000	2,000,000	2,000,000	47,500
100,000	and above	2,000,000	2,000,000	47,500

Temporary Disablement

The employer will only be liable to pay compensation for temporary disablements (Total or Partial) that exceeds three (3) days.

Liability to pay compensation for certain diseases contracted by an employee

If an employee contracts an occupational disease mentioned in first column of Schedule III, then the contracting of such a disease shall be considered as an injury arising out of and in the course of employment. If the Employer can prove that the disease is not attributable to the nature of the employment, no liability will be imposed on the employer.

Distribution of Compensation

Claims for compensation have to be instituted within two (2) years of the occurrence of the accident. In the case of a death of an employee, the claim should be made within two (2) years from the date of death. In the case of a disease, it is deemed to have occurred on the first day the workman commenced his absence from work in consequence of the disease.

In the event an injury resulting in the death of an employee, the compensation will be distributed among the dependents of the deceased employee.

CESSATION OF EMPLOYMENT

8.1 WAYS EMPLOYMENT CAN COME TO AN END

8.1.1 Retirement

As previously indicated, in the current legal framework, the age of retirement of an employee will be subject to the provisions of the Minimum Age of Retirement Act. An employee, however, can retire voluntarily prior to reaching the age of retirement. The current legally stipulated age of retirement is 60 years. If an employer wishes to retain an employee in service beyond the age of retirement upon a request made by him/her, such employee may be employed on a fixed-term contract of employment.

8.1.2 Resignation

Resignation more or less means a termination of the contract by the employee. It is fundamental to a contract of employment that an employee cannot be compelled to perform his contract if he wishes to terminate it. Therefore, where an employee leaves his job without notice in breach of his contract of employment, the employer's only remedy is one of damages for breach of contract. Unlike in the case of Public Servants, employment in the private sector can always be terminated by the employee by resignation which becomes effective without acceptance.

8.1.3 Expiry of a fixed-term contract

A fixed-term contract is one under which a person is employed for a fixed period, and the contract will end upon the expiry of the period. However, if an employer issues fixed-term contracts back-to-back for a long period of time for the same employee, there could be an inference made that the job position is of a permanent nature. The fixed term contract should not contain any provision to create an expectation of continued employment.

8.1.4 On Mutual Agreement (Voluntary Resignation Scheme)

In some occasions on mutual agreement the employer and employee may decide to end the employment contract. This will be in line with the provision of Section 02 of the Termination of Employment of Workmen (Special Provisions) Act No. 45 of 1971 (TEWA) which provides provisions to the employer to obtain the consent from the employee in order to end the employment contract.

To obtain consent for resignation from the employee, it is a common practice to offer a voluntary resignation/severance scheme.

When determining the VRS package, the employer may refer to the formula set out in TEWA as a guideline. At the discretion of the employer, he can offer an amount more than what is set out in the formula of TEWA in order to make the VRS package attractive to the employee. It would be reasonable to consider the years of service of the employee, how many remaining years of service the employee has left prior to his/her retirement, the type of work and the grade of the employee when formulating the severance package.

8.1.5 Termination of Employment (Special Provisions) Act (TEWA)

Non-disciplinary termination by obtaining permission from the Commissioner General of Labour (CGL)

An Employer may require ending the employment contract for the following reasons,

- (a) Where the employee is medically unfit to perform his duties in terms of his contract.
- (b) In redundancy situations where the employer may decide to close down the company or close down a department of the company and no alternative employment is available.

In such an event if the employee is in Scheduled Employment as defined in TEWA and has worked for more than 180 days during a period of 12 months, the employer must comply with the provisions of the said Act. Accordingly, apart from obtaining the resignation from the employee, the employer can submit an application under Section 02 of TEWA to obtain written sanction from the Commissioner of Labour to end the employment contract.

Scheduled employment under the provisions of TEWA has been defined as employment in:

- i. Any trade in respect of which a Wages Board has been established.
- ii. Every shop or office.
- iii. Every Factory.

In other words, the Act has removed the legal right of employers to terminate contracts on non-disciplinary reasons at will, where the employee is in scheduled employment. The Commissioner may, at his absolute discretion, decide whether to grant permission for the termination of employment or not. In the event the approval is granted the said approval will be subject to conditions decided by the Commissioner General of Labour. Usually, approval is granted subject to the payment of compensation.

The Act has no application to the following:

- The termination of a Contract of Employment by an employer who has less than 15 workmen on an average during the period of 6 months preceding the month in which the employer seeks to terminate the Contract of Employment.
- Termination of employment of any workman who has been employed by the employer for less than 180 days in a

continuous period of 12 months immediately preceding such termination.

- The retirement of a workman in accordance with the law.
- An employer whose capital is wholly provided by the Government.

It is important to note that until the Commissioner General of Labour grants approval for the non-disciplinary termination, the employee will remain in employment and the employer will be required pay salaries to the employee.

The following is the compensation formula gazetted under the Termination of Employment Act.

FORMULA FOR PAYMENT OF COMPENSATION

<i>Column I</i>	<i>Column II</i>	<i>Column III</i>
<i>Number of Year(s) 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)</i>
<i>1 to 5</i>	<i>2.5</i>	<i>12.5 months</i>
<i>6 to 14</i>	<i>2.0</i>	<i>30.5 months</i>
<i>15 to 19</i>	<i>1.5</i>	<i>38.0 months</i>
<i>20 to 24</i>	<i>1.0</i>	<i>43.0 months</i>
<i>25 to 34</i>	<i>0.5</i>	<i>48.0 months</i>

It is important to note the following points in reference to the payment of compensation.

- If at the time of termination of the employee's services, he/she has less than four (04) years left of his/her services, he/she shall be paid either the aggregate salary for the period of denied service or compensation computed according to the above

formula, whichever is less. If the period of denied service is more than four years, compensation shall be computed according to the above formula.

- No amount in excess of Rupees Two Million Five Hundred Thousand (Rs.2,500,000/-) shall be paid to any workman as compensation computed according to the above formula.
- "Salary" means the basic salary or wages plus cost of living allowance or any other similar allowance.
- "Year" means a completed period of twelve months (12) and in relation to the first year in employment includes one Hundred and Eighty days (180) of service.

8.1.6 Termination of employment on disciplinary grounds

The employer for disciplinary reasons could terminate a contract of employment. Statute law does not define the degree of misconduct or the types of misconduct which should result in the termination of the contract of employment. These factors are to be found in the common law as developed or modified by Labour Tribunals and Appellate Courts.

Misconduct can be defined as an act or omission that is inconsistent with the fulfilment of an express or implied term of employment or if it has a material bearing on the smooth and efficient working of the establishment. Broadly speaking, it is the nature of the particular business and the position held by the employee in that business which determines the gravity of the misconduct.

8.1.7 Common types of misconduct

Absence without leave or authorization

Absence without leave is one of the most common types of misconduct in Sri Lanka. Courts expect that some warnings be issued before severe action is taken against the employee, such as dismissal. Proper leave procedures and monitoring of attendance and punctuality is important to control attendance and discipline of habitual absentees.

Absence from a specific place of duty

It is a misconduct to absent oneself from a specific place of duty where one is required to be, even if he does not actually absent himself from the employer's business premises. The misconduct is aggravated when the nature of the employee's work requires continuous performance at the place he has left, as in the case of a Security Guard.

Late Attendance

An employer is entitled to demand punctuality in order to ensure the smooth functioning and efficient running of his business.

The misconduct of lateness is aggravated when it is persistent, especially in situations where the employee has been warned to be punctual.

Neglect of Duty

To constitute misconduct, it could be either a commission or an omission which constitutes negligence on the part of the employee. Since an employee is hired to carry out functions assigned to him, utilizing the management's time to do other things outside of his official work is a neglect of duty.

Sleeping whilst on duty is considered to be a neglect of duty. The misconduct offence is aggravated when the employee's principal duty is one of vigilance, as in the case of a Security Guard.

Incompetence or inefficiency does not amount to negligence. It is said that in the case of negligence, the fault consists of failure to exercise the care one is capable of, whereas incompetence or inefficiency exhibits natural incapability on the part of the employee. Hence, incompetence or inefficiency is not misconduct. But in certain cases, it could be possible to identify neglect of duty if there has been a breach of duty of care expected of an employee.

Disobedience

To constitute the misconduct, the orders/instructions disobeyed must be legal and reasonable.

Disrespect to Superiors

The misconduct of disrespect to a superior requires the use of words or actions which exhibits lack of respect for authority and an intent to defy authority of a superior. What words or actions exhibit lack of respect must depend on the facts and circumstances of each case. Certainly, the use of any language which is indecent, obscene or offensive is misconduct, because it establishes a lack of respect for the position of the person to whom it is addressed.

Assaulting a Co-Employee

It is considered misconduct to assault a co-employee. It is viewed more seriously when it is committed to deter an employee from doing his duty, such as when a co-employee is assaulted because he refuses to lower his production as the assailant demands.

Dishonesty/Loss of Confidence

Dishonesty in any form is misconduct of serious nature and it is an implied term that an employee would act in an honest manner in relation to his employment.

Broadly speaking, if the conduct of the employee leads to loss of confidence by an employer in an employee, such conduct is considered a sufficient ground for dismissal. Loss of confidence is implied in cases where the persons involved are those holding positions of trust and confidence, such as Accountants, Cashiers and Security Personnel.

Refusal to Accept a Transfer

Refusal to obey a reasonable order of transfer when a transfer is contractually foreseen is misconduct.

Drunkenness/Drugs

The misconduct is aggravated when it is in relation to employees whose principal duty is one of vigilance, as in the case of a Security Guard, or it involves alertness as in the case of a Driver.

Misconduct Outside the Workplace and Working Hours and not in the Course of Employment

If the conduct complained of is inconsistent with the fulfilment of express or implied conditions of service or is directly linked with the relationship of the employer and employee concerned or has a material bearing on the smooth and efficient working of the organisation, it is misconduct. Therefore, as long as the conduct has a bearing on the organization it would be considered misconduct.

8.1.8 Disciplinary Procedure

There are no statutory provisions that regulate the disciplinary procedure in Sri Lanka. Therefore, the law does not require a disciplinary procedure to be followed in relation to misconduct committed by employees. However, in order to show the employer has acted in good faith, it is advisable to initiate a disciplinary procedure internally within the company to deal with employee misconduct.

The steps of the disciplinary procedure can be determined through internal policies/employee handbooks or through Collective Agreements.

Mentioned below are some of the common steps that are being used as part of the disciplinary procedure.

Preliminary Investigation

When the employer becomes aware of an alleged misconduct or a breach in the company policies, a preliminary investigation will be initiated in order to collect the relevant evidence/documents/statements in connection to the alleged misconduct.

Suspension

Whether an employee can be suspended or not pending inquiry, will be determined through various factors. If a collective agreement stipulates terms in reference to the suspension of an employee, the said procedure needs to be followed. If no such terms are available in a collective agreement, then it should be looked in to whether there are express terms stipulated in the letter of appointment that will allow an employer to suspend an employee with or without pay pending inquiry. If no such express terms are available but there is an established practice of suspension without pay in the company and the employer is of the view that if the accused employee is not suspended, he/she will be a hinderance to the investigation, the employer may be justified in suspending an employee.

It's advisable to obtain a statement from the accused employee in reference to the misconduct committed by him/her before issuing the suspension.

Show Cause Letter

Once the preliminary investigation is concluded, the next step is to issue the show cause letter which will specify the charges levelled against the employee. The show cause letter should specify the details in reference

to the misconduct committed by the accused employee and the specific charges he/she is required to respond to.

Reply to the Show Cause Letter

Once the reply/explanation is submitted by the accused employee, the employer must decide whether the reply/explanation given by the employee is acceptable or not. In the event the reply/ explanation given by the employee is acceptable, then the employer must reinstate the employee and in the event the employee was suspended without pay with full back wages. If the employee unconditionally accepts the charges levelled against him/her, the employer is permitted to decide on the punishment without holding a domestic inquiry.

If the reply/explanation given by the accused employee is unsatisfactory and not acceptable, the next step will be to conduct a domestic inquiry in to charges levelled against the employee.

In a situation where the employee fails to submit an explanation, it is advisable to conduct a domestic inquiry.

Domestic Inquiry

By conducting an inquiry before an independent inquiry officer, the opportunity will be given to parties to present their respective position in reference to the charges. Once the evidence is concluded the inquiring officer will determine whether the employee is guilty or not of the charges against him/her. In the event the accused employee is found not guilty of the charges, the employer must reinstate the employee.

In the event the accused employee is found guilty of the charges levelled against him/her, based on the gravity of the misconduct the employer can decide on the appropriate punishment.

Punishment

A punishment will be determined based on the gravity of the misconduct. However, in some situations, while the gravity of the misconduct will be considered, factors such as the service period, designation of the employee, past record, etc., will also be considered when deciding on a suitable punishment.

Below mentioned are some of the punishments that can be imposed in reference to misconduct committed by an employee,

- a) Termination of employment
- b) Suspension without pay
- c) Deferment of a yearly increment
- d) Stoppage of an increment
- e) Fine
- f) Transfer
- g) Warnings
- h) Reduction of bonus or nonpayment of bonus

8.1.9 Cessation of employment

In a situation where an employee is absent from work without leave/authority or intimation for a long period of time, the employer is entitled to act on the basis that the employee has abandoned employment and treat the contract of employment as having been terminated by the employee's own conduct/volition.

In such an event it is prudent to send notices to the employee instructing him /her to report for duty. If the employee does not turn up for duty, then it is within the discretion of the employer to send the cessation of employment letter to the employee. Once the letter is sent, the employment will come to an end.

8.1.10 Frustration of contract and impossibility of performance

A contract is deemed by law to have automatically come to an end in situations where performance of the contractual obligations become impossible. In other words, subsequent to its formation, without fault of either party, a contract may become inoperative due to factors beyond the control of the parties to the contract.

'Frustration' means that there has been such a change in the circumstances, that the performance of the contractual obligations has become unlawful or that the circumstances have made it physically impossible for the contract to be performed. For instance, a situation where the business is destroyed by fire, the contract is deemed to be terminated as the contractual obligations between the employer and the employee become impossible to perform. Frustration cannot be caused by the party pleading it. In our law, the extension of the doctrine of frustration to employment is not straightforward. There is no clear judicial precedent on it.

8.1.11 Forced Resignation: Constructive Termination

If a resignation has been obtained under duress it will be considered as a constructive termination. To determine whether an employee has been terminated constructively will depend on the circumstances of each case. Where an employer threatens an employee to submit his resignation or compels an employee to submit his resignation, it will amount to constructive termination.

8.2 LABOUR TRIBUNAL

Labour Tribunal is a judicial body established through the Industrial Disputes Act to adjudicate upon matters stated in S. 31B (1) of the said Act as mentioned below,

- a) Termination of employment of an employee by an employer,
- b) Whether the employee is entitled to any gratuity or any other benefits which are due to him upon his termination of employment,
- c) Matters relating to the forfeiture of gratuity as per the Payment of Gratuity Act No.12 of 1983
- d) Such other matters relating to the terms of employment or conditions of labour

In the event an employee has been terminated by the employer and the said employee is aggrieved by the such decision, the employee has the legal right to challenge the said decision taken by the employer before the Labour Tribunal by way of an application.

The employee must make an application to the Tribunal within six (6) months from date of the termination.

8.2.1 Reliefs

Relief granted by a Labour Tribunal is linked to the concept of equity. The fundamental duty imposed on a Tribunal by the Industrial Dispute Act is to make an order or award that is just and equitable. Therefore, after evaluating the evidence submitted by both parties, the Tribunal can order,

- I. To dismiss the application submitted by the Applicant.
- II. Re-instatement in service with or without back wages
- III. Compensation in lieu of reinstatement
- IV. Awarding gratuity on a specific application where the employer has less than 15 employees.

- V. Order pertaining to correctness of the forfeiture of gratuity in respect of an application made to the Labour Tribunal.

8.2.2 Appeals

If the employer or the employee is aggrieved by the Order delivered by the Labour Tribunal, the option of an appeal to the High Court against such Order of the Labour Tribunal is available to the aggrieved party. The appeal should be submitted to High Court within 30 days from the date the Order is delivered by the Tribunal.

MISCELLANEOUS

9.1 COMPANY REGISTRATION

The procedure for Company registration in Sri Lanka

The procedure for registration of a Company in Sri Lanka involves several steps mentioned below,

- **Company name reservation** – The first step is to reserve the Company name with the Registrar of Companies. The name selected should not be similar to or resemble an existing company's name. In order to check the availability of the name, an investor can visit the official government website of the Department of Registrar of companies (ROC).
- **Preparation of Documents** – Once the Company name is reserved the preparation of documents can commence. The following documents are required for the purpose of registering a company which will outline the objective/ share capital/ shareholder details/ internal rules and regulations of the company.
 - a) Memorandum of Association (MOA)
 - b) Articles of Association (AOA)
- **Required Signatures** – The MOA and the AOA must be signed by the shareholders. Additionally, Form 01 which will include the details of the directors and secretary of the company must be submitted with the signatures of the proposed Directors. The said Form can be obtained from the website or at the office of the ROC or from the respective office.
- **Submission of documents** – As indicated above the MOA/AOA/Form 01 and a certified copy of the name reservation certificate with the required registration fees

should be submitted to the Registrar of Companies for Company registration purposes.

- **Obtaining a Certificate of Incorporation** – Once the documents submitted are reviewed by the Registrar of Companies if all the documents are in proper order the Registrar will issue a Certificate of Incorporation, which will signify the registration of the Company.

9.2 TAX REGISTRATION OF A COMPANY

Subsequent to obtaining a Certificate of Incorporation, it is mandatory that the newly formed Company is registered under the Inland Revenue Department for tax purposes. The following steps must be followed for such registration,

- **Obtaining a Tax Identification Number (TIN)** – Once obtained the TIN number will serve as a unique identification number for the Company in reference Tax related matters. To obtain a TIN an application must be submitted to the Inland Revenue Department. The said application can be obtained from the Inland Revenue Department website or from the official Department office.
- **Taxpayer Registration Form** – Along with the TIN application the Taxpayer Registration form must be submitted. The Taxpayer Registration form should include the details of the name/ address/contact details/nature of business and other relevant information regarding the newly formed Company. With the form the following documents must be attached,
 - a) Copy of the Certificate of Incorporation
 - b) Copy of the AOA
 - c) Copy of the MOA
 - d) Copy of the Company Bank Account Opening Statement
 - e) Copy of the Company balance sheet if available

f) Copies of the national identity cards or passports of the Directors and shareholders.

- **Taxpayer Identification Certificate (TIC)** – If the registration is successful the Inland Revenue Department will issue a TIC for the Company. The TIC will include the TIN number and the effective date of the registration.

Once the Company is registered under the Inland Revenue Department for Tax purposes, the Company will be obligated to maintain proper accounting records and submit tax returns. It is important to note that the tax regulations may change from time to time. Therefore, it is essential that the Company is up to date with the tax regulations in order to avoid conflicts.

Contact Info –
Department of the Registrar of
Companies Sri Lanka
400 D R Wijewardena Mawatha
Colombo 10
Sri Lanka
Website – info@drc.gov.lk

Contact Info –
Inland Revenue Department
Sir Chittamplam A Gardiner
Mawatha
Colombo 02
Sri Lanka

Website- www.ird.gov.lk

9.3 NATIONAL INSTITUTE OF OCCUPATIONAL SAFETY AND HEALTH (NIOSH)

Vision – Occupational safety, health and welfare for all

Mission- To empower through education, training, research, and other relevant interventions for preventing and controlling all forms of work-related hazards to ensure safety, health and welfare at the workplace.

NIOSH is a government agency responsible for the promotion and ensuring occupational safety and health standards in workplace across the country. NIOSH provides a variety of services which includes conducting research, developing safety and health guidelines and standards, providing training and education, and offering advisory services to employers and workers.

In reference to research and standards development, NIOSH conducts research studies on occupational hazards, emergency risks and best practices on safety and health in workplace. NIOSH collaborates with various stakeholders including government agencies, industry associations, trade unions, and international organizations to promote occupational safety and health.

Contact Info –
National Institute of Occupational Safety and Health
Colombo 05
Sri Lanka
Email – info@niosh.gov.lk

9.4 NATIONAL APPRENTICE AND INDUSTRIAL TRAINING AUTHORITY (NAITA)

NAITA is a government organization responsible for promoting and regulating vocational training and apprenticeship programs in the Country. It is established and regulated under the purview of the Ministry of Skills Development, Vocational Education, Research and innovation.

NAITA aims to develop a highly skilled and competent workforce to meet the demands of the industrial and the economic sectors in Sri Lanka. NAITA offers a wide range of training programs and courses in diverse fields, such as engineering, construction, IT, hospitality, healthcare and agriculture. These programs cater to individuals who wish to acquire new skills or enhance their existing skills to improve their employability and contribute to the countries' economic growth.

NAITA plays a crucial role in implementing the National Apprenticeship Scheme, which provides practical on the job training opportunities for young individuals in various industries. The said scheme enables apprentices to gain valuable work experience while receiving theoretical training, which will lead to a recognized national qualification.

Contact Info –
National Apprentice and Industrial Training Authority
Head Office
No.971, Sir Jayawardenapura Mawatha
Welikeda, Rajagiriya
Sri Lanka
Email – info@naita.gov.lk

9.5 TERTIARY AND VOCATIONAL EDUCATION COMMISSION (TVEC)

Vision- "A Sri Lanka where all citizens have access to the highest possible standards of tertiary and vocational education and training which meet the human resource development needs of the country"

Mission – "As the apex body in the TVET sector, we are committed to establish and maintain an efficient and effective technical education and vocational training system which is relevant to socio- economic goals and changing market needs"

TVEC is a government body responsible for the regulation, coordination, and development of tertiary and vocational education in the country. Regulated under the Ministry of Education, TEVC works closely with universities, technical colleges, vocational training centres and other educational providers to ensure the delivery of relevant and industry responsive education and training.

The Commission sets standards and guidelines for tertiary and vocational education, focusing on areas such as curriculum development, assessment and certification and quality assurance. The Commission also provides accreditation and registration of tertiary and vocational education providers. The said accreditation and registration is seal of quality and credibility.

In addition to the above TVEC is responsible for the recognition and certification of qualifications in the tertiary and vocational education sector. It awards the National Vocational Qualification (NVQ) certificates, which are widely recognized and valued by employers in Sri Lanka. The NVQ system provides a standardized framework for assessing and certifying vocational skills and competencies.

Contact Info –
Tertiary and Vocational Education Commission
Nipunatha Piyasa (3rd floor)
354/2, Elvitigala Mawatha,
Colombo 05
Sri Lanka
Email – info@tvec.gov.lk

9.6 NATIONAL PRODUCTIVITY SECRETARIAT (NPS)

Mission- “Enhance Sri Lankan productivity by energizing the sector to face international competition and to uplift the living standards of our people through national development.”

NPS is a government body that is established to promote productivity standards among the citizens of Sri Lanka. In view of the membership of Sri Lanka in the Asian Productivity organization the productivity centre was established under the Ministry of Industries. Currently the said centre is named as National Institute of Business Management (NIBM). Since the scope of NIBM was widen to other sectors, in order to promote productivity concepts, the NPS was created.

Contact Info –
National Productivity Secretariat
Sethsiripaya 2nd Stage
Battaramulla
Email – info@productivity.gov.lk

BOARD OF INVESTMENT OF SRI LANKA

10.1 FUNCTION OF THE BOARD OF INVESTMENT OF SRI LANKA

For investors seeking to set up projects in Sri Lanka, the Board of Investment of Sri Lanka (BOI) is the agency that acts as a one stop-shop. The BOI is structured to function as a central facilitation point for investors, offering convenience, easy access and information. When an Investor signs an agreement with the BOI, the provisions embodied in the said agreement remain valid for the lifespan of the enterprise, which is also guaranteed by the constitution of Sri Lanka. This is a significant advantage for investors working with the BOI as Sri Lanka can assure a degree of stability that only few other countries can offer.

The Board of Directors of the BOI consists of selected professionals drawn from private and public sectors. Together with an experienced management team, the BOI is committed towards the continuous improvement of the country's investment climate.

Investment approvals provided through the BOI

Investing in Sri Lanka through the Board of Investment of Sri Lanka enables investors to benefit from several incentives depending on the nature and merits of the investment project.

BOI Act also permits foreign investments to operate solely under the normal laws of the country, adhering to provisions of the Inland Revenue Act, Customs Ordinance, Foreign Exchange Control Act and other relevant laws.

- **Investment Approvals** - Evaluating investment proposals in line with the policies and regulations of the BOI investment policy, granting approvals for the change of scope of the business, granting approvals for expansions in terms of location, product, activity etc. resolving and intervention in operational issues, recommendation of visas for expatriates (investors and

employees), communicating and coordinating with all line ministries for granting approvals for projects etc.

- **Engineering Approvals** - Issuing site approvals, building plan approvals and quantity reports for importing construction items, issuing certificate of conformity etc., The Department maintains a land bank of state and private lands for the use of prospective investors.
- **Environment clearance** - Granting environmental clearances to projects, issuing environmental protection licenses with the concurrence of the central environmental authority and post compliance monitoring etc.
- **Legal Services** - Provides legal advice to investors with regard to legal aspects in granting approvals to projects in relation to matters such as company incorporation and connected documentation and company related corporate affairs etc.
- **Investor Services** - Processing of Import/export CUSDECS; Verification of Import/Export Cargo, approval for clearances of goods from bonded warehouses, approving re-import and re-export of items and liaising with government organization in respect of import/export issues faced by the BOI enterprises.
- **Industrial Relations** - Promote and facilitate the maintains of labour management co-operation, industrial peace and harmony and higher productivity in the enterprises, provide advisory services and guidance on labour laws/regulation and IR practices and assist investors to meet their manpower recruitment through the BOI employment services units (Job Banks)
- **Project Monitoring** - Collection of periodical information from BOI enterprises based on audited financial statements, Bi-annual performance statements and issuance of tax certificates to

enterprises eligible for tax holidays, formal termination of project agreements etc.

- **Zone Management** - Providing central facilitation to investors operating within BOI zones by providing all industry related services from a single location.

THE EMPLOYERS' FEDERATION OF CEYLON

11.1 SERVICES PROVIDED BY EFC

Advisory

The members of the EFC have access to exclusive personalised consultations, advice and guidance on Employment Law, Industrial Relations, and Human Resource Management through our specialised and highly skilled professional staff. The annual subscription allows members to access premium advisory services that include;

- Consultation and written legal opinion on employment, labor laws, employee and industrial relations and human resource related issues.
- Advice on drafting different types of employment related contracts.
- Consultation on termination of employment and disciplinary procedures.
- Advice on enterprise restructuring, retrenchment and closures.

Legal Representation

The EFC represents members at Labour Tribunals, Arbitrations, Industrial Courts, Department of Labour Inquiries as well as for the inquiries before the Termination Unit and the Workmen's Compensation Tribunal through a team of experienced legal counsel.

Industrial Relations

Professional staff members of the EFC will assess all aspects of industrial relations and provide guidance to promote a productive and harmonious workplace. The following services related to industrial / employer relations are available for members;

- Collective bargaining and negotiations with Trade Unions.

- Dispute settlement discussions with relevant parties including Trade Unions.
- Drafting of Collective Agreements.
- Facilitating workplace dispute resolutions.

Human Resources and Legal Solutions

The EFC's HR and Legal Solutions hub possesses extensive industry expertise and skills to address the needs of employers in the domain of Employment and Labour Law. The strength of the EFC's team lies in a set of professionals, comprising experienced lawyers, HR experts, researchers and economists who design and deliver tailored solutions, thus ensuring seamless operations and compliance. Below mentioned are some of the services that are provided by the Solutions unit, to members and non-members alike.

- **Due Diligence Assignments related to Employment**
To identify obligations and risks connected with employment related matters on a sale and purchase of an entity.
- **HR and Labour Law Compliance Audits**
To conduct audits in relation to current HRM policies, procedures and practices of an organisation to identify deviations against relevant employment laws and best HR practices and provide recommendations to close gaps.
- **Audits related to Outsourcing of Services**
To conduct an audit to identify whether the organization has followed correct practices and if any potential risks associated with outsourcing, to provide recommendations on corrective measures.
- **Restructuring of Organisations and Work Units**
To offer consultancy services concerning employment law and Human Resources Management with regard to restructuring of work units.

- Occupational Safety and Health (OSH) Audits
To conduct evaluations and provide necessary recommendations on OSH Policies, Procedures, best practices through auditors certified by the ILO.

Training and certification

EFC is equipped with practices with a resource faculty for Training and Certifications who will focus on providing the necessary training and development solutions to both member and non-member organisations. EFC has a combined strength of inhouse expertise who possess academic qualifications and hands-on experience in the fields of Labour Law, Human Resource Management and Employment related matters.

Designed and delivered by EFC's professional staff and network of industry experts, the programmes will help the organization to demonstrate their commitment to good practices. As the Labour Authorities expect employers to take necessary steps to ensure legal compliance, the need for proactive training is almost obligatory for any organisation. The EFC Training and Certifications Unit is geared to offer the organization with a variety of programmes to suit their organisational training needs. Below mentioned are some of the training programs that are offered by the EFC to its members,

- EFC executive Diploma in Employment Relations
- EFC Certificate Program (Registered with TVEC) on labour law
- Short Programs, Seminars and Workshops
- Company based customized training

Plantations Services

The Plantation Services arm of the Employers' Federation of Ceylon took a momentum during 1992 with the Government's decision of-privatizing the Estates. The companies engaged in managing plantations, joined the EFC membership for its sector specific services. Since then, EFC has been providing services to more than 20 Regional Plantation Companies (RPC) that directly employ over 135,000 people

within their estates. The RPCs represent Tea, Rubber, Coconut, Spices, Palm oil and multiple other crops that are largely contributing to the socio-economic development of Sri Lanka.

Plantations is a sector with unique practices, norms and procedures, which require specialised knowledge and skill to deal with it's specific issues.

11.2 HOW TO BE PART OF THE EFC MEMBERSHIP

To gather more details about the services offered by the EFC and learn how to become part of the EFC membership, the interested organizations could contact the number provided below.

Contact Info –

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