

Employment Of Women, Young Persons And Children (Amendment)

AN ACT TO AMEND THE EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN ACT, NO. 47 OR 1956

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

[17th March , 2003]

Short title. **1.** This Act may be cited as the Employment of Women, Young Persons and Children (Amendment) Act, No. 8 of 2003

Amendment of section 2 of Act, No. 47 of 1956. **2.** Section 2 of the Employment of Women, Young Persons and Children Act, No. 47 of 1956 (hereinafter referred to as the "principal enactment") is hereby amended in subsection (2) thereof, by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and in addition to the above punishment the employer shall be ordered to pay compensation of such amount as may be determined by the court, to the person in respect of whom the offence was committed."

Amendment of section 2A of the principal enactment. **3.** Section 2A of the principal enactment is hereby amended by the addition at the end of that section of the following new subsections :

(3) Where a person is employed at night in contravention of the conditions set out in subsection (2) the employer and any other person (other than the person employed) to whose act or default the contravention is attributable shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding ten thousand rupees or to imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and in the case of a young person only, where such young person is below the age of eighteen years, in addition to the above punishment the employer shall be ordered to pay compensation of such amount as may be determined by court, to the person in respect of whom the offence was committed.

(4) In this section "the Commissioner of Labour" includes the Additional Commissioner of Labour, a Deputy Commissioner of Labour and an Assistant Commissioner of Labour.'

Amendment of section 4 of the principal **4.** Section 4 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding ten thousand

enactment. rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."

Amendment of section 5 of the principal enactment. **5.** Section 5 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding five thousand rupees or , in the case of a second or subsequent offence, to a fine not exceeding ten thousand rupees."

Amendment of section 6 of the principal enactment. **6.** Section 6 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding five thousand rupees and in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees."

Amendment of section 7 of the principal enactment. **7.** Section 7 of the principal enactment is hereby amended as follows :

(a) in subsection (2) of that section by the repeal of paragraph (a) thereof; and

(b) in subsection (3) thereof by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and be ordered to pay compensation of an amount determined by court to the child in respect of whom the offence was committed."

Amendment of section 8 of the principal enactment. **8.** Section 8 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for all the words from "be liable" to the end of that subsection of the words "be liable to a fine not exceeding five thousand rupees or, in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees."

Insertion of new section 8A in the principal enactment. **9.** The following new section is inserted immediately after section 8, and shall have effect as section 8A of the principal enactment:

"Furnishing 8A.

of information regarding employment of young persons in industrial undertakings.

(1) The employer of any young person employed in any industrial undertaking and the parent or guardian of that young person shall if required by an authorized officer, furnish to that officer such information regarding the employment of that young person as that officer may require.

(2) Any employer, parent or guardian who fails to comply with the provisions of subsection (1) of this

section or willfully gives false information to an authorized officer regarding the employment of any young person in an industrial undertaking, shall be guilty of an offence under this Act, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding ten thousand rupees or to imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."

Amendment of section 9 of the principal enactment.

10. Section 9 of the principal enactment is hereby amended as follows :

(a) in subsection (2) of that section by the repeal of paragraph (a) thereof; and

(b) in subsection (4) of that section by the substitution for all the words from "be liable" to the end of that subsection of the words "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and in addition to the above be ordered to pay compensation of such amount as may be determined by court, to the person in respect of whom the offence was committed."

Amendment of section 10 of the principal enactment.

11. Section 10 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding five thousand rupees or in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees."

Amendment of section 11 of the principal enactment.

12. Section 11 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for all the words from "be liable" to the end of that subsection, of the words "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."

Replacement of section 13 of the principal enactment.

13. Section 13 of the principal enactment is hereby repealed and the following section substituted therefor :

Restriction 13.
on
employment
of children.

(1) No child shall be employed except in accordance with the provisions of this Part of this Act.

(2) Where a child is employed in contravention of the provisions of subsection (1) the employer or the person (other than the child employed) to whose act or default the contravention is attributable shall be guilty of an

offence and shall, on conviction after summary trial before a Magistrate be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and in addition be ordered to pay compensation of such amount as may be determined by the court, to the child in respect of whom the offence was committed."

Replacement of section 14 of the principal enactment.

14. Section 14 of the principal enactment is hereby repealed and the following section substituted therefor :-

"Employment14. of children by parents or guardians.

(1) A child may not be employed except -

(a) by his parents or guardian in light agricultural or horticultural work or similar work carried on by members of the same family before the commencement of regular school hours or after the close of school hours ;

(b) in any school or other institution supervised by a public authority and imparting technical education or other training for the purpose of any trade or occupation.

(2) If a child is employed in contravention of the provisions of subsection (1) the employer or the person (other than the child employed) to whose act or default the contravention is attributable shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and in addition be ordered to pay compensation of such amount as may be determined by the court, to the child in respect of whom the offence was committed."

Amendment of section 15 of the principal enactment.

15. Section 15 of the principal enactment is hereby amended by the substitution for all the words commencing from "notwithstanding" to the end of that section of the words "notwithstanding that the employment may be authorized by the provisions of this Part of the Act."

Amendment of

16. Section 16 of the principal enactment is hereby amended as follows ;-

section 16 of the principal enactment.

(a) in subsection (1) of that section by the substitution for the words "the employer of any child and the parent or guardian of that child" of the words. " the employer of any child and the parent, custodian or guardian of that child"

(b) in subsection (2) of that section

(i) by the substitution for the words "Any employer, parent or guardian" of the words. "Any employer, parent, custodian or guardian"; and

(ii) by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."

Amendment of section 17 of the principal enactment.

17. Section 17 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment, and shall in addition be ordered to pay compensation of such amount as may be determined by the court, to the child in respect of whom the offence was committed."

Amendment of section 18 of the principal enactment.

18. Section 18 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment, and shall in addition be ordered to pay compensation of such amount as may be determined by the court, to the child in respect of whom the offence was committed."

Amendment of section 19 of the principal enactment.

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

(a) in subsection (1) of that section, by the substitution enactment for the words "age of sixteen years" of the words "age of eighteen years";

(b) in subsection (2) of that section

(i) by the substitution for the words "age of sixteen years", of the words "age of eighteen years";

(ii) by the substitution for all the words from "be liable" to the end of that subsection of the words, "be liable to a fine not exceeding ten thousand rupees or

imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment and shall be ordered to pay compensation of an amount determined by the court ,to the person in respect of whom the offence was committed."; and

(c) in the marginal note to that section, by the substitution for the words "sixteen years of age" of the words "eighteen years of age".

Amendment of section 20 of the principal enactment.

20. Section 20 of the principal enactment is hereby amended as follows :

(a) by the repeal of subsection (1) of that section and substitution therefor of the following subsection:-

"(1) No child or young person who has not attained the age of 16 years shall be trained to take part in performances of a dangerous nature."

(b) in subsection (2) of that section, by the substitution for the words "under the age of sixteen years", of the words "under the age of eighteen years";

(c) in subsection (3) of that section, by the substitution for, all the words commencing from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or to imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment, and shall in addition be ordered to pay compensation of such amount as may be determined by the court, to the person in respect of whom the offence was committed." ; and

(d) in subsection (4) of that section, by the substitution for the words "age of fourteen years", of the words "age of sixteen years" and by the substitution for the words "age of sixteen years", of the words "age of eighteen years".

Amendment of section 21 of the principal enactment.

21. Section 21 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment, and shall in addition be ordered to pay compensation of such amount as may be determined by the court, to the person in respect of whom the offence was committed."

Amendment of section 22 of the principal

22. Section 22 of the principal enactment is hereby amended as follows : -

(a) in subsection (1) of that section by the substitution for the

enactment.	<p>words "The employer, parent or guardian" of the words, "The: employer, parent, custodian or guardian";</p> <p>(b) in subsection (2) of that section.</p> <p>(a) by the substitution for the words 'any employer parent or guardian', of the words, "any employer, parent, custodian or guardian" ; and</p> <p>(b) by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."</p>
Amendment of section 24 of the principal enactment.	<p>23. Section 24 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."</p>
Amendment of section 25 of the principal enactment.	<p>24. Section 25 of the principal enactment is hereby amended as follows :-</p> <p>(a) by the repeal of the marginal note to that section and substitution therefor of the following marginal note :-</p> <p>"Powers of entry and search" ;</p> <p>(b) in subsection (1) of that section, by the substitution for the words "may enter", of the words, "may enter and search" ; and</p> <p>(c) in subsection (3) thereof, by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."</p>
Amendment of section 26 of the principal enactment.	<p>25. Section 26 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution for all the words from "be liable" to the end of that subsection, of the words, "be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."</p>
Amendment of section 30 of the principal enactment.	<p>26. Section 30 of the principal enactment is hereby amended as follows ;</p> <p>(a) by the insertion immediately after subsection (l) of that section of the following subsection :</p>

"(1A) Where any Government Medical Officer examines any person under preceding subsection (1), it shall be the duty of such Medical Officer to issue a certificate as regards the age of such young person or child and such certificate shall be admissible in evidence and shall be, prima facie. evidence of the facts stated therein." ;

(b) by the repeal of subsection (2) of that section and the substitution there for of the following subsection ;

"(2) Every employer who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or to both such fine and imprisonment."

Amendment of section 34 of the principal enactment.

27. Section 34 of the principal enactment is hereby amended as follows :-

(a) in subsection (1) thereof by the substitution for the definition of the expression " authorized officer" and the substitution therefor of the following new definition :-

"authorized officer" means the Commissioner of Labour, Additional Commissioner of Labour, a Deputy Commissioner of Labour and an Assistant Commissioner of Labour and includes any Medical Officer, the Chief Factory Inspecting Engineer, any Factory Inspecting Engineer, any Labour Officer or any Statistical Officer or any Statistician attached to the Department of Labour;" ;

(b) by the insertion of the following definition, immediately after the definition of the expression " child" :-

"custodian" means any person appointed by a court of law, who shall have the custody of the child, and on behalf of the child, manage the affairs of such child ;";

(c) by the omission of the definition of the expression " street trading".

Sinhala text to prevail in case of inconsistency. **28.** In the event of any inconsistency between the Sinhala and Tamil text of this Act, the Sinhala text shall prevail.