

Acts
Nos. 47 of 1956,
43 of 1964.
Law
No. 29 of 1973,

Act
No. 32 of 1984,
No. 08 of 2003,
No. 24 of 2006.

**AN ACT TO REGULATE THE EMPLOYMENT OF WOMEN,
YOUNG PERSONS AND CHILDREN**

[November 7, 1956]

Short title. 1. This Act may be cited as the Employment of Women, Young Persons and Children Act.

**PART I
NIGHT WORK IN INDUSTRIAL UNDERTAKINGS**

[§ 2, 32 of 1984.] 2. (1) Subject to the provisions of this Part, no person shall employ at any time during the night, a person under the age of eighteen years, in a public or private industrial undertaking or in a branch thereof.

[§ 2, 8 of 2003] (2) If a person is employed in contravention of subsection (1) of this section, the employer and any person (other than the person 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 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.

Employment of women at night in any industrial undertaking.
[§ 3, 32 of 1984.] 2A. (1) Subject to the provisions of this Part every woman employed in an industrial undertaking shall be permitted to work throughout the night.

- (2) Employment of a woman at night shall be subject to the following conditions:-
- (a) no woman shall be compelled to work at night against her will;
 - (b) that written sanction of the Commissioner of Labour should be obtained by every employer, prior to the employment by him of women to work after 10 p.m. at night;
 - (c) no woman who has been employed during the hours of 6 a.m. and 6 p.m. shall be employed after 10 p.m. on any day;
 - (d) every woman who works at night shall be in receipt of a payment of not less than one and a half times the normal payment received by her;
 - (e) there shall be appointed female wardens to see to the welfare of women workers who work at night;
 - (f) every woman worker working at night shall be provided with rest rooms and refreshments by the employer;
 - (g) no woman shall be employed for more than ten days on night work, during any one month.

Provisions of section 2A not to apply to women holding responsible positions & c.
[§3, 32 of 1984]

- 2B. The provisions of section 2A shall not apply -
- (a) to women holding responsible positions of a managerial or technical character;
 - (b) to women employed in health and welfare services who are not ordinarily engaged in manual work; and

(c) to an industrial undertaking in which only members of the same family are employed.

Minister may prohibit employment of women at night in industrial undertakings.
[§ 3, 32 of 1984.]

2C. When in a case of serious emergency, the public interest demands it, the Minister may, after consultations with the employers' and workers' organizations concerned, if any, by Order published in the *Gazette*, vary the conditions set out in section 2A, in relation of employment of women, or prohibit employment of women, during the night in any industrial undertaking or undertakings or branches thereof.

[§ 3, 8 of 2003]

(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.

[§ 3, 8 of 2003]

(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.

Exception to restriction on night work in industrial undertakings.

3. *(3) The Minister may, after consultation with the employers' and workers' organisation concerned, if any, authorise, by Order published in the *Gazette*, the employment during the night of male young persons who have attained the age of sixteen years but are under the age of eighteen years for purposes of apprenticeship or vocational training in such industrial undertakings required to be carried on continuously as is or are specified in the Order.

(4) Where in an industrial undertaking there occurs an emergency which could not have been controlled or foreseen and which is not of a periodical character and which interferes with the normal working of that undertaking, then, during that emergency, the provisions of section 2 with respect to the employment of persons under the age of eighteen years during the night shall not apply to persons between the ages of sixteen and eighteen years employed in that undertaking, if the emergency is reported, within seven days of its occurrence, to the Commissioner of Labour.

(5) When in a case of serious emergency the public interest demands it, the Minister may, after consultation with the employers' and workers' organisations concerned, if any, by Order published in the *Gazette*, suspend, only with respect to persons between the ages of sixteen and eighteen years, the prohibition of the employment of persons under the age of eighteen years during the night in any industrial undertaking or undertakings or branches thereof.

[§ 4,32 of 1984.]

(6) If the Minister considers it expedient to do so, he may, by Order published in the *Gazette*, permit young persons to be employed in any industrial undertaking or in any branch thereof during that part of the night which falls between 7 p.m. and 11 p.m. subject to the conditions that no young person so employed shall be required or permitted to work in such undertaking or branch at any time during the eleven hours immediately following 11 p.m.

(7) Regulations may be made to exempt from the application of the provisions of this Part relating to persons under the age of eighteen years the employment of such persons on work which is not deemed by the Minister to be harmful, prejudicial, or dangerous to them in a family undertaking wherein only parents and their children or wards are employed.

Rest period for apprentices or vocational trainees employed on night work.

4. (1) Where a person who has attained the age of sixteen years but is under the age of eighteen years is employed during the night for purposes of apprenticeship or vocational training in an industrial undertaking by virtue of an authorization under subsection (3) of section 3, his employer in that undertaking shall grant him a rest period of at least thirteen consecutive hours between two working periods.

*Subsections (1) and (2) repealed by Act, No. 32 of 1984.

[§ 4, 8 of 2003.]

(2) A person who contravenes 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 fine and imprisonment.

Registers of industrial workers under the age of eighteen years.

5. (1) The employer in a public or private industrial undertaking shall keep a register of the names, dates of birth, and hours of work of all persons under the age of eighteen years employed in that undertaking.

[§ 5, 8 of 2003.]

(2) A person who contravenes 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 five thousand rupees or, in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees.

Exhibition of provisions of this Part relating to workers under the age of eighteen years.

6. (1) The employer of persons under the age of eighteen years in a public or private industrial undertaking shall keep exhibited, in some conspicuous place within the premises in which that undertaking is carried on, the provisions of this Part relating to persons under the age of eighteen years together with a translation of those provisions in Sinhala and Tamil.

[§ 6, 8 of 2003.]

(2) A person who contravenes 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 five thousand rupees or, in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees.

PART II

EMPLOYMENT IN INDUSTRIAL UNDERTAKINGS AND AT SEA

Employment of children in industrial undertakings.

7. (1) Subject to the provisions of subsection (2) of this section, no person shall employ a child in a public or private industrial undertaking or in a branch thereof.

(2) The provisions of subsection (1) of this section shall not apply -

**(b)* to work done by children in technical schools if such work is approved and supervised by public authority.

[§ 7, 8 of 2003.]

(3) If a child is employed in contravention of subsection (1) of this section, the employer and any 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 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.

Registers of industrial workers who are women or young persons.

8. (1) The employer in a public or private industrial undertaking shall keep a register of the names and dates of birth of all women and young persons employed in that undertaking.

[§ 8, 8 of 2003.]

(2) A person who contravenes 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 five thousand rupees or, in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees.

Furnishing of information regarding employment of young person in industrial undertakings.

8 A. (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.

[§ 9, 8 of 2003.]

* paragraph (a) is repealed by Act, No 8 of 2003.

(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.

Minimum age for employment at sea.

9. (1) Subject to the provisions of subsections (2) and (3) of this section -

†(b) no master of any other vessel shall engage in Sri Lanka a person under the age of fifteen years for employment on that vessel.

(2) The provisions of subsection (1) of this section shall not apply -

(a) to a vessel on which only members of the same family are employed, and

(b) to work done by persons under the age of fifteen years on school-ships or training-ships if such work is approved and supervised by public authority.

(3) Regulations may be made to provide that the authority designated in that behalf by the regulations may issue a certificate permitting a person who has attained the age of fourteen years and is under the age of fifteen years to be employed on a vessel if such authority is satisfied, after having due regard to the health and physical condition of such person and to the prospective as well as to the immediate benefit to him in the employment proposed, that such employment will be beneficial to him.

[§ 10, 8 of 2003.]

(4) If a person is employed in contravention of subsection (1) of this section, the employer and any person (other than the person 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 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.

Registers or lists of crew under the age of sixteen years.

10. (1) The master of a vessel which is registered in Sri Lanka as a Sri Lanka ship or which is owned by any person or body of persons resident or carrying on business in Sri Lanka shall keep a register of the names and dates of birth of all persons under the age of sixteen years employed on that vessel, or a list of such names and dates of birth in the articles of agreement with the crew of that vessel.

[§ 11, 8 of 2003.]

(2) A person who contravenes 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 five thousand rupees or, in the case of a second or subsequent offence to a fine not exceeding ten thousand rupees.

Furnishing of information regarding employment of young persons employed on vessels.

11. (1) The employer of any young person employed on a vessel and the parent or guardian of that young person shall, if required by an authorised officer, furnish to that officer such information regarding the employment of that young person as that officer may require.

[§ 12, 8 of 2003.]

(2) Any employer, parent or guardian who fails to comply with subsection (1) of this section or wilfully gives false information to an authorised officer regarding the employment of any young person employed on a vessel, 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.

† paragraph (a) is repealed by Act, No. 8 of 2003.

PART III

EMPLOYMENT OTHER THAN EMPLOYMENT IN INDUSTRIAL UNDERTAKINGS AND AT SEA

- Application of this Part.
- Restrictions on employment of children.
[§ 13, 8 of 2003.]
- Employment of children by parents or guardians.
[§ 14, 8 of 2003.]
- Restrictions by Commissioner of Labour on employment of children.
[§ 15, 8 of 2003.]
- Furnishing of information regarding the employment of children.
[§ 16, 8 of 2003.]
- [§ 16, 8 of 2003.]
12. This Part of this Act shall apply in relation to employment other than employment in industrial undertakings and at sea.
13. (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.
14. (1) A child may be employed except-
- (a) by his parents or guardian in light agricultural or horticultural work or similar work carried on by member 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 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 fine not exceeding ten thousand rupees of 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 he court, to child in respect of whom the offence was committed.
15. An authorised officer if satisfied by a report of a registered medical practitioner or otherwise, that any child is being employed in such a manner as to be prejudicial to his health or physical development, or to render him unfit to obtain the proper benefit from his education, may either prohibit, or attach such conditions as the authorised officer may think fit to, his employment in that or any other manner, notwithstanding that the employment may be authorised by the provisions of this part of the Act.
16. (1) The employer of any child and the parent, custodian or guardian of that child shall, if required by an authorised officer, furnish to the authorised officer such information regarding that child's employment as the authorised officer may require.
- (2) Any employer, parent, custodian or guardian who fails to comply with subsection (1) of this section or wilfully gives false information to an authorised officer regarding the employment of any child, 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 both such fine and such imprisonment.
17. (1) No person -

Restriction on employment of children attending school.

- (a) shall employ a child in such a manner as to prevent the child from attending school in accordance with the provisions of any written law, or
- (b) having received notice of any prohibition or restriction as to the employment of a child issued under section 15, shall employ that child in such a manner as to contravene that prohibition or restriction.

[§ 17, 8 of 2003.]

(2) A person who contravenes 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 such 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 is committed.

Restriction on children taking part in entertainments.

18. (1) A child shall not take part in any entertainment in connection with which any charge, whether for admission or for any other purpose, is made to any of the audience.

[§ 17, 8 of 2003.]

(2) Every person who causes or procures a child, or being his parent or guardian allows him, to take part in an entertainment in contravention 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 such 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.

(3) The preceding provisions of this section shall have no application to the case of a child who takes part, without fee or reward, in an entertainment the net proceeds of which are devoted to any charitable or educational purpose or to any purpose other than the private profit of the promoters or which is presented by the pupils of any school supervised by public authority or by any amateur dramatic society, or in any other performance which forms part of any training undertaken by any school to be given to its pupils.

Prohibition against persons under eighteen years of age taking part in performances endangering life or limb.

19. (1) No person under the age of eighteen years shall take part in any public performance in which his life is, or limbs are, endangered.

[§ 19, 8 of 2003.]

(2) Every person who causes or procures a person under the age of eighteen years, or being his parent or guardian allows him, to take part in any such performance as is referred to in 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, and shall be ordered to pay compensation of an amount determined by the court, to the person in respect of whom offence was committed.

[§ 19, 8 of 2003.]

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

Restrictions on training for performances of a dangerous nature.

[§ 20, 8 of 2003.]

(2) No person who has attained the age of fourteen years but is under the age of eighteen years shall be trained to take part in performances of a dangerous nature except under and in accordance with the terms of a licence granted and in force under this section.

[§ 20, 8 of 2003.]

(3) Every person who causes or procures a person, or being his parent or guardian allows

[§ 20, 8 of 2003.] him, to be trained to take part in performances of a dangerous nature in contravention 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 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.

[§ 20, 8 of 2003.] (4) An authorised officer may grant a licence for a person who has attained the age of sixteen years but is under the age of eighteen years to be trained to take part in performances of a dangerous nature.

(5) Where an application is made to an authorized officer for a licence under this section to train any person to take part in performances of a dangerous nature, that officer may direct -

(a) the applicant to produce a certificate from a medical officer of the Department of Health as to whether or not the health of the person to be trained will be affected by the training, or

(b) the superintendent of police, or any other police officer or any prescribed officer specified in the direction, to investigate and report whether or not there is cause why the licence should not be granted.

The authorised officer shall take into consideration such certificate or report when making a decision on such application.

(6) A licence under this section shall specify the place or places of training of the person to be trained in accordance with the licence and shall embody such conditions as are, in the opinion of the authorised officer, necessary for the protection of that person. A licence shall not be refused if the authorised officer is satisfied that the person who is to be trained is fit and willing to be trained and that proper provision has been made to secure his health and kind treatment.

(7) A licence under this section may, on cause being shown by any person, be revoked by an authorised officer.

Prohibition against persons under eighteen years of age being employed in hazardous occupations.
[§ 2, 24 of 2006.] 20A. No person under the age of eighteen years shall be employed in any hazardous occupation, which shall be prescribed in accordance with the guidelines specified in subsection (2)

(2) In prescribing hazardous occupations for purpose of the subsection (1), the Minister shall take into consideration the nature or the circumstances in which the occupation is being carried out and the harm that may be caused as a result thereof to the health, safety or morals of a person referred to in subsection (1)

(3) Any person who employs a person under the age of eighteen years in contravention of subsection (1) of this section shall be guilty of offence 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 shall in addition, be ordered to pay as compensation of such amount as may be determined by the Magistrate, to the person in respect of whom the offence was committed.

PART IV

PROVISIONS APPLICABLE TO ALL EMPLOYMENT

Regulations relating to employment of young persons.

21. (1) Subject to the provisions of subsection (2) of this section, regulations may be made with respect to the employment of young persons, and any such regulation may distinguish between young persons of different ages and sexes, and between different localities, trades, occupations and circumstances, and may contain provisions prescribing -

- (a) the number of hours in each day or in each week for which, and the times of day at which, they may be employed,
- (b) the intervals to be allowed to them for meals or rest,
- (c) the holidays or half-holidays to be allowed to them, and
- (d) any other conditions to be observed in relation to their employment.

(2) Nothing in subsection (1) of this section shall empower the making of any regulations which are inconsistent with any other provision of this Act.

[§ 21, 8 of 2003.]

(3) Every person who contravenes any regulation made under sub-section (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, and shall in addition be ordered to pay compensations of such amount as may be determined by the court, to the person in respect of whom the offences was committed.

Furnishing of information regarding employment of women and young persons.

22. (1) The employer of any woman and the employer, parent, custodian or guardian of any young person shall, if required by an authorised officer, furnish to that officer such information regarding the employment of that woman or young person as that officer may require.

[§ 22, 8 of 2003.]

[§ 22, 8 of 2003.]

(2) Any employer, parent, custodian or guardian who fails to comply with subsection (1) of this section or wilfully gives false information to an authorised officer regarding the employment of any woman or young person 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.

PART V

GENERAL

Division between industry and non industrial occupations.

23. The line of division which separates industry from agriculture, commerce and other non-industrial occupations shall be defined by regulations.

Inspection, and furnishing or taking of copies, of registers and lists kept under this Act.

[§ 23, 8 of 2003.]

24. (1) A person who is required by this Act to keep a register or list shall, when requested to do so by an authorised officer, produce the register or list for inspection by such officer and furnish to such officer, or permit such officer to take, a copy of the register or list or any part thereof.

(2) A person who fails to comply with subsection (1) of this section, or who keeps, or knowingly produces or causes to be produced for inspection, any register or list which is false in material particulars, 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.

25. (1) An authorised officer may enter and search a building or place wherein an industrial

Powers of entry and search.
[§ 24, 8 of 2003.]

undertaking is carried on a vessel and may examine the building, place or vessel and question any person therein for the purpose of ascertaining whether any person is employed therein in contravention of this Act.

[§ 24, 8 of 2003.]

(2) An authorised officer may enter any place in which any woman, young person or child is, or is believed to be, employed, or, as the case may be, in which he or she is, or is believed to be, taking part in an entertainment or performance, or being trained, and may make inquiries therein with respect to him or her.

[§ 24, 8 of 2003.]

(3) Any person who obstructs an authorised officer in the exercise of any power conferred on him by this Act, or who refuses to answer or answers falsely any inquiry authorised by this section to be made, 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.

The furnishing of information etc. by any class of employers may be required by notice published in the *Gazette* and newspapers.

26. (1) Where an authorised officer requires -

- (a) any information regarding the employment of women, children or young persons by any class of employers, or
- (b) copies of the whole or any part of any registers or lists kept under this Act by any class of employers,

that officer may, by notice published in not less than two issues of the *Gazette* and in not less than two issues of at least one Sinhala newspaper, one Tamil newspaper and one English newspaper circulating in Sri Lanka, require employers of that class to furnish such information or copies to that officer within such time not less than thirty days as shall be specified in the notice.

[§ 25, 8 of 2003.]

(2) Every person who fails to comply with a notice published under subsection (1) of this section or who furnishes false information regarding such employment as is referred to in paragraph (a) of that subsection or a false copy of any such register or list as is referred to in paragraph (b) of that subsection 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.

In prosecution for employment in contravention of this Act employer may prove that some other person committed the offence.

27. (1) Where an employer is charged with employing any person in contravention of any provisions of this Act, he shall, upon complaint made by him in accordance with the provisions of section 136 of the Code of Criminal Procedure Act and on his giving to the prosecution not less than three days' notice of his intention to proceed under this section, be entitled, subject to the provisions of that Chapter XIV of that Act, to have any person (other than the person employed) to whose act or default he alleges that the contravention was due, brought before the court as a party to the proceedings, and such other person may be convicted of the offence if, after the contravention has been proved, the employer proves to the satisfaction of the court that the contravention was due to the act or default of such other person; and if the employer further proves to the satisfaction of the court that he has used due diligence to secure that the aforesaid provisions should be complied with, he shall be acquitted of the offence. The prosecution against such other person shall be conducted by or on behalf of the employer.

(2) Where such employer as is referred to in subsection (1) of this section avails himself of the provisions of that subsection.

- (a) the prosecutor in the proceedings against him shall have the right to cross-examine him, if he gives evidence in the proceedings against the other person, and any witness called by him in support of his charge against the other person and to call rebutting evidence, and

- (b) the court may make such order as it thinks fit for the payment of costs not

exceeding twenty-five rupees by any party to the proceedings to any other party thereto, and any sum so ordered to be paid shall be recoverable in the same manner as a fine imposed by the court.

Evidence. 28. (1) Where any entry is required by or under this Act to be made by an employer in any register or list, any such entry made by or on behalf of that employer shall as against him be admissible as a fact stated in that register or list.

(2) The fact that any entry required by any provision of this Act or of any regulation to be made in any register or list has not been made shall be admissible as evidence that such provision has not been complied with.

Provision regarding prosecution. 29. No prosecution for any offence under this Act shall be instituted except by or with the written permission of the Commissioner of Labour.

Medical examination of young persons and children. 30. (1) An authorised officer may require any Government medical officer to examine any person who appears to be a young person or child in order to ascertain his age or for any other purpose of this Act. The employer of the person to be examined shall permit such medical officer, where necessary, to enter the place of employment and examine that person, and that person shall submit himself to the medical examination.

[§ 26, 8 of 2003.] (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.

[§ 26, 8 of 2003.] (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 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.

Regulations. 31. (1) The Minister may make regulations in regard to all matters for which regulations are required or permitted by this Act to be made and for prescribing all matters which are required or permitted by this Act to be prescribed.

(2) No regulation made by the Minister shall have effect until it is approved by Parliament and notification of such approval is published in the *Gazette*.

(3) A regulation made by the Minister and approved by the Parliament shall, when notification of such approval is published in the *Gazette*, be as valid and effectual as if it were herein enacted.

Application of this Act. 32. (1) The provisions of this Act shall be in addition to and not in derogation of any other written law in force in Sri Lanka relating to the employment of women, young persons and children:

Provided, however, that the provisions of this Act shall prevail in a case where there is a conflict between this Act and any other written law.

(2) The provisions of this Act imposing restrictions on employment or on the taking part by children in entertainments, and the provisions of any regulations -

(a) shall not affect any provisions with respect to school attendance which may be contained in any written law for the time being in force relating to education, and

(b) shall not apply to a person detained in an approved school or in any prescribed institution.

In this subsection, "approved school" has the same meaning as in the Children and Young Persons Ordinance, No.48 of 1939.

33. (1) The following Ordinances are hereby repealed:-

Repeals.

(a) The Employment of Women, Young Persons, and Children Ordinance.

(b) The Employment of Women (Revised Convention) Ordinance, No.16 of 1940.

(2) Part IV of the Children and Young Persons Ordinance, No.48 of 1939, is hereby repealed.

34. (1) In this Act, unless the context otherwise requires -

Interpretation.

[§ 27, 8 of 2003.]

“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;

“child” means a person who is under the age of fourteen years;

[§ 27, 8 of 2003.]

“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;

“employer” means any person who on his own behalf employs or on whose behalf any other person employs any woman, young person or child, and includes any person who on behalf of any other person employs any woman, young person or child;

“family” with reference to an employer, means the employer and the spouse and any children of the employer;

“industrial undertaking” -

(a) with respect to the employment of women on night work, includes particularly -

- (i) undertakings engaged in working mines or quarries, or in other works for the extraction of minerals from the earth;
- (ii) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed;
- (iii) undertakings engaged in ship building or in the generation, transformation or transmission of electricity or motive power of any kind; and
- (iv) undertakings engaged in building and civil engineering work, or in constructional repair, maintenance, alteration or demolition work;

(b) with respect to the employment of persons under the age of eighteen years on night work, includes particularly -

- (i) the undertakings specified in paragraph (a) of this subsection, and
- (ii) undertakings engaged in the transport of passengers or goods by road or rail, or in the handling of goods at docks, quays, wharves, warehouse or airports; and

(c) with respect to the employment of persons under the age of fourteen years, includes particularly -

- (i) the undertakings specified in sub-paragraphs (i), (ii) and (iii) of paragraph (a) of this subsection;
- (ii) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic

or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure; and

(iii) transport of passengers or goods by road or rail or inland waterway, and the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand;

[§ 4, 43 of 1964.]

“night” -

(a) with reference to the employment of women, means at least eleven consecutive hours including the period between 10 p.m. and 5 a.m. and

(b) with reference to the employment of persons under the age of eighteen years, means at least twelve consecutive hours which shall end not later than 6 a.m. and which -

(i) in the case of such of those persons as are under the age of sixteen years shall include the eight consecutive hours between 10 p.m. and 6 a.m.

(ii) in the case of such of those persons as have attained the age of sixteen years, shall, subject to the provisions of sub-paragraph (iii), include at least seven consecutive hours falling between 10 p.m. and 6 a.m.

(iii) in the case of such of those persons as have attained the age of sixteen years and are undergoing vocational training in the baking industry or are apprentices in that industry, shall, if work during the night in that industry is prohibited for all workers, include the seven consecutive hours falling between 9 p.m. and 4 a.m. instead of the period of at least seven consecutive hours referred to in sub-paragraph (ii) if the Minister by Order published in the *Gazette* so directs;

“performance of a dangerous nature” includes all acrobatic performances and all performances as a contortionist;

“prescribed” means prescribed by regulations;

“regulation” means a regulation made under this Act;

* “vessel” includes a ship or boat, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned, but does not include a ship of war;

“woman” means a female person who has attained the age of eighteen years; and

“young person” means a person who has attained the age of fourteen years but is under age of eighteen years.

(2) For the purposes of this Act and of any regulation -

(a) a person who is attending an elementary school and who attains the age of fourteen years during a school term shall not be deemed to cease to be a child until the end of that term;

(b) a person who assists in a trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour; and

(c) a chorister taking part in a religious service or practising for a religious service shall not, whether he receives any reward or not, be deemed to be employed.

* The definition “street trading” omitted by Act, No. 8 of 2003.