

Understanding Sri Lankan Labour Law: The Shop and Office Act

As an employer in Sri Lanka, it is your responsibility to ensure compliance with labor laws and to treat your employees fairly. This guide simplifies the complex world of labor law, specifically focusing on the Shop and Office Act No. 19 of 1954, which governs employment in shops and offices in Sri Lanka. ***This guide is made possible thanks to the collaborative efforts of our legal team. Updated – July 2024***

Who Does the Labour Law in Sri Lanka Apply To?

The Shop and Office Act applies to all employees working in shops and offices in Sri Lanka, irrespective of their nationality. It makes no distinction between local and foreign employees.

Definition of an Employee

An employee, as per the act, is an individual employed in or around the business of a shop or office. However, there are exceptions:

- Employees engaged in bazaars or charitable/educational activities lasting one month or less.
- Those involved in funeral-related businesses.
- Members of tutorial staff at schools.
- Watchers or caretakers.

These exceptions exempt individuals from the Shop and Office Act.

Key Provisions of the Shop and Office Act

Minimum Age of Employment

Employees must be at least 16 years old to be hired. The exception is for individuals under 16 involved in agri-business activities within their family or educational/charitable purposes, provided they engage in these activities before or after school.

Minimum Wages

The minimum monthly wage is now LKR 15,000, as per the latest National Minimum Wage of Workers Act No. 3 of 2016, with adjustments for inflation and cost of living. Employers must also provide a budgetary allowance of LKR 3,000 and other allowances totaling LKR 1,500.

Regulation of Hours of Employment

Employees cannot work more than 9 hours per day or 48 hours per week. Overtime must be paid for any hours exceeding the weekly limit, up to a maximum of 12 hours, at one and a half times the usual hourly rate.

Holidays

The Shop and Office Act outlines various types of holidays:

- **Weekly Holidays:** Employees working 30 hours or more per week are entitled to one and a half days of paid leave, typically on Saturday (half-day) and Sunday (full day).
- **Annual Leave:** Employees are entitled to 14 days of annual leave per year, calculated based on the date of employment.
- **Casual Leave or Sick Leave:** Employees can take up to 7 days of paid leave for private matters, illness, or other reasonable causes, provided they have completed one year of service.

- **Public Holidays:** Certain public holidays are mandated by the company, including Independence Day, May Day, Sinhala and Tamil New Year, and Christmas. Employees working on these holidays must be paid at least twice their daily salary.
- **Full Moon Poya Holidays:** Employees working on these days must be paid at least one and a half times their daily salary.

Meals

Employees working more than 5 hours a day are entitled to meal intervals. For every four hours of work, employees can take a half-hour break to eat meals. Employers must provide and maintain a suitable place for employees to have their meals.

Providing Adequate Sanitary and Washing Facilities

As an employer, ensuring the availability and maintenance of appropriate sanitary and washing facilities for your employees is a legal requirement. These facilities must also be separate for male and female employees.

Exemption Clause for Sanitary Facilities

There is an exception to this rule. If you can demonstrate to a designated “prescribed officer” that suitable sanitary facilities are accessible within a reasonable distance from your workplace, you can obtain a certificate exempting you from providing on-site facilities. These “prescribed officers” include the Commissioner, Deputy Commissioner, or Assistant Commissioner.

Documentation and Record-Keeping Obligations

Employers are obligated to maintain specific documents and records related to their employees at the workplace. These records include:

- Service Record
- Remuneration Record, which should contain details such as:
 - Name, age, and gender
 - Grade and designation
 - Remuneration period
 - Hours of work
 - Overtime hours
 - Rate of remuneration and gross remuneration
 - Allowances
 - Deductions
 - Advances
 - Contributions to pension or provident funds
 - Total overtime hours
 - Balance remuneration paid and date of payment
 - Amount recovered under tax laws
 - Acknowledgment of remuneration received by the employee

These records must be kept up-to-date. Even after an employee’s termination, they must be maintained for up to two years. Other records should be retained for six years.

Maternity Benefits

Supporting Female Employees During Maternity

Female employees who become pregnant are entitled to paid maternity leave. For the first and second child, they are eligible for 98 days of paid leave, including 14 days of pre-confinement leave.

This means that pregnant employees can commence their maternity leave 14 days before their due date. After the second child, they are entitled to 84 days of paid maternity leave, including 14 days of pre-confinement leave.

Protections During Maternity Leave

Employers cannot terminate the employment of a female employee due to her pregnancy or pregnancy-related complications. During maternity leave, employers are also prohibited from issuing a notice of dismissal. Maternity leave is separate from any other holidays or annual leave to which an employee may be entitled.

Salary Payments and Deductions

An employee's salary must be directly paid to them, following necessary deductions, which may include authorized deductions (e.g., advance payments) and deductions according to tax laws or court orders.

Payment Period Rules

Payment must be made within specified time frames:

- If the payment period is less than a week, employees must be paid within 3 days of the period's end.
- For payment periods exceeding one week but less than two weeks, payment should be made within 5 days after the period's end.
- If the payment period extends beyond two weeks, employees must receive payment within 10 days of the period's end.

Salary assessments are possible but must not result in an amount less than previously paid.

- Termination of Employment
- Understanding Employee Termination

There are two key acts governing employee termination in Sri Lanka: the Industrial Disputes Act (IDA) and the Termination of Employment of Workmen Act (TEWA). These acts share common elements regarding employee termination.

Grounds for Termination

Employers can terminate employees:

- **With Employee Consent:** When an employee voluntarily resigns.
- **With the Written Approval of the Commissioner of Labour (COL):** Under certain circumstances.
- **With Justifiable Cause:** Based on various reasons, including misconduct, unsatisfactory performance, absenteeism, dishonesty, and more.

Non-Disciplinary Reasons for Termination

Termination can also occur for non-disciplinary reasons such as inefficiency, breach of contract, or conviction of an offense. However, these reasons are not exhaustive.

Employee Challenge and Legal Consequences

Employees have the right to challenge their termination and can file a case against their employer at the labor court. Employers must provide evidence to justify the termination.

Notice Period

Before terminating an employee, employers are required to provide a notice period. It's essential to follow proper procedures, as unjust terminations can result in legal consequences.