

**PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF**   
**SRI LANKA**

**MINIMUM RETIREMENT AGE OF WORKERS ACT, No. 28 OF 2021**

**[Certified on 17th of November, 2021]**

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| *Minimum Retirement Age of Workers* | 1 |

*Act, No. 28 of 2021*

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L.D. – O. 27/2021

AN ACTTOPROVIDEFORTHEMINIMUMRETIREMENTAGEATWHICHAN

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

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| **1.** | This Act may be cited as the Minimum Retirement | Short title |

Age of Workers Act, No. 28 of 2021.

PART 1

MINIMUM RETIREMENT AGE

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| **2.** | Notwithstanding the provisions of any other written | Minimum  retirement age |
| law, a contract of service, collective agreement or any other | |

form of contract of service, the minimum retirement age of a worker who has not attained the age of fifty two years on the date of operation of this Act or who is recruited after the date of coming into operation of this Act shall be upon such worker attaining the age of sixty years (hereinafter referred to as the “minimum retirement age”):

Provided that, the minimum retirement age of a worker who has reached the age of fifty two years or above, on the date of coming into operation of this Act, shall be deemed to be the age as specified in Schedule I.

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| **3.** (1)Any employer who employs fifteen or more workers shall not retire any worker other than the workers specified | Premature  retirement |

in Schedule II, and any worker engaged in any trade or occupation as shall be prescribed by regulation, from time to time, in keeping with the nature of the work until such worker attains the minimum retirement age:

Provided that, any employer may prematurely retire any worker in terms of the provisions of the contract of service or the collective agreement on following grounds:-

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| (*a*)  (*b*)  (*c*)  (*d*) | where any registered medical practitioner registered under the Medical Ordinance (Chapter 105) has certified that a worker is permanently incapacitate of engaging in work due to some sickness;  where the service of a worker has been terminated as a result of any disciplinary inquiry and the decision of such termination has not been revised by law;  upon closure or the destruction of an establishment due to any natural cause; or  with the prior written approval of the Commissioner-General under the provisions of the Termination of Employment of Workmen (Special Provisions) Act, No. 45 of 1971. |

(2) The provisions of subsection (1) shall not apply to any employer who has employed fifteen workers or less than that on an average within the twelve months period prior to the retirement of any worker.

(3) Any worker who wishes on his own to vacate his job prior to the minimum retirement age may on his own do so.

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| Term of contract of service & etc. contrary to the  provisions of  this Act to be  void | **4.** | Any retirement age specified in a contract of service, |
| collective agreement or any other form of contract of service entered into before or on or after the date of operation of this Act, as less than the minimum retirement age shall subject to the provisions of section 3 be deemed to be void and the minimum retirement age as specified in this Act shall apply in respect thereof. | |

PART 11

COMPLAINTSAND INQUIRIES

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| Complaints to  the  Commissioner-General against premature  retirement | **5.** | (1) Any worker who has been prematurely retired by |
| the employer other than in the manner specified in subsection (1) of section 3, may within two months from the date of such retirement, complain in writing to the Commissioner-  General in respect of such retirement. | |

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(2) Where any worker has made a complaint to the Commissioner-General under subsection (1), the Commissioner-General shall, conduct an inquiry and within two months from the date of receipt of such complaint grant his final determination on the complaint.

(3) Upon an inquiry under subsection (2), if the Commissioner-General is satisfied that-

(*a*) the complaint made by the worker is not   
 substantiated with supporting evidence, or such   
 premature retirement is in accordance with the   
 provisions of subsection (1) of section 3, the   
 Commissioner-General shall dismiss such   
 complaint; or

(*b*) the worker has been prematurely retired by his   
 employer contrary to the provisions of this Act, the   
 Commissioner-General shall by notice issued by   
 him to the employer, direct the employer –

(i) to reinstate such worker from the date of such   
notice, in the same capacity in which the worker   
was employed prior to such retirement and to   
pay him his wages and all other benefits from   
the date of such retirement; or

(ii) where the Commissioner-General is of the   
opinion that reinstatement is impractical due   
to the closure of the establishment or   
commencement of liquidation process of the   
establishment in which such worker was   
employed, to pay the worker compensation in   
terms of the formula determined by the   
Commissioner-General as specified in section   
6D of the Termination of Employment of

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Workmen (Special Provisions) Act, No.45 of   
1971, based on the last paid wages to such   
worker up to the date of closure of such   
establishment or the date of commencement of   
liquidation of such establishment, as the case   
may be, in lieu of reinstatement.

(4) Where any worker has prior to coming into operation of this Act made a complaint in terms of the Industrial Disputes Act (Chapter 131) or the Termination of Employment of Workmen (Special Provisions) Act, No.45 of 1971 to the Commissioner-General, a Labour Tribunal, an arbitrator or an Industrial Court against premature retirement and a final determination has not been made on such complaint by the Commissioner-General, Labour Tribunal, arbitrator or Industrial Court, the Commissioner-General has no power to inquire into a complaint made under this Act:

Provided that, if the worker has made a complaint in terms of the Industrial Disputes Act (Chapter 131) or the Termination of Employment of Workmen (Special Provisions) Act, No.45 of 1971 against the premature retirement, such worker shall not be entitled to make a complaint under this Act.

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| Application to the Court of  Appeal | **6.** | (1) An employer who is dissatisfied with a decision of |
| the Commissioner-General made under section 5 may make an application to the Court of Appeal against such decision, | |

for the issue of an order in the nature of a writ. An employer who makes such application shall furnish to the Commissioner-General, a security in cash, where the order for which is subject to such application directs –

(*a*) only the payment of a sum of money to the worker,   
 of an amount equal to such sum;

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(*b*) both the payment of a sum of money to the worker   
 and his reinstatement, of an amount equal to such   
 sum and twelve times the monthly salary or wages   
 of such worker that was at the time his contract of   
 service was terminated. In the case of a daily paid   
 worker, monthly salary or wages shall be twenty-  
 six times the daily wages of such worker.

(2) The Court of Appeal shall not entertain an application for the issue of an order in the nature of a writ where such application is not accompanied by a certificate of the Commissioner-General to the effect that the applicant has furnished the security in cash.

(3) The Commissioner-General shall cause all monies furnished as security under this section, to be deposited in an account bearing interest, in any approved bank in Sri Lanka. The security shall be released to the relevant parties in terms of the final determination of the Court of Appeal or of the Supreme Court, as the case may be.

PART III

ADMINISTRATIONOFTHE ACTAND POWERSOFTHE   
COMMISSIONER-GENERAL

**7.** The Commissioner-General of Labour shall be in charge Administration of the administration of this Act and may delegate any of his of the Act

powers, duties and functions under this Act to any officer of the Labour Department as authorized by the Commissioner-General of Labour.

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| **8.** (1) The Commissioner-General shall for the purposes of any inquiry in respect of a complaint made under section 5, have the following powers of a District Court - | | Powers of the Commissioner-General |
| (*a*) | to summon and compel the attendance of witnesses; |
| (*b*) | to compel the production of documents; or |

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(*c*) to require the evidence of any witness to be given   
 on oath or affirmation or cause to be administered   
 by an officer authorized in that behalf by the   
 Commissioner-General an oath or affirmation to   
 every such witness.

(2) The Commissioner-General may by notice in writing served on any employer direct such employer to furnish to him before a date as specified in such direction-

(*a*) a return relating to all his workers or any class or   
 description of such workers and any particulars as   
 the Commissioner-General may require for the   
 purposes of this Act;

(*b*) such information or explanation as the   
 Commissioner-General may require in respect of   
 any particulars stated in any return furnished by   
 such employer; or

(*c*) certified true copies of the whole or any part of any   
 register or record maintained by such employer.

(3) Every person who –

(*a*) fails without cause to appear before the   
 Commissioner-General at the time and place   
 mentioned in the summons issued by the   
 Commissioner-General; or

(*b*) refuses to be sworn or affirmed as a witness before   
 the Commissioner-General or any officer authorized   
 by the Commissioner-General in that behalf;

(*c*) refuses to extend the assistance required by the   
 Commissioner-General as necessary for entry or   
 inspection or the exercise of his powers; or

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(*d*) hinders or obstructs the Commissioner-General in   
 the exercise of the powers conferred on the   
 Commissioner-General; or

(*e*) refuses to produce any register or record of wages   
 or give any information which the Commissioner-  
 General requires him to produce or give under the   
 powers conferred on the Commissioner-General; or

(*f*) makes or causes to be made any register or record of   
 wages which is false in any material particular, or   
 produces or causes or knowingly allows to be   
 produced any such register or record to the   
 Commissioner-General acting under the powers   
 conferred on him, knowing the same to be false; or

(*g*) furnishes any information to the Commissioner-  
 General acting under the powers conferred to him,   
 knowingly the same to be false; or

(*h*) (i) fails without cause, or with cause which in the   
 opinion of the Commissioner-General is   
 unreasonable, to appear before the   
 Commissioner-General at the time and place   
 mentioned in any summons issued by the   
 Commissioner-General; or

(ii) refuses or fails without cause or with cause   
 which in the opinion of the Commissioner-  
 General is unreasonable, to produce and show   
 to the Commissioner-General any document   
 which is in his possession or power and which   
 is in the opinion of the Commissioner-General   
 necessary for arriving at the truth of the matters   
 being inquired into by the Commissioner-  
 General; or

(iii) refuses to be affirmed or sworn in as a witness   
 before the Commissioner-General; or

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(iv) defaults in complying with any direction given   
 by the Commissioner-General, or who when   
 called upon to furnish a return knowingly   
 makes or furnishes or caused to be furnished a   
 false return or a return containing any false   
 statement,

under this section, commits an offence and shall be liable on conviction thereof after summary trial before a Magistrate to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

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| Service of  notices | **9.** | Any notice which is required by this Act to be served |
| on or given to any person shall if it is not served on or given | |

personally to such person, be deemed to have been duly served on or given to such person if it is sent to him by registered post addressed to the usual or last known place of abode or business of such person.

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| Regulations | **10.** | (1) The Minister may make regulations in respect of |

all matters which are stated or required by this Act to be prescribed or in respect of all matters for which regulations are required or authorized to be made by this Act.

(2) Every regulation made by the Minister under this section shall be published in the *Gazette* and shall come into operation upon such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister under this section shall within three months fromits publication in the *Gazette*, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of such disapproval but without prejudice to anything previously done thereunder.

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PART IV

OFFENCESAND PENALTIES

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| **11.** | Any employer who contravenes the provisions of | Premature  retirement |
| subsection (1) of section 3 commits an offence and shall on | |

conviction be liable to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

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| **12.** | (1) An employer who fails to comply with a direction | Non-compliance with the  directions of  Commissioner-General |
| specified in the notice issued by the Commissioner-General under section 5, commits an offence and shall be liable on conviction after summary trial by a Magistrate to a fine not less than five thousand rupees or to imprisonment of either | |

description for a term not exceeding six months or to both such fine and imprisonment.

(2) The burden of proof that the employer has complied with the directions of the notice issued by the Commissioner-General under section 5 shall lie on such employer.

(3) Upon conviction of an employer under this section, such employer shall –

(*a*) pay in addition to the fine such employer is liable   
 to pay under subsection (1), an additional fine of   
 one hundred rupees in respect of each day he   
 continues to fail to comply with such direction after   
 conviction;

(*b*) pay to the worker the wages, benefits or   
 compensation under paragraph (*b*) of subsection   
 (3) of section 5, which would have been payable to   
 such worker if such worker had been in employment   
 without being retired for the period commencing   
 on the date specified in the notice issued under   
 section 5 and ending on the date of conviction of   
 such employer;

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(*c*) where the worker attains the minimum retirement   
 age prior to the date of conviction of such employer,   
 pay to the worker the wages, benefits or   
 compensation until the date on which he attains   
 the minimum retirement age.

(4) Any sum which an employer is liable to pay under paragraph (*b*) of subsection (3) may be recovered by the order of the Court by which such employer was convicted as if it were a fine imposed on the employer by that Court and the amount so recovered shall be paid to the worker.

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| Offences  committed by a body of  persons | **13.** Where any offence under this Act is committed by a body of persons, then, if such body – | |
| (*a*) | is a body corporate, every director and officer of |

that body corporate;

(*b*) is a firm, every partner of that firm ;

(*c*) if such body of persons is a trade union, every officer   
 of that trade union; and

(*d*) is a body other than a firm or trade union and   
 unincorporated, the president, manager, secretary   
 and every officer of such body,

shall be deemed to be guilty of that offence:

Provided that, no such person shall be deemed to be guilty of an offence under this Act, if such person proves that such offence was committed without his knowledge or he exercised all due diligence to prevent the commission of such offence.

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| Contempt against | **14.** | Where any person – |
| the |

Commissioner-  
General

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(*a*) insults or intimidates the Commissioner-General   
 during the progress of any inquiry conducted by   
 the Commissioner-General under this Act; or

(*b*) interferes with the lawful process of such inquiry   
 conducted by the Commissioner-General,

such person commits the offence of contempt against the Commissioner-General.

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| **15.** | Everyoffence under this Act shall be triable | Offences under this Act to be  tried summarily  Proceedings of inquiry by the Commissioner-General to be  not inconsistent |
| summarily by a Magistrate having jurisdiction in the division of the place where the worker was last employed. | |
| **16.** | The proceedings at any inquiry held by the |
| Commissioner-General for the purposes of this Act shall be conducted by the Commissioner-General in any manner not inconsistent with the principles of natural justice. | |

with the   
principles of   
natural justice

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| **17.** | (1) Where any employer is charged with an offence | Special defense open to a person charged with an offence under  this Act |
| under this Act, such employer shall upon complaint duly made by him in accordance with the provisions of section 136 of the Code of Criminal Procedure Act, No.15 of 1979 and on giving to the prosecution not less than three days’ | |

notice of his intention, be entitled subject to the provisions of Chapter XIV of that Act to have any other person whom he charges as the actual offender, brought before the court, and if after commission of the offence by such other person has been proved, the employer proves to the satisfaction of the court that he has used due diligence to enforce the provisions of this Act and that such other person has committed the offence without his knowledge, consent or connivance, then, that such other person shall be convicted of the offence and the employer shall be exempt from any punishment in respect of the offence.

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(2) Where in any case referred to in subsection (1), a complaint is made by an employer against any other person –

(*a*) the prosecution against such other person shall be   
 conducted by or on behalf of the employer;

(*b*) any witness called by the prosecution in the   
 proceedings against such other person may be cross   
 examined by any officer authorized in that behalf   
 by the Commissioner-General; and

(*c*) pending the determination of the proceedings   
 against such other person, the proceedings in the   
 prosecution of the employer shall be adjourned.

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| Interpretation | **18.** | In thisAct, unless the context otherwise requires – |

“Commissioner-General” means the Commissioner-  
General of Labour and includes any Additional

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| Commissioner-General | of | Labour, |

Commissioner of Labour, Deputy Commissioner   
of Labour, an Assistant Commissioner of Labour   
or any Labour Officer;

“employer” means any person who employs any   
worker or causes to be employed any worker on   
behalf of any other person and includes a body   
of employers whether such body is a firm,   
company, corporation, trade union or a body   
unincorporated, but does not include the state   
or Government or any such other person or such   
body which are excluded from any provision or   
any regulation made under the provisions of this   
Act;

“employment of casual nature” means an   
employment of a worker not in excess of   
hundred and eighty days in any one calendar   
year;

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”fixed term employment” means a written contract   
of employment for a fixed term of time, specified   
in days, months or years between an employer   
and a worker and includes a consecutive fixed   
term contract entered into with the same   
individual where such contract is specifically   
linked to the performance of a particular task or   
project and the employer retains the services of   
such worker after the end of such fixed term   
contract without entering into a new   
employment for more than twelve calendar   
months, which shall be deemed to have   
extended for a length of time identical to the   
existing fixed term employment contract;

“probationary worker” means a worker who works   
for a period of not exceeding 180 days within   
which such period the employer has the sole   
discretion to decide whether such worker is   
suitable for a particular position and if not may   
decide to extend such period for a maximum   
period of hundred and eighty days, and does   
not include a worker if such worker has been   
employed in the same post or performed the same   
work previously on any contract of service with   
that employer;

”seasonal employment contract” means a written   
contract of employment between an employer   
and a worker in respect of a specified seasonal   
work for a time to be specified in such contract   
in days or months and entered into on an actual   
or other basis and which shall not be deemed   
indefinite term contract if the time of   
engagement in each twelve month period shall   
not exceed six months;

”worker” shall have the same meaning assigned to   
the term “workman” in the Industrial Disputes   
Act (Chapter 131);

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”wages” means the basic salary or salary and the cost

of living allowance or any other similar

allowance.

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| Sinhala text to  prevail in case  of inconsistency | **19.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. | |
| SCHEDULE I | section 2 |

*Age of worker as at the date of coming*   
*into operation of the Minimum*   
*Retirement Age of*   
*Workers Act*

*Minimum Retirement Age*

54 or above and below 55 years 57 years

53 or above and below 54 years 58 years

52 or above and below 53 years 59 years

Below 52 years 60 years

SCHEDULE II section 3(1)

1. Any worker in the public sector.

2. Any worker in any statutory body established under written

law.

3. Any worker of Government owned business undertakings

registered under the Companies Act, No. 7 of 2007.

4. Any worker in any Provincial Council or Local Authority.

5. Any worker recruited by any registered society within the

meaning of the Cooperative Societies Law, No. 5 of 1972.

6. Any worker of a charitable institution that has been identified

by section 68 of the Inland Revenue Act, No, 24 of 2017.

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7. Any worker entered into any contract of service for training in

any trade or occupation.

8. Any apprentice or trainee in any wages board established under

the Wages Boards Ordinance (Chapter 136).

9. Any apprentice or trainee covered by the Tertiary and

Vocational Education Act, No. 20 of 1990 or the Employment

of Trainees (Private Sector) Act, No. 8 of 1978.

10. Any workerwho enters into and works under a fixed term

employment contract or casual employment contract.

11. Any worker who enters into and works under a contract of

fixed term employment with an employer.

12. Any worker who enters into and works under a seasonal

employment contract with an employer.

13. Any part time worker who enters into contract of service with

an employer.

14. Any probationary worker who enters into contract of service

with an employer.

15. Any daily paid worker who engages in an employment of

casual nature.

16. Any student who serves under a contract for a temporary term

of employment during study leave.

17. Any domestic service.

18. Any worker who serves under a contract for an assignment

basis employment, entered into with an employer.

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