



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

EMPLOYEES TRUST FUND
(AMENDMENT)

ACT, No. 18 OF 1993

[Certified on 31st March, 1993]

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L.D.--O. 64/90

AN ACT TO AMEND THE EMPLOYEES' TRUST FUND ACT, No.
46 OF 1980

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

1. This Act may be cited as the Employees' Trust Fund (Amendment) Act, No. 18 of 1993. Short title.

2. Section 23 of the Employees, Trust Fund Act, No. 46 of 1980 (hereinafter referred to as the "principal enactment"), is hereby amended in subsection (2) of that section by the addition at the end of that subsection of the following proviso:— Amendment of section 23 of Act No. 46 of 1980.

"Provided that where a non pensionable post held by an employee in any service referred to in paragraphs (ii) and (iv) is subsequently made pensionable with effect from the date on which he was first employed in the non-pensionable post, the amount of the contributions standing to the credit of the individual account of that employee on the date on which the post was made pensionable shall be refunded to his employer."

3. Section 25 of the principal enactment is hereby amended by the insertion, immediately after subsection (3) of that section of the following new subsection:— Amendment of section 25 of the principal enactment.

(3A) Where no nomination has been made under the provisions of this Act and such member is also a member of the Employees' Provident Fund established under the Employees' Provident Fund Act or an approved provident fund under that Act, any nominee nominated under the regulations made under that Act shall be deemed to be a nominee under this Act and the provisions of this Act shall, *mutatis mutandis*, apply in respect of that nominee."

4. The following new section is hereby inserted immediately after section 37, and shall have effect as section 37A of the principal enactment:— Insertion of new section 37 A in the principal enactment.

"Imposition of surcharge on defaulting employers."

37A. Where an employer, who is required by the Act or any regulation made there under or any direction issued by the Board, to furnish a return relating to contributions, has failed to furnish that return within the

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period specified therein, or has furnished an incorrect or deficient return and is unable to explain to the satisfaction of the Board or an officer authorised in that behalf by the Board the reason for the failure to furnish the return within that period, or to furnish an accurate or complete return, as the case may be, he shall be liable to pay to the fund a surcharge at the rate of one per cent of the amount of the contribution to which the return relates for every completed month or part thereof from the last date on or before which the return was due to the date of receipt by the Board of a duly completed and correct return."

Amendment
of section
44 of the
principal
enactment.

5. Section 44 of the principal enactment, as amended by Act No. 47 of 1988, is hereby further amended as follows:—

(1) by the substitution for the definition of "earnings" of the following definition:—

"earnings," means—

- (a) wages, salary or fees;
- (b) cost of living allowance, special living allowance, and any other similar allowances;
- (c) payment in respect of holidays;
- (d) the cost value of any cooked or uncooked food provided by the employer to employees in employments provided by regulations made under the Employees' Provident Fund Act, and any such commodity used in preparation or composition, of any food as so provided, such value being assessed by the employer, subject to an appeal to the Commissioner of Labour whose decision on such appeal shall be final;
- (e) meal allowances; and
- (f) such other forms of remuneration as may be prescribed by regulations made under the Employees' Provident Fund Act;

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(2) by the substitution, in the definition of the word "employer" for the words "company, corporation or trade union", of the words "company, corporation, local authority or trade union".

6. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.