

# Labor Management Procedure (LMP)



4 May 2020

**SRI LANKA COVID-19 EMERGENCY RESPONSE AND HEALTH  
SYSTEMS PREPAREDNESS PROJECT**

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## 1. Introduction

The primary objective of ESS2 on ‘Labor and Working Conditions’ is to promote sound worker-management relationships and enhance the development benefits of a project by treating workers in the project fairly while also providing them with safe and healthy working conditions. Accordingly, the purpose of this Labor Management Procedure (LMP) is to facilitate the planning and implementation of the project by identifying the main labor requirements and the associated risks and determining the resources necessary to address the project-related labor issues. The LMP sets out general guidance relevant to different forms of labor but also issues and concerns that relate to COVID-19 considerations.

## 2. Overview of Labor Use on the Project

In general, projects supporting COVID-19 response activities will include different categories of workers, some of whom will be engaged in activities that raise COVID-19 exposure concerns. As per ESS2, project workers can be classified into the following four groups: direct workers, contracted workers, primary supply workers, and community laborers. For this project, direct workers and contracted workers are the most applicable, as at this stage, significant community labor is not envisioned for the project. The following are the key categories of workers that would be engaged under the project, including groups of workers that are specifically at risk in the COVID-19 context and thus require special attention:

Type of project workers	Characteristics & role of project workers	Timing of labor requirements	Indicative number of workers
<b>Direct workers<sup>1</sup></b>			
<b>Total: 6,000 workers</b>			
PMU staff	Nationals who are permanent staff. - Project Director, Deputy Director (2), Procurement Specialist, Financial Specialist & Assistant, Environment specialist, Legal Officer, Social Specialist, Monitoring officers (1) & Communications Specialist- other administration support staff. - <i>Job Roles:</i> Project planning, management, implementation,	From project preparation until project completion	20 workers
PMU Engineering/ supervising consultants	International and national experts hired on short-term basis. <i>Job roles</i> -Technical design & supervision.	Limited duration based on specific needs	20 workers

<sup>1</sup> Direct workers - people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project

Type of project workers	Characteristics & role of project workers	Timing of labor requirements	Indicative number of workers
Health Care Workers	Health administration, Doctors, Nurses, midwives, public health inspectors, Other (technicians, janitorial etc.) at MOH, district, provincial and national levels. - <i>Job roles</i> : administration, operations, contact tracing, case finding, confirmation, communicating, reporting & treating patients.	Project commencement until project completion.	-1,000 Doctors, -2,000 Nurses , -350 Midwives, - 100 Public health inspectors - 300 Pharmacists, Therapists, Technicians etc. -2,000 Admin/Support staff & attendants
Staff of specialized institutions	Medical Services Department (MSD), Environment, Occupational Health and Food Safety, Laboratory Services, Health Promotion Bureau, Disaster Management, National Epidemiology unit & Quarantine services. - <i>Job roles</i> : Administration, research, communication and operations.	Project commencement until project completion.	- 150 workers
<b>Contracted workers<sup>2</sup></b>			
<b>Total: 4200 no of workers</b>			
Triforces contracted to carry out construction works.	Military personal who are from the construction arm of tri-forces – Navy, Army and Air force. <i>Job roles</i> – Architects, Engineers, military personal with construction skills in masonry, carpentry, plumbing, wiring, painting etc. in the military.	Construction start to end (isolation wards in at least one secondary or tertiary hospital in each district).	500 workers
Laboratory service providers	Scientist, Doctors & lab technicians contracted from Private Companies. <i>Job role</i> : carrying out lab investigations.	Project start to end	200 workers
Workers in Eldercare homes, homes for the disabled and in orphanages	Administrators and Social workers <i>Job roles</i> – managing the homes and taking care elders, disabled and children	Project start to end	1000 workers
Janitorial & Waste Management Services	Janitors, Waster Collection and their administrators contracted from Private Companies. <i>Job roles</i> : Cleaning, disinfecting, waste collection, disposal & administration.	Project start to end	500 workers
<b>Primary supply workers<sup>3</sup></b>			

<sup>2</sup> Contracted workers - people employed or engaged through third parties to perform work related to core functions of the project,

Type of project workers	Characteristics & role of project workers	Timing of labor requirements	Indicative number of workers
<b>2000 workers</b>			
- Frontline Service Providers	<u>Front line service providers</u> - will include those providing services such as solar panels, lab equipment, PPEs. <i>Job roles</i> – administrative and technical duties etc.	Project start to end	2000 workers
<b>Community workers</b>	Not applicable	Not applicable	Not applicable

**a) Project Management Unit (PMU)**

The PMU will be constituted by direct project workers who will either be government civil servants engaged in the project or those that will be recruited for the purposes of the project. Specifically, the PMU will comprise: Project Director, 2 Deputy Project Directors, Procurement Specialist, Procurement Assistant, Financial Management Specialist, Finance Assistant, 2 Monitoring officers, a Communications Specialist, Legal Specialist and other administration/support staff. The project will hire an Environment specialist and an Social Specialist.

- The Project Director & the Deputy Directors will be responsible for the overall implementation, management and coordination of the project. S/he will also closely liaise with the Task Team from the World Bank and other stakeholders. The Project Director will also ensure that the Project is in compliance with the World Bank’s and national regulations relating to social, environment and labor issues, among others.
- The Financial Management Specialist & the Assistant will assist the project team to lead the financial management activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents.
- The Procurement Specialist & the Assistant will lead the procurement activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents. Specifically, the Procurement Specialist will work with the Environment and Social specialists to ensure that all the procurement documents adequately reflect environment and social issues, where relevant.
- The two Monitoring Specialist will lead the monitoring and evaluation activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents. The Monitoring and Evaluation Specialist will collect, process and manage data, including those relating to social and environment issues associated with the project, as appropriate, from various sources including health management information system, official documents, etc.
- The Legal Specialist will be responsible to provide prepare contracts, agreements & provide legal advice related to staffing, engaging with technical agencies, implementing partners, contractors & suppliers and will also be involved in any dispute resolution matters.

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<sup>3</sup> Primary supply workers - people employed or engaged by the Borrower’s primary suppliers (primary supply workers);

- The Social Specialist will lead the social activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents. Together with the Environment Specialist, the Social Specialist will primarily be responsible for ensuring that project activities avoid and minimize negative social impacts; and where they cannot be avoided, that these impacts are identified and the necessary mitigation measures are developed and implemented following the relevant laws as well as the World Bank policies.
- The Environmental Specialist lead the environmental activities of the project and coordinate with the technical teams and stakeholders assigned to implement the subcomponents. Together with the Social Specialist, the Environment Specialist will primarily be responsible for ensuring that project activities avoid and minimize negative environmental impacts; and where they cannot be avoided, that these impacts are identified and the necessary mitigation measures are developed and implemented following the relevant laws as well as the World Bank policies.

Together, the Environmental Specialist and the Social Specialist will provide overall policy and technical direction for environmental and social management under the Project, as defined by the Environmental and Social Commitment Plan (ESCP), Environmental and Social Management Framework (ESMF), Health Care Waste Management Plan (HCWMP), Stakeholder Engagement Plan (SEP) and Labor Management Procedures (LMP). These staffs will be hired as permanent staff with 1-year term and the contract will be renewed based on performance on a yearly basis.

In addition to these permanent staff required for the full duration of the Project, the Project may hire other technical staff for limited duration based on specific needs. For example, when civil works are undertaken for the refurbishment of health care centers, construction of quarantine and isolation facilities, etc., a civil engineer will be required for monitoring the various sites, for international procurement guidance, HEIS and other procurement related support an International procurement consultant will be hired for the project. All these staff, including the civil servants assigned to serve in the PMU, are considered as project direct staff under ESS2 and the respective standards/provisions will apply. However, the civil servants assigned to serve in the PMU of the Project, whether full-time or part-time, will be bound by their existing public sector employment agreement or arrangement, and provisions under this LMP will not apply to such parties.

Likewise, the Project may involve other specialist agencies/consultancies (firms or otherwise) to support project implementation. For example, the Project may seek collaboration with UNICEF to develop risk communication strategy, including facilitating training for staffs and key stakeholders; work with WHO to ensure consistency of environmental and social documents and procedures, with national and international guidelines to support country preparedness and response; and work with UNICEF, WHO and UNOPS on emergency procurement of medical equipment and supplies to strengthen Sri Lanka COVID19 Response, etc. The provisions given under this LMP will not strictly apply to such consultancies. Nevertheless, the health and safety needs of the civil servants as well as the specialist consultants needs to be considered, and the measures adopted by the project for addressing occupational health and safety issues, including those specifically related to COVID-19, will apply to them.

#### b) Staff of Specialized Institutions

Given current capacity of the PMU is insufficient to support this complex, emergency response. The project will directly see the support the staff from the following specialized Institutions:

- The Medical Services Department (MSD) for the procurement of required essential supplies
- The Directorate of Environment, Occupational Health and Food Safety, MoH for the preparation and implementation of health care waste management under the project
- The Health Promotion Bureau for risk communication and social safeguard measures
- The Directorate of Laboratory Services for laboratory improvement
- The Directorate of Disaster Management for strengthening of national coordination for emergency response
- The National Epidemiology unit for strengthening disease surveillance and related capacities
- The Directorate of Quarantine services for strengthening the national response for quarantine services and ;
- Other Directorates as per requirements of the project.

#### c) Health Care Workers

Approximately 6,000 health care workers will be engaged in the project as direct workers, as contracted workers (contractors, subcontractors), or civil servants. Health care workers may carry out a range of activities, for example, assessing, triaging and treating COVID-19 patients and workers; establishing public health reporting procedures of suspect and confirmed cases; providing or reinforcing accurate infection prevention and control and public health information, including for concerned workers.

#### d) Waste Management Workers

All care waste produced during the care of COVID-19 patients will be considered as infectious waste and will be collected in designated containers and bags, treated and safely disposed by incinerating or autoclaving according to the SOP on health care waste management for COVID-19. An estimate of 500 waste management workers may be engaged in the project to support this activity. Most likely, these workers will be contractors or subcontractors, primary supply workers, or even civil servants until the pandemic comes to an end.

#### e) Workers from Laboratory Service Providers

Workers from Private Companies will be contracted to strengthening Laboratory Facilities and Information Systems. Laboratory facilities will be strengthened by providing the necessary testing kits, PPEs, equipment for safe transport of biological samples, training and re-orientation of lab technicians on standardized sample collection, channeling and transportation for infectious diseases, and decontamination practices. Guidelines for engaging a network of private hospitals and laboratories for supporting care and testing will also be developed to support existing facilities and labs deal with surges in samples and patients.

#### f) Workers in Eldercare homes, Homes for the disabled and in Orphanages



Number of field staff engaged in elder care, homes for the people with special needs and orphanages will be trained and equipped for prevention and care measures as per MOH-approved protocols. Field staff include public health nursing officers, elderly right promotion officer and care givers, social welfare workers. These staff will be involved in the management of institutions supported by the project and taking care of the elders, disabled and children.

**g) Workers from Security Forces (Tri-Forces)**

The Project will provide support to set up isolation wards in at least one secondary or tertiary hospital in each district. For this purpose, human resource from the Ministry of Defence, GoSL may be engaged by the MoH to support setting up these isolation wards. This measure has been proposed in the interest of urgency and due to the current limitations in accessing labor due to the ongoing COVID-19 related restrictions. The armed forces will be engaged only for the duration of the civil works required to set up these facilities. Further, all procurement for the isolation wards will be done by the MoH, with no financing going to the army.

**h) Frontline Service Providers**

An estimate of 2000 front line service providers will be involved as primary supply workers. These workers may be active in the project as contracted workers (contractors or sub-contractors) or civil servants until the pandemic comes to an end. These include those providing services such as food supply, delivery and preparation; waste disposal; pharmacies; etc.

**3. Assessment of Potential Labor Risks**

The labor risks for the project can be defined based on the nature and location where project activities will be carried out. Labor risks, including COVID-19 specific risks, in relation to the activities being carried out by the workers, are described below:

Project Activity	Key Labor Risks
Procurement of essential protective equipment and other essential items to protect healthcare workers and patients	<ul style="list-style-type: none"> <li>• Health and safety risks for frontline service providers, especially against COVID contamination</li> <li>• Suppliers as vectors of COVID-19 &amp; hence risks HCWs and patients</li> <li>• Inability of benefit from procedures and mitigation measures to address risks relating to COVID-19 spread</li> </ul>
Preparation and implementation of risk communication, community engagement and behavior change, including social distancing measures and associated mitigation strategies.	<ul style="list-style-type: none"> <li>• Inadequate terms and conditions of employment for employees/consultants, including those relating to hours of work, wages, overtime, etc.</li> <li>• Discrimination in relation to recruitment, hiring, compensation, working conditions, terms of employment, etc</li> <li>• Absence of a mechanism to express grievances and protect rights regarding working conditions and terms of employment</li> <li>• Risks of contamination during community visits</li> <li>• Workers as vectors of COVID-19 and hence risks to community health and safety</li> <li>• Risks of child labor and forced labor, though expected to be minimal</li> </ul>

Project Activity	Key Labor Risks
<p>Strengthening the capacity of health care facilities for emergency response</p> <ul style="list-style-type: none"> <li>- Constituting emergency response teams in HCFs to cater to both regular and infectious disease patient</li> <li>- Increasing ICU beds and relevant equipment such as oxygen delivery units, etc.</li> <li>- Installation of solar photovoltaics (solar PV) and battery energy storage based renewable energy (RE) systems at critical response facilities and select facilities that face regular electricity outages</li> <li>- Setting up isolation wards in at least one secondary or tertiary hospital in each district.</li> </ul>	<ul style="list-style-type: none"> <li>• Workers brought in to carry out the civil works may become vectors for transmission of COVID-19 to other workers in construction project sites and nearby communities.</li> <li>• Untenable overtime, psychological distress, fatigue, occupational burnout, among health care workers</li> <li>• Risks associated with GBV and SEA/SH in quarantine/isolation facilities</li> <li>• Risks of exposure while handling of medical specimens or treatment of COVID-19 patients</li> <li>• Stigma and passing on infections to family and community</li> <li>• Inadequate terms and conditions of employment for employees/consultants, including those relating to hours of work, wages, overtime, etc.</li> <li>• Discrimination in relation to recruitment, hiring, compensation, working conditions, terms of employment, etc</li> <li>• Absence of a mechanism to express grievances and protect rights regarding working conditions and terms of employment</li> <li>• Risks of child labor and forced labor among frontline stakeholders, though expected to be minimal</li> <li>• Social tensions due to concerns about infection spread to the communities in the vicinity of the HCFs, quarantine centres, etc</li> <li>• Risks associated with use of security personnel, including on community health and safety as well as labor management.</li> </ul>
<p>Increasing laboratory and diagnostic capacity</p> <ul style="list-style-type: none"> <li>- Training to health workers and other frontline stakeholders</li> <li>- Increasing number of testing kits, expansion of special panel kits, expansion of testing capacity</li> <li>- Equipment for safe transport of biological samples</li> <li>- Orientation of lab technicians on standardized sample collection, channeling and transportation for infectious diseases, and decontamination practices</li> <li>- Establishment of a BSL3 laboratory at the National Medical Research Institute (MRI).</li> </ul>	<ul style="list-style-type: none"> <li>• Risks of pathogen exposure, infection and associated illness, death, for workers engaged in carrying out the testing, transporting samples, delivering training, etc</li> <li>• Stigma and passing on infections to family and community</li> <li>• Inadequate terms and conditions of employment for employees/consultants, including those relating to hours of work, wages, overtime, etc.</li> <li>• Discrimination in relation to recruitment, hiring, compensation, working conditions, terms of employment, etc</li> <li>• Absence of a mechanism to express grievances and protect rights regarding working conditions and terms of employment</li> <li>• Risks of child labor and forced labor, though expected to be minimal</li> <li>• Social tensions due to concerns about community health and safety</li> </ul>
<p>Containment and treatment efforts</p> <ul style="list-style-type: none"> <li>- Establishment of local isolation units in hospitals</li> <li>- Expansion of intensive care unit (ICU) capacity, including the establishment of additional ICU beds and the necessary equipment</li> </ul>	<ul style="list-style-type: none"> <li>• Workers brought in to carry out the civil works required to establish isolation units, quarantine facilities, may become vectors for transmission of COVID-19 to other workers in construction project sites and nearby communities.</li> <li>• Untenable overtime, psychological distress, fatigue, occupational burnout, among health care workers</li> <li>• Risks associated with GBV and SEA/SH in quarantine/isolation</li> </ul>

Project Activity	Key Labor Risks
<p>and supplies to make them functional.</p> <ul style="list-style-type: none"> <li>- Training all hospital staff to prevent intra-hospital infections, particularly medical waste management and disposal systems, management of patients with infectious diseases, including dead bodies, and instituting a system to monitor the same; (d) putting in place safe and separate transportation facilities for infectious disease patients starting with testing to hospital admission; (e)</li> <li>- Training on implementation guidelines and SOPs to frontline health workers, hotel and resort staff, airport personnel and other frontline stakeholders.</li> </ul>	<p>facilities</p> <ul style="list-style-type: none"> <li>• Risks of exposure while handling of medical specimens or treatment of COVID-19 patients</li> <li>• Stigma and passing on infections to family and community</li> <li>• Inadequate terms and conditions of employment for employees/consultants, including those relating to hours of work, wages, overtime, etc.</li> <li>• Discrimination in relation to recruitment, hiring, compensation, working conditions, terms of employment, etc</li> <li>• Absence of a mechanism to express grievances and protect rights regarding working conditions and terms of employment</li> <li>• Risks of child labor and forced labor among frontline stakeholders, though expected to be minimal</li> <li>• Social tensions due to concerns about infection spread to the communities in the vicinity of the HCFs, quarantine centres, etc</li> </ul>

#### 4. Key Labor Legislation in Sri Lanka

##### a) National Regulations

As Sri Lanka lacks a single unified labor law/code, a number of statutes govern employment and industrial relations in the country (See Table 3 for a summary of the main provisions under these acts, ordinances, etc). Together, these labor regulations cover aspects such as working age, work hours, contracting rules, leave policies, maternity leave, minimum wage, labor taxes and dismissal rules, among others, as required under the ESS 2.

**Table 1: Summary of Applicable Laws and their Provisions**

Applicable Laws	Provisions
<ul style="list-style-type: none"> <li>• Shop and Office Employees’ Act No 19 of 1954,</li> <li>• Wages Boards Ordinance No.27 of 1941 and Decisions made thereunder,</li> <li>• Factories Ordinance No.45 of 1942,</li> <li>• Employment of Women, Young Persons and Children Act No. 47 of 1956</li> <li>• Maternity Benefits Ordinance No.32 of 1939</li> </ul>	<p>Basic terms and conditions of employment, including those pertaining to working hours, leave and holidays and work arrangements</p>
<ul style="list-style-type: none"> <li>• National Minimum Age No.03 of 2016,</li> <li>• Budgetary Relief Allowance of Workers Laws of 2005 &amp; 2016,</li> <li>• Decisions of Wages Boards established in terms of the Wages Boards Ordinance</li> </ul>	<p>Wage fixation</p>
<ul style="list-style-type: none"> <li>• Industrial Disputes Act No.43 of 1950,</li> <li>• Trade Unions Ordinance No.14 of 1935,</li> <li>• Constitution of the Democratic Socialist Republic of Sri Lanka</li> </ul>	<p>Statutory provisions relating to Labor/Industrial Relations Right to form or join a Trade Union of one’s choice flow</p>

Applicable Laws	Provisions
<ul style="list-style-type: none"> <li>Termination of Employment of Workmen (Special Provisions) Act No.45 of 1971</li> </ul>	Non-disciplinary terminations
<ul style="list-style-type: none"> <li>Factories Ordinance, Employment of Women Young Persons and Children Act,</li> <li>Shop &amp; Office Employees Act,</li> <li>Maternity Benefits Ordinance</li> <li>National Institute of Occupational Safety and Health Act No.38 of 2009</li> </ul>	Health, safety and general well-being of employees, as well as special protections for female workers, pregnancy/childbirth and “young persons” in employment
<ul style="list-style-type: none"> <li>Workmen’s Compensation Ordinance No.19 of 1934</li> </ul>	A detailed computation of compensation due in the event of a variety of work-related injuries and illnesses
<ul style="list-style-type: none"> <li>Employees Provident Fund Act No.15 of 1958,</li> <li>Employees Trust Fund Act No. 46 of 1986</li> <li>Payment of Gratuity Act No.12 of 1983.</li> </ul>	Social protection
<ul style="list-style-type: none"> <li>Part IV of the Industrial Disputes Act</li> <li>Army Act 1949, Navy Act 1959, Airforce Act 1950</li> </ul>	Provides the principal legal forum for employees & military to their employment for adjudication.

However, despite the plethora of laws and regulations in Sri Lanka, their implementation has been noted as being challenging due to their incomplete application and weak enforcement of these legal provisions. Further, while the above-mentioned laws cover many important aspects of employment in the private sector, also required under the ESS 2 are issues relating to the age of employment, wages, working hours, leave and holidays, maternity protection, occupational safety and health, industrial relations and dispute resolution, freedom of association and collective bargaining, terminal benefits etc., which are not areas that have been legislated on. In such cases, the common law principles and/or judicial decisions need to be referred to for the relevant legal principles. For instance, while many statutory provisions are read into employment contracts, there is no single statute governing employment contracts or types of employment. The Shop and Office Employees Act is the only statute which states that employees should be issued with written Letters of Appointment and sets out the matters which must be included in it. A few statutes do cover specific employments, such as the (obsolete) Service Contracts Ordinance No.11 of 1865 and the narrowly applicable (and rarely used) Employment of Trainees (Private Sector) Act No.8 of 1978. Areas of practical significance such as probation, transfers, and bonus payments have not been legislated on, nor are an age of retirement stipulated by law for private sector employees. These matters therefore are required to be determined in the case of bonus, transfer and retirement age by contractual provisions or the practice in the organization, and in the case of probation by the contract, common law principles and judicial decisions.

## b) ILO Conventions Ratified by Sri Lanka

Sri Lanka has ratified 43 of the International Labor Organization (ILO) Conventions, including all the eight core conventions on labor standards.<sup>4</sup> Of the 43 ILO Conventions ratified so far, 30 are in force, 10 have been denounced, and three have been repealed.<sup>5</sup> Further, four areas covered by the 8 core Conventions have not been correctly set out in the national mechanism. These include the freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labor, and the elimination of discrimination in respect of employment and occupation. The most recent ratification of ILO convention by the Government of Sri Lanka was *the January 2017 ratification of the Maritime Labour Convention of 2006 (MLC)*.<sup>6</sup> The government has also expressed its interest in ratifying the Occupational Safety and Health Convention 1981 (No. 155). However, the employers have expressed reservations over provisions contained in it, especially relating to refusal to work.

## c) Basic Labor Standards in Sri Lanka

Some basic standards from the labor laws and regulations of Sri Lanka, including the Labor Code, are as follows:

### Terms and Conditions

#### *Contracting Rules:*

In Sri Lanka, 'employment' is not dependent on the existence of a written document. The Industrial Dispute Act, Section 48, defines a "Workman" as any person who has entered into or works under a contract with an employer in any capacity, whether the contract is expressed or implied, oral or in writing. Generally, the type of employment contract largely depends on the worker category: permanent; temporary or contract worker (employees on fixed term or temporary contracts of employment); and apprentice<sup>7</sup>. The public sector mostly engages employees on a permanent basis until retirement at age 55,<sup>8</sup> but also employs contract workers who are paid on a daily basis. Employees in the private sector are mostly engaged on time-bound contracts. Temporary workers are hired based on a particular task required for a limited time period. Likewise, Contract workers<sup>9</sup> are contracted for a specific task at a fixed level of pay that does not involve overtime payments or additional ad hoc allowances.

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<sup>4</sup> The eight core conventions include: The Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Abolition of Forced Labour Convention, 1957 (No. 105); the Discrimination (Employment and Occupation) Convention, 1957 (No. 111); the Minimum Age Convention, 1973 (No. 138); the Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>5</sup> [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103172](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103172)

<sup>6</sup> This particular ILO Convention is unique in that it is a consolidation of several pre-existing ILO Conventions on the seafarers and maritime matters, where a somewhat different process of ratification is allowed for Amendments etc.

<sup>7</sup> Apprentices work on a temporary basis, and the time period depends on the time required for practical instruction in a given trade.

<sup>8</sup> However, public sector employees can continue to work until 60 years without requesting for service extensions.

<sup>9</sup> Seasonal workers also fall into this category.

### *Work hours:*

There are three laws in Sri Lanka that govern working hours, rest intervals, and holidays: the Wages Board Ordinance of 1941; the Shop and Office Employees Act of 1954; and the Factories Ordinance of 1950.<sup>10</sup> The working hours, overtime restrictions and provisions relating to night work for young persons and women employed in 'Industrial Undertakings' are set out in the Employment of Women, Young Persons and Children Act. As per the Shop and Office Employees (SOE) Act, 1954:

- Normal maximum working hours are eight (08) hours a day and forty-five (45) hours a week, excluding intervals for rest or meals
- Work in excess of normal maximum working hours on any day or week (overtime) should be remunerated at a rate of 1.5 times the employee's hourly wage.

The provisions of the Wages Boards Ordinance, as well as the Decisions of Wages Boards established thereunder for various Trades, are significantly different to those stipulated by the SOE Act.

### *Management Services Circular:*

The Management Services Circular No: 01/2019<sup>11</sup> provides board procedural and implementation guidelines with regard to the cadre and remuneration management of a project. This circular is deemed effective from 20.01.2019. With the implementation of this circular, the Management Service Circular No. 01/2016 dated 24.03.2016 and 01/2016 (i) dated 16.12.2016, will be rescinded. For the purpose of this circular, a "Project" means a planned set of interrelated tasks to be executed over a fixed period of time and within certain costs and other limitations to achieve a particular objective/s. The cost stipulated in the approval of the Cabinet of Ministers for the Project is considered as the total cost of the project. This circular is applicable only for the foreign-funded projects and the share of foreign fund of the project cost should be more than 60%. The circular lays out the remuneration package, qualifications and the experiences expected for each level of the cadre and the selection procedure of the staff for project management cadre.

### *Leave and Holidays:*

As per the Shop and Office Employees (SOE) Act, in the 1st (calendar) year of employment, an employee is granted one (01) day of leave for each completed period of two (02) months.<sup>12</sup> Thereafter, an employee is provisioned for 7 days of paid annual leave.<sup>13</sup> Further, there are provisions in the law for 7 paid days of "casual leave" – from the second (calendar) year of employment onward. Additionally, is also provision in the law for 9 statutory holidays to be declared which are paid holidays for SOE Act covered employees.<sup>14</sup>

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<sup>10</sup> For details on working hours and holidays see: <https://salary.lk/home/labour-law/leave-and-holidays/working-hours-and-holidays>

<sup>11</sup> [www.treasury.gov.lk/documents/10181/47156/01.2019+Reduced.pdf/a696c6e9-a9e8-4702-a7df-5ab76ed8ca53?version=1.0](http://www.treasury.gov.lk/documents/10181/47156/01.2019+Reduced.pdf/a696c6e9-a9e8-4702-a7df-5ab76ed8ca53?version=1.0)

<sup>12</sup> This is the only leave available during this period, in law.

<sup>13</sup> The Act requires that seven days of annual leave are to be taken on a consecutive basis. No provision in law to carry forward or accumulate unutilized annual leave.

<sup>14</sup> An employee may be required to work on a Statutory holiday – in strict law, the prior permission of the Commissioner General of Labour is required in order to do so, though this provision is observed more in the breach. When an employee works on a Statutory Holiday, the employer is required, in law, to EITHER pay an extra day's wage with EPF and ETF contributions

### *Maternity leave:*

Maternity leave entitlements in the Private Sector are granted to female employees under either Part 1A of the Shop & Office Employees (SOE) Act or the Maternity Benefits Ordinance (MBO).<sup>15</sup> However, there is no legal entitlement for paternity leave in the private sector in Sri Lanka; though in the case of public sector employees, there are 03 days available to male public sector employees, in the event of a birth of a child to their wife. As per the SOE Act, maternity leave and benefits include 84 working days of paid leave in respect of the birth of any child, irrespective of whether it is the first, second, third or any other child, provided it is a live birth. While as per the MBO, female employees are eligible for 12 weeks of paid maternity leave, on the same basis, without differentiation on account of the number of surviving children.

### *Minimum wage:*

There are several laws that relate to payment and fixing of wages.<sup>16</sup> The Wages Board Ordinance of 1941 mandates the Minister of Labor to establish a Wages Board<sup>17</sup> for any trade to which provisions of the Ordinance have been applied. In March 2016, Sri Lanka adopted two new laws on wages designed to guarantee a minimum income for workers. The National Minimum Wages Act, No. 3 of 2016 mandates a national minimum monthly wage of Rs10,000 (about US\$67.56) and minimum daily wage of Rs.400.00, while the Budgetary Relief Allowance of Workers Act (BRAWA) No. 4 of 2016<sup>18</sup> establishes that a wage supplement of Rs 2,500 (about US\$16.89) is applicable to all workers earning less than Rs 40,000 per month (about US\$270).<sup>19</sup> National Minimum Wages Act No.3 of 2016 sets out the penalties that may be imposed on errant employers in respect of a first, second offence and so forth. Further, the minimum wages established by the Wages Boards cannot be less than the national minimum wage as stipulated by the National Minimum Wages Act, NO. 3 of 2016.

### *Notice for termination of contract and dismissal rules:*

The Termination of Employment of Workers (Special Provisions) Act No 45 of 1971 (TEWA) sets out a compensation formula which must be adhered to in the event permission to terminate on non-

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thereon, OR grant an alternative holiday before 31st December that year. This obligation arises irrespective of the number of hours worked on the Statutory Holiday. Overtime work is not permitted in law, on Statutory Holidays

<sup>15</sup> Three (03) categories are specifically excluded from its coverage – (i) females covered by the Shop and Office Employees Act, (ii) females employed in an industry, business or undertaking which is carried on mainly for the purpose of giving an industrial training to juvenile offenders or orphans or to persons who are destitute, dumb, deaf or blind, and (iii) females whose employment is of a casual nature (the test here is whether the employment and not the worker is casual).

<sup>16</sup> Wage is defined in the National Minimum Wages Act as the contractual wage or salary of the worker or the wage prescribed under the Wages Boards Ordinance (Chapter 136) for the industry or service to which the worker belongs, and wages or basic salary together with the cost of living allowance, special living allowance or any other similar allowances.

<sup>17</sup> The number of representative members of a Wages Board is determined by the Minister, and is divided equally between employers' representatives and workers' representatives.

<sup>18</sup> In addition to the 2016 BRAWA entitlements, the 2005 BRAWA prescribes Rs.1,000/- payable to employees earning less than Rs.20,000/- per month (with marginal relief granted in respect of monthly wages between Rs.20,000/- and Rs. 21,000/). This payment is a continuing requirement for this wage bracket until the employee's wage reaches Rs.21,000/- and Labour Department Officials on inspections often require that it be shown separately in the Pay slip.

<sup>19</sup> Minimum wages are revised on an annual basis or at the request of trade unions, with wage increases tied to the Colombo Cost of Living Index (CCLI) and Cost of Living Allowance (COLA).

disciplinary grounds is granted by the Commissioner General of Labour, on an application under Section 2 of the Act. Compensation is made on the basis of the last drawn salary and the years of service, though capped at Rs.1.25 million in all cases. Further, Voluntary Severance/Retirement Schemes (VSS/VRS) or packages are offered by employers who wish to expedite retrenchments or to avoid the uncertainty involved in seeking the permission to the Commissioner in a Section 2 Application under the TEWA.

### Occupational Health and Safety

Sri Lanka has several laws dealing with or impacting on health and safety in the workplace, including Factories Ordinance No.45 of 1942, the National Institute of Occupational Safety and Health Act No. 38 of 2009 etc. Provisions relating to Occupational Safety and Health are set out mostly in the Factories Ordinance and Regulations framed thereunder. As a “Factory” has a very extensive definition encompassing almost every imaginable manufacturing process, this Statute has a very wide coverage. The Ordinance, Parts 11, 111, 1V & V deal with general provisions on health, safety and welfare respectively, while Part VI deals with notification and investigation of accidents and industrial diseases.

Provisions are made under the Ordinance in regard to the following aspects which affect the work environment: Cleanliness, Overcrowding Temperature, Ventilation, Lighting, Drainage of floors, Sanitary conveniences, Prime movers, Transmission machinery, Other machinery, Vessels containing dangerous liquids, Self-acting machinery, Hoists and lifts Chains, ropes and lifting tackle, Cranes and lifting machinery, Floor, passages and stairs, Safe means of access and safe place of employment, Places where dangerous fumes are liable to be emitted, Explosive or flammable gases, vapors, Steam boilers and pressure vessels, Means of escape in case of fires, Safety provisions in case of fire, Supply of drinking water, Washing facilities, Accommodation for clothing, First aid, Removal of dust and fumes, Meal rooms, Protection of eyes, Lifting excess weight, Noise, Electricity. Apart from maintaining the provisions in regard to the above aspects, the employer (known as the ‘occupier’ under the Ordinance), is responsible for notifying the District Factory Inspecting Engineer (DFIE) about accidents and industrial diseases.

Further, the Shop & Office Employees Act No.19 of 1956 contains several, fairly rudimentary, provisions on occupational safety, health and welfare required to be provided by shops and offices within the meaning of this Act, while the Employment of Women, Young Persons and Children Act No 47 of 1956, contains provisions relating to work time for women and children, conditions for employing women at night, which are intended to ensure the health, safety and general welfare of these categories of workers (as described in the earlier section). Other Laws impacting on OSH, include the Central Environmental Act No.47 of 1980, the Mines and Minerals Act No. 33 of 1992, the Municipality Ordinance No., the Control of Pesticides Act No.33 of 1980 and the Disease Among Labourers Act No.10 of 1956.

With regard to the investigation of work-related injuries, ill health, diseases and incidents, and their impact on safety and health performance, the provisions in the Factory Ordinance No.45 of 1942 are as follows:



- The investigation of the origin and underlying causes of work-related injuries, ill health, diseases and incidents should identify any failures in the OSH management system and should be documented.
- Such investigations should be carried out by competent persons, with the appropriate participation of workers and their representatives.
- Results of such investigations should be communicated to the safety and health committee, where it exists, and the committee should make appropriate recommendations.
- Results of investigations, in addition to any recommendations from the safety and health committee, should be communicated to appropriate persons for corrective action, included in the management review and considered for continual improvement activities.
- Corrective action resulting from such investigations should be implemented in order to avoid repetition of work-related injuries, ill health, diseases and incidents.
- Reports produced by external investigative agencies, such as inspectorates and social insurance institutions, should be acted upon in the same manner as internal investigations, taking into account issues of confidentiality.

#### Non-discrimination and Equal Opportunities

The Constitution of Sri Lanka (1978) states that all persons are equal before the law and are entitled to the equal protection of the law (Article 12(1)). Article 12(2) provides that “no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds”. However, Article 12(4) provides that these Constitutional provisions shall not prevent “special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons”.<sup>20</sup> While there are no equal opportunity legislations in Sri Lanka at present, some discriminatory provisions that previously existed in few labor laws such as the different wages set out for men and women in some wages boards, have been remedied. Having said that, covert discrimination may exist at recruitment and other stages of employment, and are very difficult to identify or address as official complaints are not made, especially in relation to gender-based discrimination. Measures to protect women from discriminatory activities include legal provisions to protect maternity, payment of 1.5 times of normal rate of payment for women for night works in the EWYP&C Act. For instance, both the SOE Act and the MBO contain provisions on prohibition on termination due only to “pregnancy, childbirth or any consequential illness”, and also preclude an employer from issuing notice of termination on any grounds on a female employee while she is on maternity leave, or in such a manner that such notice expires while she is on maternity leave. These Statues also both contain a prohibition on engaging a pregnant female employee on work which may be injurious to her health or that of her unborn child for a specified period of time.

#### Child Labor

Several definitions of “child” involving different age limit exist in law in Sri Lanka, including the definition in the National Child Protection Act No.50 of 1998, which defines a child as any person under 18 years of age. However, for purposes of employment, the definitions/age limits set out in the Shop & Office

<sup>20</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms\\_551675.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_551675.pdf)

Employees Act (SOE ACT) and the Employment of Women, Young Persons & Children Act (EWYP&C Act) are to be considered when discussing child labour in Sri Lanka, together with the provisions on the Core ILO Conventions on the elimination of child labour- viz. Conventions 28 (Minimum Age Convention) and 132 (Elimination of the Worst Forms of Child Labour). Other laws impacting on child labour and protections offered to workers under 18 years of age include: the Estate Labour (Indian) Ordinance, the Factories Ordinance and the Mines and Minerals Law.

The EWYP&C Act defines a child as a person who is under the age of 14 years. Gazette Extra Ordinary No.1116/5 of 26th January 2006 contains a general prohibition on the employment of children under 14 years of age. It recognizes two exceptions to this general prohibition – work done by children in technical schools if such work is approved or supervised by a public authority, and work by children which is supervised by parents or guardian in light agricultural or horticultural or similar work carried on by members of the same family before the commencement of regular school hours or after they end. The SOE Act, on the other hand, completely prohibits the employment of any person under the age of 14 years in a shop or office. Male children between the ages 14 and 18 cannot be employed before 6.00 a.m. or after 6.00 p.m. except in specified types of employment.

The EWYP&C Act defines a “young person” as a person who has attained the age of 14 years, but who is under the age of 18 years. The Act further distinguishes between young persons between the ages of 14 and 16 years, and those between the ages of 16 and 18 years, and sets very detailed guidelines to regulate for their employment. As per Section 13 in the 2006 Amendment of the EWYPC, where a child is employed in contravention of the provisions of subsection, the employer shall be guilty of an offence chargeable in the Magistrate Court. The employer can be fined or imprisoned or both and; the Magistrate could also order the employer to pay compensation to the child in question.<sup>21</sup>

In terms of hazardous work, the government passed two legislations and the announcement was published by Gazette notification 1667/41 of 2010 and No. 1695/32 dated Friday, March 4, 2010, a list of forty-nine trades/ occupations which have been listed as Hazardous Work. In 2006, Section 20 of the EWYPC was amended to address the special issue of hazardous labor by children between the vulnerable age group between 14 to 18 years. The penalty for employing children in violation of the Employment of Women, Young Persons and Children Act 8 of 2003 varies from Rs 5,000 to Rs 10,000 fines, imprisonment of not less than 12 months or both.<sup>22</sup>

### Forced Labor

The Constitution of Sri Lanka prohibits forced or compulsory labour directly and indirectly; Article 11 of the constitution says that no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In addition, Article 14 of the Constitution provides for freedom of association, lawful occupation, profession, trade, business or enterprises and freedom of movement. Section 358A of the Penal Code (Amendment) Act No. 16 of 2006 prohibits forced labor in Sri Lanka while also listing

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<sup>21</sup> <https://salary.lk/labour-law/fair-treatment/child-labour/child-labour>; <http://www.employers.lk/child-labour>

<sup>22</sup> Gazette Notification No. 1695/32 dated Friday, March 4, 2010; Employment of Women, Young Persons and Children’s Amendment Act 24 of 2006; <https://salary.lk/labour-law/fair-treatment/child-labour/child-labour>

several actions which can be considered as forced labor.<sup>23</sup> Moreover, the section introduces imprisonment and fines for violating the law. If the victim is a child more sections of the Code will be applicable. Additionally, other laws and regulations relating to forced labor include: Employment of Women, Young Persons, and Children Act No. 47 of 1956,<sup>24</sup> Hazardous Employment Amendment to the Employment of Women, Young Persons, and Children Act No. 47 of 1956,<sup>25</sup> Industrial Dispute Act,<sup>26</sup> and the Shop and Office Employment Act 1954. For instance, the Employment of Women, Young Persons and Children Act introduced several legal provisions for preventing forced or compulsory labour such as limits on night work, especially registration process for underage workers, and special regulations for selected work or service fields<sup>27</sup> while the Shop and Office Employment Act, 1954, provides legal protection for working hours, holidays, leaves, working conditions and much more. On 11 April 2019, Sri Lanka ratified the Protocol of 2014 to the Forced Labor Convention, 1930, thereby becoming the second country in Asia and thirty-first worldwide to ratify the Protocol.<sup>28</sup>

#### d) Workers' and Employers' Organization

The Constitution of Sri Lanka grants the right for every person to join a trade union, while the Trade Union Ordinance permits any seven people to form such an organization. In Sri Lanka, there are 2,074 registered trade unions, of which 54.5 per cent are in the public sector, 27.5 per cent in public corporations and 18 per cent in the private sector. The number of members covered by the trade unions amount to 9.5 per cent of the total workforce of Sri Lanka.<sup>29</sup> Additionally, there is also an organization of employers, the Employers' Federation of Ceylon (EFC), the principal organization of employers, established to promote employer interests in addressing labor and social issues, industrial relations and labor laws in Sri Lanka. The Council, the policy making body of the EFC, has 25 elected and co-opted members representing various groups of employers and the Secretariat. The Chairman of the EFC is the Chairman of the Council. The executive arm of the EFC is the Secretariat, headed by the Director-General.<sup>30</sup>

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<sup>23</sup> In addition, *child trafficking* is prohibited under Section 360 of the Penal Code (Amendment) Act No. 16 of 2006; Section 360 of the Penal Code (Amendment) Act No. 22 of 1995 (18, 19). Prohibition of commercial sexual exploitation of children is mentioned under Sections 286 of the Penal Code (Amendment) Act No. 29 of 1998; Section 360 of the Penal Code (Amendment) Act No. 22 of 1995; and prohibition of using children in illicit activities is provided for under Section 360C of the Penal Code (Amendment) Act No 16 of 2006; Section 288B of the Penal code (Amendment) Act No. 29 of 1998.

<sup>24</sup> Section 20A of The Employment of Women, Young Persons, and Children Act No. 47 of 1956 has set the minimum age for hazardous work at age 18.

<sup>25</sup> The Hazardous Employment Amendment to the Employment of Women, Young Persons, and Children Act No. 47 of 1956 lists hazardous occupations prohibited for children;

<sup>26</sup> The Industrial Dispute Act introduced the right for workers to leave a job after serving due notice to the employer.

<sup>27</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms\\_700567.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_700567.pdf)

<sup>28</sup> [https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/WCMS\\_685140/lang--en/index.htm](https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/WCMS_685140/lang--en/index.htm)

<sup>29</sup> <https://www.ilo.org/colombo/areasofwork/workers-and-employers-organizations/lang--en/index.htm>

<sup>30</sup> <http://www.employers.lk/about-us>

#### e) GBV and Sexual Harassment at Workplace

Sexual harassment at work can be described as unwanted or unwelcome conduct of a sexual nature, the imposition or rejection of which can have negative employment consequences for the victim as well as an undesirable effect on the work environment.” Although both women and men can be victims of sexual harassment at work or elsewhere, women are disproportionately affected, and as a result it may also be considered to be a form of gender-based violence or even as a form of discrimination based on sex.

Sexual harassment was criminalized in Sri Lanka in 1995 by including a new offence in the Penal Code. Specifically, Section 345 of the Penal Code states that anyone who ‘by assault or use of force sexually harasses another, or by words or actions causes sexual annoyance or harassment to a person’, commits the offence of sexual harassment. The offence of sexual harassment is further elaborated in the explanation by indicating that sexual harassment constitutes, ‘unwelcome sexual advances by words or action by a person in authority, at a working place or any other place,’ against men and/or women.<sup>31</sup> Similarly, the Bribery Act of 1956, in the public sector, mentions that a public servant can be charged with sexual harassment if he or she (in relation to any other person in the transaction of his/her official duties), ‘solicits or accepts any gratification<sup>32</sup> as an inducement or a reward for his performing or abstaining from performing any official act or for such expediting, delaying, hindering, preventing, assisting or favoring...’

The punishment for sexual harassment in the Penal Code includes a term of imprisonment with hard labor which may extend up to five years and/or a fine. The court may also order the offender to pay compensation to the victim. In the Public sector, the Bribery Act mentions punishment for public officials who solicit or accept ‘sexual gratification with vigorous punishment for up to seven years and a fine not exceeding five thousand rupees.’<sup>33</sup>

#### f) Brief Overview of Institutional Framework for Management of Labor in Sri Lanka

##### General Roles and Responsibilities

- The Ministry of Labor, Trade Union Relations (hereafter, Ministry of Labor) is the central government ministry of Sri Lanka responsible for formulating and implementing national policy on labor, trade union relations, and other subjects under its purview. The Ministry of Labor is also the primary agency for providing occupational ~~health & safety~~ safety and health services in the country.
- The National Labour Advisory Council (NLAC) is the national tripartite consultative mechanism established to provide consultation and facilitative co-operation between the government and the organizations of workers and employers at the national level on matters relating to social and labour policies and international labour standards.

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<sup>31</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms\\_525537.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_525537.pdf)

<sup>32</sup> ‘Gratification’ here is taken to include sexual gratification, and take the form of a sexual bribe when demanded in return for recruitment, transfers, promotions and other terms, conditions and benefits of employment.

<sup>33</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms\\_525537.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_525537.pdf)

- The Department of Labor (DoL) within the Ministry of Labour has functional responsibilities in many different areas including enforcement of labour laws. The DoL is divided into 13 divisions, including those with responsibility over law enforcement, namely: the Labour Standards Division (enforces the labour law in shops and offices), the Occupational Hygiene Division and the Industrial Safety Division which enforces the Factories Ordinance to ensure the safety, health & welfare of workers in factories
- The Industrial Safety Division of the Department of Labor<sup>34</sup> is responsible for ensuring occupational safety, health and welfare of the employee population in Sri Lanka.<sup>35</sup> This division is headed by the Commissioner of Labor (Industrial Safety) and the Chief Factory Inspecting Engineer who are assisted by the Deputy Commissioner of Labor (Technical), the Deputy Chief Factory Inspecting Engineer and a team of Specialists Factory Inspecting Engineers. Services of the division are decentralized through District Factory Inspecting Engineers' (DFIE) officers, in various areas including Kandy. A special division, the Division of Occupational Hygiene assists the Factory Inspectorate by carrying out environmental and biological monitoring of workplaces. This Division is headed by the Commissioner of Labor (Occupational Hygiene).
- The National Institute of Occupational Safety and Health (NIOSH) advises the government in the formulation of a national policy on OHS and on the working environment both of employers and employees; measures required for the prevention of accidents and injuries relating to occupations at work places; conduct, undertake and assist in investigations in the field of occupational safety and health; provide advisory services to any institution or person on the correct use of equipment, hazardous substances, physical, chemical or biological agents or products or any other hazards; increase awareness of and adherence to appropriate health and safety legislation; etc.<sup>36</sup>

### Labor Inspection

Sri Lanka does not have a written labour inspection policy. Inspection activities are regulated by departmental circulars under the responsibility of the Commissioner General of Labour. Broadly however, the DoL is responsible for enforcement of labour laws through its inspection services including with respect to working time, wages, employee provident fund, working conditions and the working environment (including occupational safety and health). The Labor Inspectorate functions are decentralized into 11 Zones, 36 District Offices and 17 Sub-District Offices. In all field offices, labour officers have responsibilities for labour inspection, conciliation as well as administration of the

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<sup>34</sup> This responsibility has been vested to the Industrial Safety Division under the Factories Ordinance Act No. 45 of 1942 (post amendment). The term "factory" under the Act means premises in which persons are employed in manual labour for the purpose of trade or gain in making, repairing, ornamenting, finishing, washing, cleaning or adopting for sale of any article.

<sup>35</sup> The other important activities that the Industrial Safety Division is responsible for includes: Advisory services for improvement of work environment in factories; Participation in national committees with regard to Safety & Health of work personal; Safety auditing of factories; Preparation of curriculum on Safety, Health & Welfare for educational institutions such as ICTAD, NAITA, NIBM and NIPM.

<sup>36</sup> [https://www.niosh.gov.lk/index.php?option=com\\_content&view=article&id=4&Itemid=124&lang=en](https://www.niosh.gov.lk/index.php?option=com_content&view=article&id=4&Itemid=124&lang=en)

Employees Provident Fund (EPF). Aside from their enforcement functions, labour inspectors are also involved in conciliation work and assist in the collection of contributions to the EPF.

Further, the Industrial Safety Division is decentralized through District Factory Inspecting Engineers' (DFIE) offices in several districts.<sup>37</sup> The District Factory Inspecting Engineers (DFIE) are responsible for enforcing the provisions under the Factory Ordinance Act No. 45 of 1942 (post amendment) within their areas of jurisdiction. For this purpose, each DFIE is assisted by a few Factory Inspecting Engineers. Each of them is expected to carry out 15 to 20 routine inspections a month. Beside this, they are also responsible for investigating fatal and serious accidents. In case of serious violations, especially leading to fatal accidents, the Inspectorate institutes legal action against the occupier of the factory.

### Judicial Bodies

#### *Office of the Commissioner of Workmen's Compensation*

The main function of this office is to inquire into the claims made by the workmen who meet with accidents in the course of their employment. This office functions entirely on a judicial capacity, with the Commissioner, Additional Commissioner and the Deputy Commissioner being full time Judicial Officers, and the office being vested with both District Court and Magisterial powers in enforcing its orders. The activities carried out by the Commissioner include: receipt of complaints claiming workmen's compensation; conducting inquiries in to the accepted applications for compensation and settlement of the problem either by obtaining the claim or by rejecting it; collection of compensatory payments from employers; and payment of compensation to disabled or diseased workmen or to the dependents of dead workmen.

#### *Labor Tribunals*

Labor Tribunals were established as per Part IV of the Industrial Disputes Act. The Tribunal is a judicial body that provides the principal legal forum for employees to take disputes relating to termination of their employment for adjudication. The judge of the Labor Tribunal is called the "president," and 'workman' as defined under the Section 48 of the Industrial Disputes Act or a trade union on her/his behalf, may submit an application to the Labor Tribunal. Recourse to the Labor Tribunal is not applicable to officers in the public service who usually resort to fundamental rights applications in respect of unjust or arbitrary treatment. In the instance the Tribunal finds that the employer had unjustifiably terminated the workman's services, the Tribunal can either issue an order of re-instatement of the worker or compensation.<sup>38</sup> However, the Tribunal will not normally order re-instatement where the employee's post was of a personal or confidential nature and the employer no longer desires to employ him/her.

### **g) COVID-Specific Policies, Regulations and Procedures**

In addition, there are several legislations relating to waste management, occupational health and safety, management of hospital facilities, that are relevant to the COVID-19 context and would also impact workers in specific activities. Some of these include:

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<sup>37</sup> Other districts include Anuradhapura, Badulla, Colombo, Galle, Gampaha, Jaffna, Kalutara, Kurunegala, and Ratnapura.

<sup>38</sup> The workman himself may indicate in his application whether he is seeking re-instatement or compensation.

- Occupational safety and health (OSH) is governed by
  - the Factories Ordinance No. 45 of 1942,
  - National Institute of Occupational Safety and Health Act, No. 38 of 2009 (b), and
  - The Workmen’s Compensation Ordinance No. 19 of 1934.
- Draft National Policy on health care waste management
- Draft National Guidelines on health care waste management
- National Code of Hygiene and Cold Code
- Hospital Infection Control Manual
- The National Environmental Act
- The Urban Development Authority Act No. 41 of 1978 and the Sri Lanka Land Reclamation & Development Corporation Act No. 15 of 1968
- Operational Guidelines On Preparedness And Response For Covid-19 Outbreak For Work Settings

Relevant details on these laws and regulations are provided in Chapter 3, including the extent to which they are up-to-date and capture good international industry practice (GIIP). In addition, Chapter 3 of the ESMF as well as the generic ESMP provided in Annex 9 of the ESMF, also makes reference to the applicable international conventions, and directives for addressing health and safety issues relevant to COVID-19.

## 5. Policies and Procedures for Management of Labor Issues Under the Project

This section sets out the mitigation measures that will be adopted by the project to address the risks mentioned in previous section, including those relating to responding to the specific risks to workers posed by COVID-19.

### a) Terms of Employment: Direct Workers

- All project staff will be provided with an employment contract as per the requirements of the relevant labor legislature/regulations mentioned in Section 4 of this LMP.
- All project staff employed for the purpose of the project will be above 18 years, even though the law provides provision to employ minors under certain circumstances. To prevent engagement of under-aged labor, all contracts, including those with the armed forces, will have contractual provisions to comply with the minimum age requirements including penalties for non-compliance. The contractor will be required to maintain labor registry of all contract workers with age verification.
- Maximum working hours for project staff will not exceed eight (08) hours a day and forty-five (45) hours a week, excluding intervals for rest or meals. Hours worked in excess of the normal hours of work will not exceed 12 hours a week and will entitle a worker to a proportionate increase in remuneration which is equal to at least 1.5 times the employee’s hourly wage
- Equal training opportunity will be available to all staff working in the project without discrimination, based on gender or otherwise, as specified in the Constitution of Sri Lanka. It is responsibility of the Project Director to ensure that such discrimination does not exist.
- Workday in Sri Lanka is eight hours excluding intervals for rest or meals (as per the SOEA Act).
- All staff will be entitled to 21 days' leave with pay for every year of continuous service; and 84 working days of paid maternity leave. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.

- Staff will be made aware of the avenues available to seek redress for any at the Ministry for victims of sexual harassment. Staff will be able to lodge complaints to the Ministry, established under Section 345 of the Penal Code and Bribery Act of 1956.
- Staff will be provided a pension contribution and deductions will be made from their salaries for their contribution in accordance with the Employees' Trust Fund Act No 15 of 1980.
- A daily subsistence allowance (DSA) will be provided to all project staff covering lodging, meals, gratuities and transport costs when travelling in field. The rate of DSA will be determined based on the rates at locations where project is implemented and will be revised based on changes to rates.
- Any foreign party employed by the project will have a valid work permit and a work visa while working in Sri Lanka.
- All staff will be made aware of GRM available for the staff as specified under this LMP.

To ensure enforcement of these aspects highlighted in the LMP, these provisions will be included in the employment contracts of all direct workers. If workers, particularly health care workers, are allowed (or required) to work longer hours than normal because of the COVID-19 emergency, this should be documented alongside measures taken to protect such workers (e.g. mandatory rest breaks).

#### b) Terms and Conditions: Contracted Workers

- List of workers to be utilized in relation to the project, with proof of employment will be required to be submitted to PMU by all investors/contractors.
- Construction work can only commence once the following conditions are met:
  - Toolbox training completed by all staff employed by the contractor
  - All the required Personal Protective Equipment are acquired by the contractor for all workers
- Any newly employed party by the contractor will be required to complete the toolbox prior to commencing any physical work.
- As per the provisions of the employment, all parties employed by any contracted party will be above 16 years of age. For those between 16 to 18 years of age, consent of the parent will be required as per the Employment Act. In addition, all other provisions of the act highlighted previously regarding employment of a minor will apply.
- All contractors and investors will be required to provide document evidence (passport, identity card or birth certificate) confirming age of employees to PMU prior to involving them on activities of the project. In addition, for minors consent of the parent will be provided in writing together with evidence of legal guardianship.
- Maximum working hours for staff will not exceed the maximum limit set in the employment act, i.e. 48 hours a week. To confirm this, monthly attendance and duty sheets need to be submitted to PMU during the construction phase.
- An internal transparent and accountable system will be established within the company to tackle issues of sexual harassment, physical and psychological harassment and workplace bullying. Details of this system will be shared with PMU prior to signing any contracts or agreements.
- The leave policy of the company will be shared and confirmed that it is in line with national laws and regulations.
- All foreign parties employed by all contractors/investors will have valid work permit. The work permit details will be shared with PMU.



- All vehicles used by any contractor/investor for the purpose of the project will have valid registration, insurance and road worthiness.
- All contracted staff will be made aware of grievance redress mechanism available for the staff specified under this LMP.

In terms of code of conduct, the 'Army Act (1949), Airforce Act (1950) and Navy Act (1950)' details the terms and conditions of employment and governs the conduct of armed forces in all settings either during combat or during involvement in civilian affairs. The Act enforces strict legal action / court martial for those accused of offences against property or persons. These include offences related to theft, misappropriation, willfully damaging property, causing any form of violence, criminal breaching of trust, etc

To ensure the enforcement of the provisions mentioned here for the contract workers by the contractor, the conditions highlighted here will be included in the contracts signed with all the contractors. If workers, particularly health care workers, are allowed (or required) to work longer hours than normal because of the COVID-19 emergency, this should be documented alongside measures taken to protect such workers (e.g. mandatory rest breaks).

#### c) Working Conditions and Living Arrangements: Direct Workers and Contracted Workers

- Entry and exit from site/workplace will be strictly controlled.
- A workstation with computer will be provided to all staff, at the project offices, including software essential for functioning of the assigned tasks.
- Separate male and female toilet facilities will be provided at all project offices, field/construction sites.
- Potable drinking water and handwashing facilities will be available at all project offices and field/construction sites.
- All provisions that are required under 'The Factories Ordinance' and 'National Institute of Occupational Safety and Health Act, No. 38 of 2009' will be strictly adhered to.
- Working environment will be clean, hygienic and safe
  - All project offices will be free of pests. Where pests are detected pest control measures will be taken immediately.
  - Fire detection and firefighting equipment will be available at all project offices.
  - Emergency evacuation plan will be established for all project offices and staff will be made aware of the plan and periodic simulation exercises that needs to be implemented.
  - Adequate safety signs will be installed at the work site giving clear direction. These will be provided in addition to English in the language of the workforce.
- Construction work site will be demarcated & fenced, and warning signs will be displayed both in English and Dhivehi.
- When procuring sea-vessels for travelling, in addition to cost, safety considerations will be given a priority, including the size of the vessels, and only sea-vessels that have lifejackets available, will be procured.
  - Some form of identification will be there identifying the staff belonging to project when attending meetings and sites.

- Work tasks will be rearranged or numbers of workers on the worksite will be reduced to allow social/physical distancing, or rotating workers through a 24-hour schedule
- Adequate PPE will be provided to workers, including:
  - Facemasks, gloves, etc., if possible, to prevent COVID-19 spread
  - Lifejackets to workers when travelling by sea.
  - Hard hats (through contractors, investors or project directly)
  - Enclosed shoes will be worn by all staff (safety shoes are preferable).
  - Safety harness will be provided (through contractors, investors or project directly) when climbing heights at project sites.
- Worker accommodation, if required and relevant, will have the following provisions:
  - Accommodation arrangements will be reviewed, to see if they are adequate and designed to reduce contact with the community
  - Male and Female workforce will be housed separately
  - Constant and reliable electricity supply will be made available. In addition, sufficient lighting and cooling systems will be established
  - Shower and toilet facilities will be available at the accommodation site. A minimum ratio of 01 toilet/shower per 20 workers will be maintained. Separate facilities will be provided for men and women.
  - Toilet and drainage will be connected to local sewer system, where not available septic tanks will be used for treatment prior to disposal.
  - Individual bedding will be provided to all workers.
  - Storage space for individual belongings will be provided for all workers.
  - Designated locations for waste disposal with clearly marked bins will be established. Bins will be emptied daily and the site will be cleaned daily.
  - Meals to the site will be prepared from a Health Protection Agency (HPA) certified facility (whether food is prepared on site or offsite)
  - Monthly inspection to determine pest infestation on the site will be carried out.

To ensure enforcement of these aspects highlighted in the LMP, these provisions will be included in the employment contracts of all direct workers. Further, to ensure the enforcement of the provisions mentioned here for the contract workers by the contractor, the conditions highlighted here will be included in the contracts signed with all the contractors.

#### d) COVID-19 specific Measures for Construction/civil works: All Workers

Contractors, including the security personnel, will develop specific procedures/plans so that adequate precautions are in place to prevent or minimize an outbreak of COVID-19, and it is clear what should be done if a worker gets sick. These will include:

- The characteristics of the workers will be assessed prior to engaging them in civil works, including those with underlying health issues or who may be otherwise at risk. This will be done by conducting pre-employment health checks.
- Assessment of whether the workers are fit for work will be confirmed by including temperature testing and refusing entry to sick workers

- Entry/exit to site or the workplace will be minimized, and measures will be put in place to limit contact between workers and the community/general public
- Contract duration of the existing/new workforce will be reviewed to reduce the frequency of workers entering/exiting the site
- Trainings for workers on hygiene and other preventative measures will be carried out, and a communication strategy for regular updates on COVID-19 related issues and the status of affected workers, will be carried out
- Treatment of workers who are or should be self-isolating and/or are displaying symptoms, will be immediately attended to
- Risks to continuity of supplies of medicine, water, fuel, food and PPE, taking into account international, national and local supply chains, will be assessed and measures will be taken accordingly to address the supply constraints
- Reduction, storage and disposal of medical waste, will be duly carried out taking into consideration workers' health and safety
- Adjustments will be made to work practices to reduce the number of workers and increase social distancing
- Access to health facilities on-site compared to usual levels, developing relationships with local health care facilities and organize for the treatment of sick workers, will be provided
- Access to psychosocial support based on the needs and availability of such services
- Worker accommodations will be provided further apart, or having one worker accommodation in a more isolated area, which may be easily converted to quarantine and treatment facilities, if needed, will be explored
- Procedure to follow if a worker becomes sick (following WHO guidelines), will be instituted and followed
- Communication strategy with the community, community leaders and local government in relation to COVID-19 issues on the site, will be followed.

#### e) Supporting health facilities: All workers

Plans/procedures that will apply to all workers associated with the project, including security ~~personnel~~ personnel, will be in place to address the following issues:

- The characteristics of the workers will be assessed prior to engaging them in healthcare works, including those with underlying health issues or who may be otherwise at risk. This will be done by conducting pre-employment health checks.
- Adequate supplies of medical PPE, including gowns, aprons, curtains; medical masks and respirators (N95 or FFP2); gloves (medical, and heavy duty for cleaners); eye protection (goggles or face screens); hand washing soap and sanitizer; and effective cleaning equipment, will be put in place. If relevant PPE cannot be obtained, viable alternatives, such as cloth masks, alcohol-based cleansers, hot water for cleaning and extra handwashing facilities, until such time as the supplies are available, will be considered
- Work tasks will be rearranged or numbers of workers on the worksite will be reduced to allow social/physical distancing, or rotating workers through a 24-hour schedule
- Alternatives to direct contact, like tele-medicine appointments and live stream of instructions, will be put in place.

- Training will be provided to medical staff on the latest WHO advice and recommendations on the specifics of COVID-19
- Enhanced cleaning arrangements, including thorough cleaning (using adequate disinfectant) of catering facilities/canteens/food/drink facilities, latrines/toilets/showers, common areas, including door handles, floors and all surfaces that are touched regularly, will be put in place
- Cleaning staff will be trained and provided with adequate PPE when cleaning consultation rooms and facilities used to treat infected patients
- Access to psychosocial support based on the needs and availability of such services
- Communication strategy/plan to support regular communication, accessible updates and clear messaging to health workers, regarding the spread of COVID-19 in nearby locations, the latest facts and statistics, and applicable procedures, will be implemented.

**While preparing the site specific plans involving labor, the following** guidance materials will be used:

- WHO COVID-19 interim guidance: For health workers rights, roles & responsibilities, including on OHS
- WHO IPC interim guidance: For guidance on infection prevention and control (IPC) strategies for use when COVID-19 is suspected
- WHO interim guidance on use of PPE for COVID-19: For rational use of PPE
- WHO guidance getting your workplace ready for COVID-19: For workplace-related advice
- WHO interim guidance: For guidance on water, sanitation and health care waste relevant to viruses, including COVID-19
- WHO Safe management of wastes from health-care activities: For guidance on management of medical waste
- OPERATIONAL GUIDELINES ON PREPAREDNESS AND RESPONSE FOR COVID-19 OUTBREAK FOR WORK SETTINGS (Interim Guidance 17th April 2020) published by the Directorate of Environmental and Occupational Health and Food Safety of the Ministry of Health and Indigenous Medical Services

## 6. Grievance Mechanism

Besides the grievance mechanism for the overall project, a separate GRM will be established for the project workers. Workers will be able to lodge their complaints relating to their work environment or conditions such as a lack of PPE, lack of proper procedures or unreasonable overtime, etc. to the Worker's GRM for which the focal person is the Social Specialist from the PMU.

### a) Workers' GRM

The mechanism for workers' GRM will be based on the following principles:

- Handling of grievances will be objective, prompt and responsive to the needs and concerns of the aggrieved workers.
- The process will be transparent and allow workers to express their concerns and file grievances.
- There will be no discrimination against those who express grievances.
- All grievances will be treated confidentially, and individuals who submit their comments or grievances may request that their name be kept confidential.

- Anonymous grievances will be considered, and anonymous grievances will be treated equally as other grievances, whose origin is known.

Management will treat grievances seriously and take timely and appropriate action in response. Information about the existence of the grievance mechanism will be readily available to all project workers (direct and contracted) through notice boards, the presence of “suggestion/complaint boxes”, websites, emails, and other means as needed. Different ways in which workers can submit their grievances will be allowed, such as submissions in person, by phone, text message, mail and email. Contract workers will be informed of the grievance mechanism at the induction session prior to the commencement of work, and the contact information of the GRM focal persons and the PMU will be shared with contract workers.

Further, considering that in the context of COVID-19, allowing workers to quickly report labor issues, and allowing the project to respond and take necessary action immediately, would be important. Thus, the grievance raised will be recorded and acknowledged within one day. While the timeframe for redress will depend on the nature of the grievance, health and safety concerns in work environment or any other urgent issues will be addressed immediately.

Where the grievance cannot be addressed within a reasonable timeframe, the aggrieved worker will be informed in writing, so that the worker can consider proceeding to the national appeal process through:

- Office of the Commissioner of Workmen's Compensation (<https://www.compensation.gov.lk/>) –inquiries into the claims made by the workmen who meet with accidents in the course of their employment.
- Industrial Courts - Department of Labour (<http://www.labourdept.gov.lk/>)- provides the principal legal forum for employees to take disputes relating to termination of their employment for adjudication

Grievances raised by workers will be recorded with the actions taken by each unit and/or the contractor. The summary of grievance cases will be reported to the PMU as part of contractor’s, healthcare facilities’, and other relevant parties’ periodic report. Where the aggrieved workers wish to escalate their issue or raise their concerns anonymously and/or to a person other than their immediate supervisor, the workers may raise their issue with the PMU.

#### b) Grievances related to Gender Based Violence (GBV).

To avoid the risk of stigmatization, exacerbation of the mental/psychological harm and potential reprisal, the grievance mechanism will have a different and sensitive approach to GBV related cases. The GRM committee will be trained on how to respond to GBV cases in a sensitive manner. Where such a case is reported, it would immediately be referred to the appropriate service providers, such as medical and psychological support, emergency accommodation, and any other necessary services. Prior to the start of the construction works, the GBV Service Providers will be mapped and identified in order to refer cases as required. Further, such GBV incidents will be immediately notified both to the PMU and the World Bank, with the consent of the survivor.

Data on GBV cases will not be collected through the grievance mechanism unless operators have been trained on the empathetic, non-judgmental and confidential collection of these complaints. Only the nature of the complaint (what the complainant says in her/his own words) and additional demographic data, such as age and gender, will be collected as usual.

c) GRM for Security Personnel

The Army, Navy and Airforce Acts will have their own Grievance Redress Mechanism. Where an officer is aggrieved by any action of, and is unsuccessful in obtaining redress from, his commanding officer, he may make a written appeal for redress to the Commander of the Forces, and where he is aggrieved by any action of the Commander of the Forces, either in respect of his appeal or in respect of any other matter, he may make a written appeal to the President. An order made by the President on any such appeal shall be final.

7. Contractor Management

This section sets out references to the contractual provisions and measures and procedures that will be put in place by contractors to manage and monitor relevant health and safety issues. Measures required of Contractors will include, as necessary and relevant:

- As part of the bidding/tendering process, specific requirements for certain types of contractors, and specific selection criteria (e.g. for medical waste management, certifications, previous experience)
- Provision of medical insurance covering treatment for COVID-19, sick pay for workers who either contract the virus or are required to self-isolate due to close contact with infected workers and payment in the event of death
- Specific procedures relating to the workplace and the conduct of the work (e.g. creating at least 6 feet between workers by staging/staggering work, limiting the number of workers present)
- Specific procedures and measures dealing with specific risks. For example, for health care contractors: infection prevention and control (IPC) strategies, health workers exposure risk assessment and management, developing an emergency response plan, per [WHO Guidelines](#)
- Appointing a COVID-19 focal point with responsibility for monitoring and reporting on COVID-19 issues, and liaising with other relevant parties
- Including contractual provisions and procedures for managing and monitoring the performance of contractors, in light of changes in circumstances prompted by COVID-19

8. Responsible Staff

This section identifies the functions and/or individuals within the project who will be responsible for managing different issues relating to project workers. Since the project is meant to respond specifically to COVID-19, there will be specialized staff for enhanced monitoring and supervision, to conduct training of workers in mitigating the spread of COVID-19 and to treat patients and workers infected with COVID-19.

Activity	Responsible staff/party
Engagement and management of project workers	Social Specialist, Environmental Specialist, Project Coordinator, Health Promotion Bureau
Occupational health and safety (OHS)	HCFs, quarantine centers, isolation units; Social Specialist, Environment Specialist, Project

	Coordinator, Directorate of Environment, Occupational Health and Food Safety
Monitoring, supervising, and reporting on health and safety issues relating to COVID-19 (COVID-19 focal point)	HCFs, Social Specialist, Environment Specialist, Monitoring and Evaluation Specialist. Communications Specialist
Engagement and management of contractors/subcontractors, including coordination and reporting arrangements between contractors	Procurement Specialist, Project Director, Project Coordinator, Medical Services Department (MSD), Directorate of Laboratory Services, Directorate of Disaster Management,
Training of workers, including raising awareness and training of workers in mitigating the spread of COVID-19	Social Specialist, Environment Specialist, Project Coordinator, Relevant Agency/consultancy (e.g., UNICEF, WHO, UNOPS), Communications Specialist, Health Promotion Bureau
Assessment, triaging and treatment of patients and/or workers infected with COVID-19	HCFs, PMU, National Epidemiology unit, Directorate of Quarantine services, Directorate of Laboratory Services
Addressing worker grievances	Social Specialist, PMU, Labor Tribunals, GRM with Tri-Forces