

L.D.B. 4/79

**THE EMPLOYEES' COUNCILS ACT, NO. 32
OF 1979**

[Gazette No. 244
of 06. 05. 1983.]

Order under section 2 (1)

By virtue of the powers vested in me by section 2 (1) of the Employee Councils Act, No 32 of 1979, 1, Cyril Pinto Jayatilake Seneviratne, Minister of Labour, do by this Order declare that the provisions of the aforesaid Act shall apply to every State undertakng belonging to the class or category of State undertakings specified in the schedule hereto.

C. P. J. Seneviratne,
Minister of Labour.

Colombo, April 19, 1983.

SCHEDULE

Every State undertaking employing not less than 100 but not exceeding 500 employees belonging to following categories:-

- (1) Mining and Quarrying,
- (2) Manufacturing,
- (3) Construction,
- (4) Electricity, Gas, Water and Sanitary Services,
- (5) Transport, Storage and Communication,
- (6) Wholesale and Retail Trade,
- (7) Banking and Insurance, and
- (8) Services.

[Gazette No. 40
of June 8, 1979.]

Employees' Councils Act, No. 32 of 1979

Order under section 1(2)

By virtue of the powers vested in me by section 1(2) of the Employees, Councils Act, No. 32 of 1979, I Cyril Pinto Jayatilake Seneviratne, Minister of Labour, do by this Order appoint June 15th, 1979, as the date on which all the provisions of the aforesaid Act shall come into operation.

C.P.J. Seneviratne,
Minister of Labour.

Colombo, 1st June, 1979.

THE EMPLOYEES' COUNCILS ACT,

[Gazette No.
51/19 August
30, 1979.]

No. 32 of 1979

RULES made by the Minister of Labour under section 12 of the Employees' Councils Act, No. 32 of 1979.

C. P. J. SENEVIRATNE.
Minister of Labour.

Colombo, 29th August, 1979.

Rules

1. These rules may be cited as the Employees' Councils Rules, 1979.

2. (1) For the purposes of the election of an Employees' Council in a specified undertaking:-

- (a) the Commissioner may appoint one Electoral Board for such undertaking or one Electoral Board for one or more than one branch or section of that undertaking. Each such undertaking, branch, section or more branches or sections of such undertaking in respect of which an Electoral Board is appointed by the Commissioner shall hereinafter be referred to as a "unit of undertaking";
- (b) the Electoral Board appointed by the Commissioner in respect of a unit of undertaking shall, within two weeks of the appointment of such Board, prepare a list of names of eligible employees, arranged in alphabetical order, separately in respect of each category of eligible employees employed in that unit of undertaking or in respect of each branch or section of such unit of undertaking, as may be determined by the Commissioner. Each such category of eligible employees or each such branch or section of a specified undertaking shall constitute a constituency and shall hereinafter be referred to as such;
- (c) eligible employees of a unit of undertaking shall be grouped under the following categories, namely:-
 - (i) clerical, and such related category of employees,
 - (ii) skilled and semi-skilled employees,
 - (iii) unskilled and other employees;
 - (iv) a combination of any two or more of the aforesaid categories.

(2) Where any question arises as to the classification of eligible employees under the categories referred to in

paragraph (1) the Electoral Board shall refer such question to the Commissioner whose decision thereon shall be final.

(3) Upon the completion of the preparation of the list of eligible employees in respect of a constituency as provided for in paragraph (1) the Electoral Board shall publish a notice, which shall be exhibited in the notice board and in other conspicuous places within the unit of undertaking, stating that such list has been prepared and is open for inspection during working hours at the office of the Electoral Board.

(4) The notice shall specify that :-

- (a) any eligible employee in any constituency whose name has not been included in the list of eligible employees prepared in respect of that constituency may make a claim in writing, within seven days of the publication of such notice, to the Electoral Board to have his name included in such list;
- (b) that any eligible employee in any constituency may make an objection in writing, within seven days of the publication of such notice, to the inclusion of the name of any employee in the list of eligible employees prepared in respect of that constituency.

(5) The Electoral Board shall, upon receipt of any claim or objection in pursuance of paragraph (4), refer such claim or objection together with the observations of the Electoral Board to the Commissioner whose decision thereon shall be final.

(6) Upon receipt of the decision of the Commissioner of Electoral Board shall forthwith convey such decision to the employee concerned and shall make such changes in the list of eligible employees as may be necessary.

(7) The list of eligible employees prepared by the Electoral Board in respect of any constituency under paragraph (1) shall, subject to such changes, if any, as may have been effected in pursuance of paragraph (6), be certified to be the list of eligible employees for that constituency for the purpose of the election of the Employees' Council of the unit of undertaking.

(8) The number of members to be elected in respect of each constituency shall be determined by the Commissioner in consultation with the Electoral Board.

(9) Within seven days of the certification of the lists of eligible employees the Electoral Board shall publish in the notice board of the unit of undertaking a notice containing:-

- (a) the name of each constituency;
- (b) the number of members to be elected from each constituency; and
- (c) the names of eligible employees who are eligible to vote in each such constituency.

3. The Electoral Board of a unit of undertaking shall publish in the notice board and in other conspicuous places within the unit of undertaking in respect of each constituency the name of the person nominated by the Electoral Board to conduct the election of members to the Employees' Council, (hereinafter referred to as the "Elections officer") for that constituency.

4. (1) For the purpose of electing members to the Employees' Council, the eligible employees of each constituency may organize themselves into one or more than one employee group:

Provided that each such group shall consist of a number of eligible employees not less than the number of members to be elected to the Employees' Council from that constituency (hereinafter referred to as the "minimum number"):

Provided further that no eligible employee shall stand for election unless he is a member of an employee group recognised in terms of paragraph (2) of rule 5.

(2) No eligible employee shall be a member of more than one employee group.

(3) No eligible employee of one constituency shall be a member of an employee group of any other constituency.

(4) Each employee group shall have a leader (hereinafter referred to as the "group leader") who shall be elected by employees of such group.

5. (1) The group leader of each employee group shall, not later than three days after date of the publication of the names of, and the number of, members to be elected from each constituency and the names of eligible employees, submit under his hand to the Electoral Board an application substantially in the form set out in the First Schedule to these rules, seeking the recognition of that employee group.

(2) For the purposes of these rules every employee group organized under paragraph (1) of rule 4 and satisfying each of the following conditions, namely:-

- (a) that it consists of a number of eligible employees not less than the minimum number;
- (b) that it has a group leader in paragraph (4) of rule 4, shall be deemed to be a recognized employee group and shall hereinafter be referred to as such.

(3) Within three days of the receipt of an application under paragraph (1), the Electoral Board shall convey in writing to the Group Leader of the employee group in respect of which such application was made, whether or not such group has been recognized as an employee group under paragraph (2). And where an employee group has not been so recognized the Electoral Board shall also convey in writing to the group leader of the employee group the reason or reasons, why such group was not so recognized.

(4) Any question as to whether an employee group should be recognized or not shall be referred to the Commissioner whose decision thereon shall be final.

6. (1) The election officer shall, by notice displayed at the office and in other conspicuous places in the unit of undertaking, call for nominations for election to the Employees' Council of such unit of undertaking. Such nominations shall be given during office hours within a period of *seven days commencing from the date of exhibition of such notice. The notice shall also specify the place for receiving nomination papers.

(2) A separate nomination paper shall be given in respect of each constituency.

(3) Each candidate whose name has been included in the nomination paper shall be an eligible employee of the constituency in respect of which nomination paper is given.

(4) No eligible employee shall be nominated by more than one recognized employee group.

(5) The group leader of each recognized employee group shall submit under his hand to the elections officer, on any day within the period referred to in paragraph (1) for the receipt of nominations in respect of that constituency, one nomination paper substantially in the form set out in the Second Schedule to these rules. Such nomination paper shall specify the names of candidates arranged in order of priority who are being nominated by such recognized employee group, so however that the total number of candidates so nominated shall be equal to the number of members to be elected to the Employees' Councils from that constituency.

(6) The written consent of each candidate nominated by a recognized employee group shall be endorsed on the nomination paper.

(7) Each nomination paper shall be signed by the group leader.

(8) The elections officer of a constituency of a unit of undertaking shall, on application made at any date after the publication of the notice under paragraph (1) and before the expiry of the nomination period for the Employees' Council of that unit of undertaking supply, free of charge, a nomination paper in the form set out in the Second Schedule to these rules to any recognized employee group, but nothing in this rule shall be deemed to preclude the use of any form of nomination paper not supplied by the elections officer, so long as such form does not differ substantially from the form set out in that Schedule.

7. (1) The elections officer shall immediately after the expiry of the nomination period, examine, after giving notice thereof to the group leaders, the nomination papers received by him and reject any nomination paper:-

* See Gazette No. 69/12 of 4. 1. 1980

- (a) that has not been delivered in accordance with the provisions of paragraph (6) of rule 6, or
- (b) where it does not contain the total number of candidates required to be nominated under paragraph (5) of rule 6, or
- (c) where the signature of the group leader does not appear thereon.

(2) Where any nomination paper has been rejected by the elections officer under paragraph (1), the elections officer shall inform the group leader who had submitted such nomination paper the fact of such rejection. The decision of the elections officer to reject such nomination paper shall be final.

8. Where, in the case of any Employees' Council for a specified undertaking or in the case of any constituency, the election officer finds at the expiry of the the nomination period:-

- (a) that no nomination paper has been duly received; or
 - (b) that all the nomination papers received by him have been rejected,
- the elections officer shall take steps to publish a fresh notice prescribing a nomination period for such Employees' Council or such constituency, as the case may be.

9. (1) Where in the case of any Employees' Council or in the case of any constituency, as the case may be:-

- (a) not more than one nomination paper has been submitted ; or
- (b) after the rejection of a nomination paper or papers the candidates of only one recognized employee group stand nominated for election,

then the candidates in the order in which their names appear in such nomination paper equivalent to the number of members to be elected to the employees' Council or to any constituency, shall be declared elected as members.

(2) The Electoral Board shall forthwith cause a notice of the results to be published in the notice board and in other conspicuous places within the unit of undertaking.

(3) If at the expiry of the nomination period, candidates of more than one recognized employee group stand duly nominated, the elections officer shall allot in respect of each employee group whose nomination paper has been accepted, a distinguishing number (hereinafter referred to as the "group number") and a symbol (not being a symbol of any political party or trade union or religious group, or a symbol associated with any political party or trade union or religious group) determined:-

- (a) in the first instance by agreement among the group leaders ; or

- (b) in the absence of such agreement by draw of lots cast or drawn in such manner as the elections officer may, in his absolute discretion, determine:

Provided, however, that in any case where the group leader of any recognized employee group is not present, the elections officer shall allot a group number and a symbol of his choice to that employee group.

10. Where two or more than two nomination papers have been accepted in respect of any Employees Council or any constituency, the Electoral Board shall publish, within the unit of undertaking:-

- (a) the group number of each recognized employee group whose nomination paper has been accepted,
- (b) the names of candidates arranged in order of priority nominated by each such recognized employee group ; and
- (c) the symbol allotted to each recognized employee group.

11. The Electoral Board shall fix in respect of each constituency a date, time and place for the election of members from the constituency to the Employees' Council. Such date shall be a date falling on a working day which is not less than *seven days or not more than forty-two days of the date on which nominations closed in respect of that constituency, and wherever possible, the date fixed for election for each constituency of the Employees' Council shall be the same.

12. The Electoral Board shall make arrangements with regard to the issue of stores, stationery, ballot papers, and other requirements if any for the conduct of the polls.

13. (1) The elections officer shall conduct the election by secret ballot on the date fixed for that purpose in terms of rule 11.

(2) Each eligible employee shall be entitled to only one vote.

(3) Every ballot paper shall contain the group number of the recognized employee groups arranged in chronological order and with the symbol allotted to each such group set out against the name of each group.

(4) As soon as practicable after the close of the poll, the elections officer shall arrange for the counting of votes. Every group leader and another person nominated by him shall be entitled to be present at the count of votes.

(5) Upon the completion of the counting at any polling station, the elections officer shall seal up in separate packets the counted and rejected ballot papers.

(6) The election officer shall deliver the packets referred to in paragraph (5) of rule 13 to the Electoral Board together with the unused and spoilt ballot papers placed

* See Gazette No. 69/12 of 4. 1. 1980

together, the marked copies of the list of eligible members of the constituency, and the counterfoils of the ballot papers, the written statement of the number of votes given to each recognized employee group and the record to the count.

(7) The Electoral Board shall retain the packets of ballot papers and all documents forwarded to it in terms of paragraph (6) of rule 13 for a period of not less than thirty days, or until election petitions of any, made in respect of the constituency to which such packets and documents relate are disposed of by the Commissioner, whichever is the later date and thereafter cause the said packets and documents to be destroyed.

(8) After the receipt of the documents referred to in paragraph (6), the Electoral Board shall determine in the manner hereinafter provided the candidates to be declared elected as members of the Employees' Council from each constituency. The Electoral Board shall forthwith cause the names of the candidates elected as members to be published in the notice board and in other conspicuous places within the unit of undertaking.

14. (1) The candidates whose name appears first in the nomination paper of the recognized employee group which polls the highest number of votes shall be declared elected.

(2) Where an equality is found to exist between the votes polled by two eligible employee groups, and the addition of a vote would entitle the candidate of one such group to be declared elected under the preceding paragraph, the determination of the group to which such additional vote shall be deemed to have been given shall be by lot. The group so determined shall be deemed to be the group which polled the highest number of votes and the remaining group shall be deemed to be the group which polled the next highest number of votes.

15. (1) The total number of votes polled in respect of any constituency shall be divided by the number of members to be elected from that constituency, reduced by one. If the number resulting from such division is an integer that integer, or if that number is integer and a fraction, the integer immediately highest to that integer and fraction, is hereinafter referred to as the "resulting number".

(2) Beginning with the group which polled the highest number of votes in that constituency, the number of votes polled by each group shall then be divided by the resulting number. The whole number resulting from such division shall be the number of candidates, excluding the candidate declared elected under paragraph (1) rule 14, who shall be declared elected from each such group in the order in which their names appear in the nomination paper. The remainder of the votes, if any, after such division, shall be dealt with under the following paragraphs.

(3) Where after the declaration of the election of members as provided in the preceding paragraphs, there are one or more members yet to be declared elected, such

member or number of members shall be declared elected by reference to the remainder of the votes referred to in that paragraph to the credit of each group after the declaration made under that paragraph and the votes polled by any group not having any of its candidates declared elected under that paragraph, the candidate next in the order of priority in the nomination paper of the group having the highest of such votes being declared elected the next member and so on, until all members to be elected for that constituency are declared elected.

(4) Where the number of votes polled by each group is less than the resulting number the group which has polled the highest number of votes shall be entitled to have the candidate whose name appears first in the nomination paper of that group, excluding the candidate declared elected under paragraph (1) of rule 14, declared elected. If there are one or more members yet to be elected, the group having the next highest number of votes polled shall be entitled to have the member whose name appears first in the nomination paper of that group to be declared elected, and so on, until all the members to be elected for that constituency are declared elected, under the provisions of this paragraph.

(5) If after the determination under the preceding paragraph is made there are one or more members yet to be declared elected in respect of that constituency the provisions of that paragraph shall, *mutatis mutandis*, apply to and in relation to the election of such members.

(6) Where under paragraphs (3), (4), or (5) an equality is found to exist between the votes polled by two or more groups, and the addition of a vote would entitle the candidate of one such group to be elected the determination of the group to which such additional vote shall be deemed to have been given, shall be by lot.

(7) For the purpose of this rule, the total number of votes polled in relation to any constituency means the number of votes counted other than the rejected votes.

(8) Immediately after the members of the Employees' Council are declared elected, the Electoral Board shall forthwith cause a notice of the results to be published in the notice board and in other conspicuous places within the unit of undertaking.

16. Any question regarding the interpretation of these rules shall be referred to the Commissioner whose decision thereon shall be final.

17. In these rules:

"Commissioner" shall have the same meaning as Liu the Employees' Councils Act, No. 32 of 1979;

"Employees' Councils" means Employees' Council established under the provisions of the "Employees' Councils Act, No. 32 of 1979;

"eligible employee" shall have the same meaning as in the Employees' Councils Act, No. 32 of 1979;

