LABOUR MANAGEMENT PROCEDURE (LMP)

KANDY MULTIMODAL TRANSPORT TERMINAL (KMTT) PROJECT

Ministry of Urban Development, Water Supply and Housing Facilities

February 2019
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>CEB</td>
<td>Ceylon Electricity Board</td>
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<tr>
<td>CPPTSA</td>
<td>Central Province Passenger Transport Services Authority</td>
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<td>DFIE</td>
<td>District Factory Inspecting Engineer</td>
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<td>DoL</td>
<td>Department of Labor</td>
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<tr>
<td>EFC</td>
<td>Employers’ Federation of Ceylon</td>
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<td>EPF</td>
<td>Employees’ Provident Fund</td>
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<tr>
<td>ESF</td>
<td>Environmental and Social Framework</td>
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<td>EHSGs</td>
<td>Environmental Health and Safety Guidelines</td>
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<td>ESMP</td>
<td>Environmental and Social Management Plan</td>
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<td>ESS</td>
<td>Environmental and Social Standards</td>
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<td>ETF</td>
<td>Employees’ Trust Fund</td>
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<tr>
<td>EWYPSC</td>
<td>Employment of Women, Young People and Children Act</td>
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<tr>
<td>GBV</td>
<td>Gender Based Violence</td>
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<tr>
<td>GSBS</td>
<td>Good Shed Bus Stand</td>
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<td>ILO</td>
<td>International Labor Organization</td>
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<td>KMC</td>
<td>Kandy Municipal Council</td>
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<td>KMTT</td>
<td>Kandy Multimodal Transport Terminal</td>
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<tr>
<td>LMP</td>
<td>Labor Management Procedure</td>
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<tr>
<td>NIC</td>
<td>National Identity Card</td>
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<tr>
<td>NLAC</td>
<td>National Labor Advisory Council</td>
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<td>OHS</td>
<td>Occupational Health and Safety</td>
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<td>PDO</td>
<td>Project Development Objective</td>
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<td>PMU</td>
<td>Project Management Unit</td>
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<td>RDA</td>
<td>Road Development Authority</td>
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<tr>
<td>SBD</td>
<td>Standard Bidding Documents</td>
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<tr>
<td>SEA</td>
<td>Sexual Exploitation and Abuse</td>
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<tr>
<td>SH</td>
<td>Sexual Harassment</td>
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<tr>
<td>SLR</td>
<td>Sri Lanka Railways</td>
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<tr>
<td>SOEA</td>
<td>Shop and Office Employees Act</td>
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<tr>
<td>SLTB</td>
<td>Sri Lanka Transport Board</td>
</tr>
<tr>
<td>TA</td>
<td>Technical Assistance</td>
</tr>
<tr>
<td>ToD</td>
<td>Transit oriented Development</td>
</tr>
<tr>
<td>WB</td>
<td>World Bank</td>
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<td>WBG</td>
<td>World Bank Group</td>
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</tbody>
</table>
Table of Contents

1. Introduction ..................................................................................................................... 6
   1.1 Project Description...................................................................................................... 6
   1.2 Labor Management Procedures ............................................................................... 7
2. Overview of Labor Use under KMTT ........................................................................... 8
   2.1 Direct Workers ......................................................................................................... 8
      2.1.1 Project Management Unit (PMU) ........................................................................ 8
      2.1.2 Engineering and Supervision Consultant .......................................................... 8
   2.2 Contract Workers ..................................................................................................... 8
      2.2.1 Skilled Staff of the Primary Contractor (Construction Company) ..................... 9
      2.2.2 Skilled Workers Engaged by Sub-contractors ......................................................... 9
      2.2.3 Unskilled Community Members Engaged by the Contractor ............................. 9
   2.3 Primary Supply Workers .......................................................................................... 9
   2.4 Community Workers ............................................................................................... 9
   2.5 Other Stakeholders in Connection with the Project .................................................. 10
      2.5.1 Government civil servants .................................................................................. 10
3. Assessment of Key Potential Labor Risks .................................................................... 11
   3.1 Project Activities ....................................................................................................... 11
   3.2 Key Labor Risks ....................................................................................................... 11
      3.2.1 Occupational Health and Safety (OHS) ................................................................. 11
      3.2.2 Child labor .......................................................................................................... 12
      3.2.3 Forced labor ......................................................................................................... 12
      3.2.4 Labor Influx .......................................................................................................... 13
      3.2.5 Labor Disputes Over Terms and Conditions of Employment ......................... 13
      3.2.6 Discrimination and Exclusion of Vulnerable/Disadvantaged Groups .............. 13
4. Brief Overview of Labor Legislation ............................................................................ 15
   4.1 National Regulations ............................................................................................... 15
   4.2 ILO Conventions Ratified by Sri Lanka .................................................................... 16
   4.3 Basic Labor Standards in Sri Lanka .......................................................................... 17
      4.3.1 Terms and Conditions ......................................................................................... 17
      4.3.2 Occupational Health and Safety .......................................................................... 22
      4.3.3 Non-discrimination and Equal Opportunities ...................................................... 24
      4.3.4 Child Labor .......................................................................................................... 24
4.3.5 Forced Labor ........................................................................................................... 25
4.4 Workers’ and Employers’ Organization ................................................................. 26
4.5 GBV and Sexual Harassment at Workplace ......................................................... 26
  5.1 General Roles and Responsibilities ............................................................... 28
  5.2 Labor Inspection ............................................................................................. 29
  5.3 Judicial Bodies ................................................................................................. 29
6. Responsible Staff .................................................................................................. 31
  6.1 Project Management Units ............................................................................. 31
  6.2 Engineering and Supervision Consultant ..................................................... 31
  6.3 Contractor(s) .................................................................................................. 32
  6.4 KMTT Steering Committee ............................................................................. 32
7. Labor Policies and Procedures for KMTT ............................................................... 34
  7.1 Policies and Procedures for Addressing Key Labor Risks ................................ 34
    7.1.1 Occupational health and safety ............................................................... 34
    7.1.2 Child labor ............................................................................................... 34
    7.1.3 Labor influx ............................................................................................. 34
    7.1.4 Labor disputes over terms and conditions of employment ..................... 34
    7.1.5 Discrimination and exclusion of vulnerable/disadvantaged groups ......... 35
    7.1.6 Security Risks ........................................................................................ 35
  7.2 Monitoring and Reporting ............................................................................... 35
  7.3 Fatality and serious incidents ......................................................................... 35
8. Age of Employment .............................................................................................. 38
  8.1 Age limitation for hazardous work .................................................................. 38
  8.2 Minimum age for project workers ................................................................... 38
  8.3 Process of age verification ............................................................................... 39
  8.4 Responsible remedial measures ....................................................................... 39
9. Terms and Conditions .......................................................................................... 40
  9.1 Types of Workers ............................................................................................. 40
    9.1.1 Direct workers .......................................................................................... 40
    9.1.2 Contract workers ..................................................................................... 40
  9.2 Employment Terms and Conditions ................................................................. 40
    9.2.1 Provision of written individual contract of employment ......................... 40
    9.2.2 Notice for termination of contract ............................................................ 40
9.2.3 Minimum wages

9.2.4 Hours of work

9.3 Leave and Rest Period

9.3.1 Rest per week

9.3.2 Annual leave

9.3.3 Maternity leave

9.4 Other issues related to terms and conditions

9.4.1 Deductions from remuneration

9.4.2 Medical treatment of injured and sick workers

9.4.3 Collective Agreements

10. Grievance Redress Mechanism

10.1 General principles

10.2 Direct workers

10.3 Contract workers

10.4 National appeal process

10.5 Grievances related to Gender Based Violence (GBV)

11. Contractor Management

11.1 Selection of Contractors

11.2 Contractual Provisions and Non-Compliance Remedies

11.3 Performance Monitoring

12. Primary Supply Workers

12.1 Potential risks in primary supply workers

12.2 Selection of primary suppliers

12.3 Remedial process

ANNEX I: Guideline on Code of Conduct

ANNEX 2: Assessment of Labor Requirements for KMTT
1. **Introduction**

1. According to a study carried out by the World Bank in 2015\(^1\), nearly 389,000 commuters enter into the Kandy city in the Central Province of Sri Lanka on a typical weekday through different modes of transport for various purposes (e.g., 27 percent for employment, 19 percent for education, etc). Around 50 percent of the commuters (209,000) use public bus transport to enter the city through approximately 5,000 bus trips daily. The high volumes of bus and passenger flows into the city has resulted in significant levels of congestion in the heart of the city during peak hours, leading to inefficiency and loss of productivity. In this regard, the proposed Kandy Multimodal Transport Terminal Project (KMTT) has the potential to significantly improve the economic contribution of the Kandy region by improving efficiency of its transport system, improving productivity of the commuters and operators, and increase the region’s attractiveness as a tourist destination. Improved accessibility and connectivity through the project will also provide more opportunities and access to economic and social activities of the city, thereby promoting inclusiveness among its citizens.\(^2\)

2. It is envisaged that the new transport terminal, once built, will contribute towards the goal of relieving traffic congestion in the World-Heritage City of Kandy by relocating the dispersed and poorly coordinated services provided by three separate bus stands in Kandy (GSBS, Clock Tower and Torrington) and an idle bus parking facility in Bogambara in a centralized multistoried structure specially designed for the purpose of this project. The project is also expected to result in improved coordination and efficient management of all public transport services under a new management system to be installed in KMTT for the purpose of orderly restructuring of all public transport operations in Kandy in ways that reduce traffic congestion, waiting time of commuters, enhance the quality of services provided to commuters and eventually the use of public transport by 300,000 or more people moving into and out of Kandy for work, education, pilgrimage, tourism and securing health and other services on a daily basis.

1.1 **Project Description**

3. The Project Development Objective (PDO) of the KMTT Project is to enhance accessibility, efficiency, and safety of public transport of Kandy city by constructing the Kandy Multimodal Transport Terminal (KMTT). The terminal is expected to integrate bus, rail and some para modes of transport (e.g. three-wheelers) and pedestrian commuters in the Kandy city. The project has the following three components:

**Component 1: Development of Kandy Multi Modal Transport Terminal (KMTT):**

4. This component will finance the construction of the multimodal-terminal at the existing Good Shed Bus Station (GSBS) in Kandy which include the following civil works.

- Construction of the main structure of the KMTT with three floors and the required facilities to facilitate the bus operations and services

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\(^1\) Public Transport Design & Operations Management Plan & Strategic Traffic Demand Management & Design Plan for Kandy

\(^2\) World Bank (2019) – Concept Note on a proposed Credit in the Amount of 70 (US$M) to Democratic Socialist Republic of Sri Lanka for Kandy Multimodal Transport Terminal Development Project
- Construction of a 150 m long Skywalk starting from Old Peradeniya Road to William Gopallawa Road while connecting the access to the Kandy General Hospital, and Railway Station and leading to the KMTT

- Construction of a public space on top of the terminal for the convenience and benefit of commuters

- Construction of parking facilities besides the KMTT for long-distance buses, three-wheeler taxis and private cars and vans.

Component 2 – Urban integration and road safety improvements around KMTT

5. This component will include two sub-components including:

- Sub-component 1: Technical assistance to identify safer and better pedestrian circulation and access to railway station which will: (i) identify improvements for pedestrian circulation around the KMTT; (ii) identify possibilities for Transit-oriented-Development (ToD) to make the terminal area a compact, mixed-use, pedestrian-friendly development organized around the terminal, embracing the idea of locating amenities, employment, retail shops, and housing around transit hubs that promotes transit usage and non-motorized travel.

- Sub-component 2: Road Safety Improvement (Enforcement and Education) to comprehensively address safety from three major angles: (i) engineering design to inform safe road and walkway design especially for vulnerable groups in the area around the railway station; (ii) enforcement, legal and policy aspects; and (iii) education/campaign to the public.

Component 3: Institutional strengthening and capacity building

6. This is an umbrella TA component which will address a broad range of capacity building issues for the overall management of the terminal, including adaptation to new ESF framework, gender and personal safety aspects, and climate hazard prevention/adaption.

1.2 Labor Management Procedures

7. Under the World Bank’s Environmental and Social Standard 2 (ESS2: Labor and Working Conditions), the Borrower is required to develop labor management procedures (LMP). The purpose of the LMP is to identify the main labor requirements and risks associated with the project and help the Borrower to determine the resources necessary to address project-related labor issues. The LMP will enable different project-related parties, for example, staff of the project management unit, contractors and sub-contractors and project workers, to have a clear understanding of what is required on a specific labor issue. The LMP is a living document, which is initiated early in project preparation, and is reviewed and updated throughout development and implementation of the project.
2. Overview of Labor Use under KMTT

8. While the exact labor use in KMTT will be determined during the implementation stage (including the number, characteristics and timing of labor requirements), below is an overview and a summary table (Table 1) of anticipated project workers in KMTT based on the preliminary design for the project.

2.1 Direct Workers

2.1.1 Project Management Unit (PMU)

9. The PMU for KMTT will be responsible for the management and supervision of overall implementation of KMTT, including construction work by the contractor(s). The PMU will require staffs in specific technical areas with sufficient expertise to manage the overall implementation of KMTT. Accordingly, the PMU will engage approximately twenty-one to thirty (21-30) staffs with expertise in project management and coordination, financial management, procurement, engineering, environmental/social management, monitoring and evaluation, among other supporting staff. The timing of labor requirements for the PMU is from the project preparation to the completion of the project.

2.1.2 Engineering and Supervision Consultant

10. An engineering and construction supervision consultant (national/international firm) will be engaged by the PMU to provide day-to-day construction oversight for the civil works. The engineering and supervision consultant team will consist of approximately six (6) international and thirty-three (33) national experts depending on the requirements of different construction stages. These will include a team leader, geo-technical engineer, structural engineer, architects, CAD draftsman, environment and social expert, health and safety expert, etc. The procurement process for the consultant team will start during project preparation and the consultant will be on board in the early stage of project implementation, though the number of team members is expected to reduce towards the end of project implementation phase. The engineering and supervision consultant will support the PMU until the completion of the civil works.

2.2 Contract Workers

11. It is not yet clear at this stage if the Project will award a single contract for the full construction package for KMTT or a number of contracts, as this will largely be determined by the allocation of funds for each subcomponent of the Project and final scope of the civil works. As of now, the construction of KMTT is envisaged to be a design-and-build contract which will be awarded to one Contractor. Depending on the specific requirements of the project, sub-contractors will be employed by the main Contractor. As per the method of construction, the resource requirement will be defined and human resources input will be estimated in order to cost the proposal.

12. Based on the estimates from the preliminary design of the KMTT, at the design stage, the contractor will engage approximately 19 individuals, comprising Team Leader (Design), Senior Engineer for piling, Geotechnical Engineer, structural engineers, mechanical engineers, architects, electrical engineers and CAD draftsmen. The time requirement for the design stage is approximately nine months. Likewise, during construction stage, a team comprising a Project Manager, structural engineers, quantity surveyors, architects, landscape experts, health and safety expert, environment and social expert, machine operators, drivers and other categories of skilled and unskilled laborers totaling
to a minimum of 40 and a maximum of 235 individuals will be engaged for a period of approximately 4 years. The following include the different categories of anticipated contract workers:

2.2.1 Skilled Staff of the Primary Contractor (Construction Company)

13. The project will engage several permanent technical staff of the primary contractor for the construction of KMTT, including project managers, project engineers, environmental engineers, construction foreman, medical officer, health and safety expert, administration and finance officer. Further, for the utility diversion, a separate contractor will be engaged. While staff for the main KMTT building is most likely the national staff, they may include international experts from outside Sri Lanka. The permanent staff may also include female officers (such as engineers, safety officers, store-keepers, and supporting staff).

2.2.2 Skilled Workers Engaged by Sub-contractors

14. Depending on the available expertise within the primary contractor and other factors, the contractor may engage sub-contractors for specialized technical work such as design of main building, piling works, internal and external finishing of the main building, canal diversion, etc. This would involve workers such as Structural engineers, Geotechnical engineers, Water works engineers, Utility engineers, heavy and light vehicle drivers, store keepers, etc. The contractor may engage such subcontractors locally, nationally or even from the other countries in the region.

2.2.3 Unskilled Community Members Engaged by the Contractor

15. The project is designed to maximize the employment generation at the local level by engaging community members as unskilled workers. To ensure equal opportunities in employment, the contractor will be contractually required to coordinate with the PMU to prioritize the host communities and vulnerable groups in the engagement of such workers, including members of female headed households, persons with disabilities, unemployed youth, etc. Under the various project components, the work assigned for unskilled female workers may include community engagement, traffic management, sand spreading, hand compacting, external landscaping works, and daily site cleaning and rubbish removal. The use of brokers or intermediaries to source unskilled workers is also likely.

2.3 Primary Supply Workers

16. The construction of KMTT and related works will require primary supplies essential for the functions of the infrastructure, such as aggregates, bitumen, pre-cast concrete interlocking blocks, and other construction materials. Where the contractor will source such materials directly from primary suppliers on an ongoing basis, the workers engaged by such primary suppliers are deemed ‘primary supply workers,’ as defined in ESS2. The number and type of primary suppliers will be determined at project implementation stage. The timing of labor use of primary supply workers will cover the construction stage of the project (see Section 12 for more details on primary supply workers).

2.4 Community Workers

17. The project will not engage community workers as defined under ESS2. The community members to be engaged by the contractor will be categorized and managed as “contract workers”.
### Table 1: Overview of Indicative Labor Use in KMTT

<table>
<thead>
<tr>
<th>Type of project workers</th>
<th>Characteristics of project workers</th>
<th>Timing of labor requirements</th>
<th>Indicative number of workers</th>
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</thead>
<tbody>
<tr>
<td><strong>Direct workers</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- PMU consultants</td>
<td>PMU Consultants: Nationals</td>
<td>PMU: From project preparation until project completion</td>
<td>Total: 27-63 workers</td>
</tr>
<tr>
<td>- Engineering and supervising consultants</td>
<td>Engineering Consultants: International and national experts</td>
<td>Engineering Consultants: From design stage until project completion</td>
<td>PMU: 21 to 30 workers</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Engineering Consultants: 6 to 33 workers</td>
</tr>
<tr>
<td><strong>Contract workers</strong></td>
<td></td>
<td>Timing of labor requirement will vary, dependent on construction stages, which will be determined by individual contractors at the contract award stage.</td>
<td>Total: 60-235 workers</td>
</tr>
<tr>
<td>- Skilled workers engaged by primary contractor</td>
<td>Skilled workers of the primary contractor: Mostly national permanent technical staff</td>
<td>Design stage: 19 workers</td>
<td>Design stage: 19 workers</td>
</tr>
<tr>
<td>- Skilled workers engaged by subcontractors</td>
<td>Skilled workers engaged by the subcontractor: national and/or international operators of heavy machines</td>
<td>Construction stage: 40 to 235 workers</td>
<td>Construction stage: 40 to 235 workers</td>
</tr>
<tr>
<td>- Unskilled workers</td>
<td>Unskilled workers: Local host community members</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Primary supply workers</strong></td>
<td></td>
<td>The construction stage of the project</td>
<td>Primary supply workers will be identified during the project implementation stage</td>
</tr>
<tr>
<td>- Workers engaged by primary suppliers (e.g., quarry sites)</td>
<td>They are most likely to be local workers</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Community workers</strong></td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

### 2.5 Other Stakeholders in Connection with the Project

18. Stakeholders working in connection with KMTT other than the above-mentioned project workers will include the following.

2.5.1 Government officials

19. Some central and provincial government officials will be working in connection with KMTT, which will include Sri Lanka Railways (SLR), Road Development Authority (RDA), Provincial RDA, Ceylon Electricity Board (CEB), Sri Lanka Telcom, Central Province Passenger Transport Services Authority (CPPTSA), Sri Lanka Transport Board (SLTB), Kandy Municipal Council (KMC), and district police; the district police will provide security services to project sites. They will remain subject to the terms and conditions of their existing public sector employment, which are governed by Sri Lanka’s Constitution; the powers vested in the Public Service in terms of the appointment, promotion, transfer, disciplinary control and dismissal of the public officers, including the Police officers; and the different Management Services Circulars, Public Service Commission (PSC) Circulars, the Government Gazette notifications/announcements. There will be no legal transfer of their employment or engagement to the project. The laws and regulations in Sri Lanka prohibit child labor and forced labor. Further, a majority of the government officials involved in KMTT are not expected to be exposed to OHS risks under the project as they will not engage in project-related civil works. Only those who will be released for technical work on the project may be exposed to OHS risks as they may get directly involved in supervision of the KMTT.

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3 Government officials are at times also referred to as ‘civil servants’.
3. Assessment of Key Potential Labor Risks

3.1 Project Activities

20. Project activities that are relevant under ESS2 and the type of workers likely to be engaged, are provided in Table 2 below.

<table>
<thead>
<tr>
<th>Component</th>
<th>Project Activities</th>
<th>Category of workers</th>
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<tbody>
<tr>
<td>Component 1</td>
<td>Construction of the main structure of the KMTT with all required services to facilitate the volume of commuters, bus services and transport terminal facilities, distributed in three floors. Also included under the construction of the terminal will be diversion of Meda Ela, the urban storm water drainage canal which runs across the proposed site.</td>
<td>Direct workers, Contract workers, Primary supply workers</td>
</tr>
<tr>
<td>Component 1</td>
<td>Construction of a 150m long Skywalk stretching from old Peradeniya Road to William Gopallawa Road &amp; the adjoining Kandy Teaching Hospital, allowing pedestrians to move safely between the important points of railway station, hospital and KMTT.</td>
<td>Direct workers, Contract workers, Primary supply workers</td>
</tr>
<tr>
<td>Component 1</td>
<td>Construction of a parking building alongside the KMTT for three-wheeler taxis and private cars, and creation of a pedestrian friendly public space</td>
<td>Direct workers, Contract workers, Primary supply workers</td>
</tr>
<tr>
<td>Component 2</td>
<td>Study to analyze possible pedestrian friendly measures around KMTT and offer design/planning solutions</td>
<td>Direct workers, especially PMU Consultants</td>
</tr>
<tr>
<td>Component 2</td>
<td>Assessment to identify possibilities for 'Transit-oriented Development'</td>
<td>Direct workers, especially PMU Consultants</td>
</tr>
<tr>
<td>Component 2</td>
<td>Support to strengthen enforcement of police departments, emergency medical and rehabilitation services to improve road safety</td>
<td>Direct workers, especially PMU Consultants</td>
</tr>
<tr>
<td>Component 2</td>
<td>Implementation of community education and awareness programs on road safety</td>
<td>Direct workers, especially PMU Consultants</td>
</tr>
<tr>
<td>Component 3</td>
<td>Assessment to determine the terminal’s operations and maintenance</td>
<td>Direct workers, especially PMU Consultants; Government officials (staff of NTC, CP-PTSA and SLTB)</td>
</tr>
<tr>
<td>Component 3</td>
<td>Training for operators and drivers on new software and hardware</td>
<td>Contract workers, 'Others'</td>
</tr>
<tr>
<td>Component 3</td>
<td>Overall terminal management for 24 months</td>
<td>Contract workers, 'Others'</td>
</tr>
<tr>
<td>Component 3</td>
<td>Development of emergency planning mechanisms, disaster risk management plans</td>
<td>Direct workers, including PMU Consultants</td>
</tr>
<tr>
<td>Component 3</td>
<td>Sensitization to terminal operators, bus and train drivers, etc., on sexual harassment</td>
<td>Direct workers, including PMU Consultants</td>
</tr>
<tr>
<td>Component 3</td>
<td>Development of protocols for bystander interventions (e.g., referral process to law enforcement and other related service providers)</td>
<td>Direct workers, including PMU Consultants</td>
</tr>
<tr>
<td>Component 3</td>
<td>Training for PMU staff on ESF and WB’s procurement processes</td>
<td>Direct workers, including PMU Consultants</td>
</tr>
<tr>
<td>Component 3</td>
<td>Assessment of GHG emissions and regular monitoring</td>
<td>Direct workers/ PMU consultants</td>
</tr>
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</table>

3.2 Key Labor Risks

21. Drawing up on the experiences of other sub-projects supported under SCDP and other similar projects, the following key labor risks are anticipated during the implementation of KMTT:

3.2.1 Occupational Health and Safety (OHS)
22. Construction of the KMTT terminal and the skywalk pose risks to the workers with the sheer volume of constantly moving heavy vehicles, dump trucks maneuvering around, etc., in the already congested area of Kandy city. The construction activities involving heavy machineries will be quite noisy, and such loud, repetitive, and excessive noise risks posing long term hearing problems, such as deafness. Noise can also be a dangerous distraction and may distract the worker from the task at hand, which can cause accidents. Heavy materials and equipment are expected to be constantly lifted and moved around by workers at site, which poses health and safety risks. Collapsing of material borrow excavation with workers inside is also a risk with the type of prevailing materials in the area. Working at height for the terminal and skywalk construction will also pose the risk of falling. The skywalk will be constructed across the railway track while the train operation is ongoing. As such, the workers as well as railway users are at high risk, calling for high priority to safety precautions. With the hot and dry climate experienced in Sri Lanka during the dry season, heat-related injuries such as heat stroke and heat exhaustion also pose a risk to the construction workers. Specialized knowledge and expertise is required by the Contractor to implement the Occupational Health and Safety (OHS) Management Plan,\(^4\) effectively as indicated in the ESMP during the construction and operational phases of KMTT.

3.2.2 Child labor

23. According to the ILO, there has been significant decline in the use of child labor in Sri Lanka, including in terms of working children, child labor and children in hazardous forms of child labor; however, child labor has not been eliminated either. In 2016, 1 percent of children in Sri Lanka were engaged as child labor of which, most (close to 90 percent) are engaged in hazardous forms of child labor.\(^5\) The majority of working children, child laborers, and those that engage in hazardous forms of work are boys. Under KMTT, the risks of child labor is not very significant since as many as 85% of Sri Lanka’s working children reside in rural areas, and majority of Sri Lanka’s working children work within the service sector. However, the risks cannot be completely disregarded either since in Sri Lanka, children engaged in child labor including in hazardous forms, have been found to be engaged as plant and machine operators and assemblers and in other elementary occupations in labor-intensive tasks such as construction.\(^6\)

3.2.3 Forced labor

24. Sri Lanka has made significant efforts to address issues of forced labor, including prohibition of forced labor in Section 358A of the Penal Code (Amendment) Act No. 16 of 2006 and the ratification of the Protocol of 2014 to the Forced Labor Convention, thus becoming the 31st ILO Member State, first country in south Asia and the second in the Asia-Pacific to do so. Additional, measures to combat trafficking in persons have also been notable, especially through the establishment of the “Anti-Human Trafficking Unit” with 13 police officers to investigate cases of trafficking in persons in 2016. It has also developed a National Strategy Plan to Monitor and Combat Human Trafficking (2015-2019) which is based on the four pillars of prevention, protection,

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\(^4\) The OHS Management Plan will be prepared by the contractor during pre-construction stage and submitted to the Supervision Consultant for approval.


prosecution and partnership. However, there continues to be reports of children being subjected to bonded and forced labor in domestic service, agriculture on dry zone farming areas (tea estates), as well as in fireworks and fish-drying industries. In relation to KMTT, the risks of forced labor is low since forced labor is mostly confined to commercial sexual exploitation in tourist areas as part of the sex tourism industry; domestic work, sometimes as a result of human trafficking; and specific vulnerability of migrant workers from Sri Lanka to trafficking and forced labor abroad due to abusive recruitment and employment practices.

3.2.4 Labor Influx

While it is likely that the project will be able to tap into labor available from surrounding areas of Kandy district, given the scale of the construction required under the project, the required labor force and associated goods and services may not be fully supplied locally, especially due to worker unavailability and a lack of technical skills and capacity. As a result, the labor force, though partially, will need to be brought in from outside the project area. Further, there might also be an influx of other people (“followers”) who follow the incoming workforce with the aim of selling them goods and services, or in pursuit of job or business opportunities. The rapid migration to and settlement of workers and ‘followers’ in the already congested project area can have adverse impacts, in terms of increased risks of social conflict, illicit behavior, burden on and competition for public service provision, such as water, electricity, medical services, transport, education, and social services, risk of communicable diseases and burden on local health services, including sexually transmitted diseases, and gender based violence, particularly in the form of inappropriate behavior.

3.2.5 Labor Disputes over Terms and Conditions of Employment

While the labor management practices in Sri Lanka is geared towards avoidance of disputes, construction disputes are reportedly increasing due to the scarcity of skilled labor in the light of the increasing construction demand. The increased demand is not only driving up build-out costs and prolonging project schedules, it is also leading to the ineffective implementation/enforceability of solutions and decisions made by the dispute resolution mechanisms. In the case of KMTT, likely causes for labor disputes include labor wages rates and delays of payment; disagreement over working conditions; and health and safety concerns in the work environment. Further, there is also a risk that employers such as contractors/subcontractors may retaliate against workers for demanding legitimate working conditions, or raising concerns regarding unsafe or unhealthy work situations, or any grievances raised, and such situations could lead to labor unrest.

3.2.6 Discrimination and Exclusion of Vulnerable/Disadvantaged Groups

8 https://www.refworld.org/pdfid/5448a8760.pdf
9 https://www.dol.gov/agencies/ilab/resources/reports/child-labor/sri-lanka
10 https://www.dol.gov/agencies/ilab/resources/reports/child-labor/sri-lanka
12 http://dl.lib.mrt.ac.lk/handle/123/11960
27. Widespread unemployment, especially of youth, in Sri Lanka could lead to increased risk of vulnerable/disadvantaged groups from being unable to benefit from employment opportunities under the project. Such groups will include women, IDPs and persons with disabilities. Sexual harassment and other forms of abusive behavior by co-workers will also have the potential to compromise the safety and wellbeing of the vulnerable groups of workers and the local communities, while adversely affecting project performance. This may also include potential sexual exploitation or harassment in recruitment or retention of skilled or unskilled female workers supported under the project.
4. Brief Overview of Labor Legislation

4.1 National Regulations

As Sri Lanka lacks a single unified labor law/code, a number of statutes govern employment and industrial relations in the private sector of the country. The terms and conditions of employment are governed by the Wages Board Ordinance No. 27 of 1941, the Shop and Office Employees’ Act No. 19 of 1954, Factories Ordinance No. 45 of 1942, and the Employment of Trainees (Private Sector) Act No. 8 of 1978. Labor/industrial relations are governed by the Trade Unions Ordinance No. 14 of 1935, the Industrial Dispute Act No. 43 of 1950, the Termination of Employment of Workmen (Special Provision) Act No. 45 of 1971, and the Employees’ Councils Act No. 32 of 1979. The well-being of employees is governed by the Employment of Women, Young Persons, and Children Act No. 47 of 1956, the Maternity Benefits Ordinance No. 32 of 1939, and the Employment of Females in Mines Ordinance No. 13 of 1937. 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 (See Table 3 for a summary of the main provisions under these acts, ordinances, etc).

Table 3: Summary of Applicable Laws and their Provisions

<table>
<thead>
<tr>
<th>Applicable Laws</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Shop and Office Employees’ Act No 19 of 1954,</td>
<td>Basic terms and conditions of employment, including those pertaining to working hours, leave and holidays and work arrangements</td>
</tr>
<tr>
<td>• Wages Boards Ordinance No.27 of 1941 and Decisions made thereunder,</td>
<td></td>
</tr>
<tr>
<td>• Factories Ordinance No.45 of 1942,</td>
<td></td>
</tr>
<tr>
<td>• Employment of Women, Young Persons and Children Act No. 47 of 1956</td>
<td></td>
</tr>
<tr>
<td>• Maternity Benefits Ordinance No.32 of 1939</td>
<td></td>
</tr>
<tr>
<td>• National Minimum Age No.03 of 2016,</td>
<td>Wage fixation</td>
</tr>
<tr>
<td>• Budgetary Relief Allowance of Workers Laws of 2005 &amp; 2016,</td>
<td></td>
</tr>
<tr>
<td>• Decisions of Wages Boards established in terms of the Wages Boards Ordinance</td>
<td></td>
</tr>
<tr>
<td>• Industrial Disputes Act No.43 of 1950,</td>
<td>Statutory provisions relating to Labor/Industrial Relations</td>
</tr>
<tr>
<td>• Trade Unions Ordinance No.14 of 1935,</td>
<td>Right to form or join a Trade Union of one’s choice flow</td>
</tr>
<tr>
<td>• Constitution of the Democratic Socialist Republic of Sri Lanka</td>
<td></td>
</tr>
<tr>
<td>• Termination of Employment of Workmen (Special Provisions) Act No.45 of 1971</td>
<td>Non-disciplinary terminations</td>
</tr>
<tr>
<td>• Factories Ordinance, Employment of Women Young Persons and Children Act,</td>
<td>Health, safety and general well-being of employees, as well as special protections for female workers, pregnancy/childbirth and “young persons” in employment</td>
</tr>
<tr>
<td>• Shop &amp; Office Employees Act,</td>
<td></td>
</tr>
<tr>
<td>• Maternity Benefits Ordinance</td>
<td></td>
</tr>
<tr>
<td>• National Institute of Occupational Safety and Health Act No.38 of 2009</td>
<td></td>
</tr>
<tr>
<td>• Workmen’s Compensation Ordinance No.19 of 1934</td>
<td>A detailed computation of compensation due in the event of a variety of work-related injuries and illnesses</td>
</tr>
<tr>
<td>• Employees Provident Fund Act No.15 of 1958,</td>
<td>Social protection</td>
</tr>
<tr>
<td>• Employees Trust Fund Act No. 46 of 1986</td>
<td></td>
</tr>
<tr>
<td>• Payment of Gratuity Act No.12 of 1983.</td>
<td></td>
</tr>
</tbody>
</table>

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29. 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. 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.

30. 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 employment, such as the (obsolete) Service Contacts 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.

31. Two areas which are likely to be very important to the KMTT project, and would need specific guidelines are (i) dismissal on disciplinary grounds, which too has not been legislated on, but which has a body of judicial decisions to be considered, and (ii) Third Party Work Arrangements such as “outsourcing”, sub-contracting and obtaining of labor/manpower though labor contractors or manpower suppliers, where there is no single law, but several provisions of existing laws require consideration.

4.2 ILO Conventions Ratified by Sri Lanka

32. Sri Lanka has ratified 43 of the International Labor Organization (ILO) Conventions, including all the eight core conventions on labor standards. 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).

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.

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33. 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). 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.

4.3 Basic Labor Standards in Sri Lanka

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

4.3.1 Terms and Conditions

Working age:

35. The minimum age for admission to work or employment in Sri Lanka is 14 years, which is one year lower to the general minimum age of 15 years set out in ILO’s Minimum Age Convention No 29 of 1973, but is compliant with the alternative general minimum age applicable to countries at lower stages of development, as set out in this Convention. The general prohibition on the employment of children under 14 years of age is subject to two exceptions (Gazette Extraordinary No. 1116/5 of 26.01.2000) – 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.

36. Under the Employment of Women, Young Persons and Children Act, ‘Young Persons’ have been separated into two categories – age 14-16 years and 16-18 years, and these ‘Young Persons’ may be employed subject to work hour limitations and other safeguards. A person under 18 years of age cannot be engaged in “hazardous employment” as defined in the 1984 Amendment to the Employment of Women, Young Persons and Children Act.

37. It is to be noted that there is no retirement age in law for Private Sector employees in Sri Lanka. Therefore, it is vital that all permanent contracts in this sector contain a retirement age. In contrast, the Public Sector, the retirement age is 55 years, with a provision for extension up to 60 years in the case of officer grades.

Work hours:

38. 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. 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.

39. As per the Shop and Office Employees (SOE) Act, 1954:

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16 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.

17 For details on working hours and holidays see: https://salary.lk/home/labour-law/leave-and-holidays/working-hours-and-holidays
• 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 hourly rate is calculated as follows:

<table>
<thead>
<tr>
<th>basic monthly wage + cost of living allowances (excluding NRCLG\textsuperscript{18}) + BRAWA\textsuperscript{19}</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 X 30</td>
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</tbody>
</table>

40. A male over 18 years of age can be required to work up to 12 hours of overtime a week. As the law precludes females and males under 18 years from working more than 9 hours (including intervals for rest or meals) on any day, overtime on a normal 8-hour day is not permissible, in strict law.

41. The provisions of the Wages Boards Ordinance, as well as the Decisions of Wages Boards established thereunder for various Trades are to be considered. These provisions are significantly different to those stipulated by the SOE Act. There can also be considerable variation between the Decisions of the various Wages Boards on overtime rates, work performed on holidays etc. The general principles of work hours as per the Wage Boards Ordinance include:

• The normal working day stipulated by most Wages Boards Decisions consists of nine (09) hours, inclusive of a one (01) hour meal interval.

• The law permits a Wages Board to fix the normal working hours for a week for the Trade up to a maximum of 48 hours.

• Work beyond such normal working hours is considered overtime, and should be remunerated at the rate set out in the respective Decisions.

• Section 24 of the Wages Boards Ordinance gives Wages Boards considerable discretion in determining the day on which a weekly holiday should be granted, to whom, whether paid or unpaid, and whether it is granted subject to any conditions. Most Wages Boards have fixed the weekly holiday as Sunday, but where the day is not stipulated, employers in that Trade are afforded the flexibility to decide on which day of the week the holiday is to be granted.

Contracting Rules:

42. 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.

43. 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

\textsuperscript{18} Non-Recruiting Cost of Living Gratuity

\textsuperscript{19} Budgetary Relief Allowance of Workers Act
employment); and apprentice\textsuperscript{20}. Fixed Term Contracts in Projects often have special clauses on the contract ending date- as either the time mentioned as the end date of the contract or the project end date, whichever comes first. Trainees (not management trainees) and Apprentices are not generally considered to be employees, unless the Decisions of a Wages Board specifically includes these categories as employees, or they are specifically included in the definition of “Employee” in a Statute.

44. Another sub employment type, albeit one that is now less frequently encountered in the Private Sector, is the ‘Casual’. It is unwise to engage casuals without any form of documentation/contract, as such persons would then be in a position to claim a more permanent employment relationship. Casuals are generally paid on a daily basis. Whatever the basis of payment, whether daily, weekly or fortnightly, EPF and ETF contributions must be made on the remuneration. Another form of employment includes seasonal employment where employees/ labors recruited for specific task such as planting and harvesting works in the agriculture sector or additional workforce required for commercial business during festive seasons. This form of employment is not very prevalent in Sri Lanka and is not anticipated to be used for KMTT either.

45. The public sector mostly engages employees on a permanent basis until retirement at age 55,\textsuperscript{21} 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\textsuperscript{22} are contracted for a specific task at a fixed level of pay that does not involve overtime payments or additional ad hoc allowances. However, in reality, there is not much difference between these two types since both are limited in terms of duration, at fixed levels of pay, and both can be required to work overtime and if so must be compensated according to the applicable legal provisions on overtime payment. Some fixed term contacts may grant allowances for transport and the like.

Probation Period:

46. Probation is not provided for by any statute in Sri Lanka, though the concept itself is well entrenched in private sector employment in the country, with many judicial decisions further interpreting its scope. Probationary period is generally considered a trial period, to be specifically set out in certain employment contracts, during which employer and employee alike may end the employment relationship for performance related or other reasons, without a requirement to give notice or even assign a reason. While the duration of probation is at discretion of the employer, a probationary period should not exceed a total period of 12 months, due to the operation of the Termination of Employment of Workmen (Special Provisions) Act (TEWA).

Management Services Circular No: 01/2019\textsuperscript{23}

47. This circular 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

\textsuperscript{20} Apprentices work on a temporary basis, and the time period depends on the time required for practical instruction in a given trade.

\textsuperscript{21} However, public sector employees can continue to work until 60 years without requesting for service extensions.

\textsuperscript{22} Seasonal workers also fall into this category.

\textsuperscript{23} www.treasury.gov.lk/documents/10181/147156/01.2019+Reduced.pdf/a696c6e9-a9e8-4702-a7df-5ab76ed8ca53?version=1.0
“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:

48. 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.\(^{24}\) Thereafter, an employee is provisioned for 7 days of paid annual leave.\(^{25}\) Further, there are provisions in the law for 7 paid days of “casual leave” – from the second (calendar) year of employment onward. Casual leave has been defined in the law as leave for personal business, ill-health or other reasonable cause, and as such there is no separate category of leave called “Sick Leave” in the SOE Act.

49. There is provision in the law for 9 statutory holidays to be declared. 8 such holidays are granted at present, on designated days of national or religious significance. These are paid holidays for SOE Act covered employees.\(^{26}\) Each Wages Board prescribes the statutory holidays to which employees governed by the Decisions are entitled. Where a statutory holiday falls on the weekly holiday, then the only consequence is that such holiday will be paid for but no alternative holiday need be granted, except in the case of few wage boards.\(^{27}\) Some Wages Boards Decisions provide for overtime work on statutory holidays. In most cases, the rate of remuneration for overtime work on a statutory holiday is thrice the hourly rate.

Maternity leave:

50. 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). The latter Statute is very wide in its reach, applying to most women workers – “women workers employed in any trade.”\(^{28}\) 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.

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\(^{24}\) This is the only leave available during this period, in law.

\(^{25}\) 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.

\(^{26}\) 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 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

\(^{27}\) These wage boards include: Textile Manufacturing Trade, Biscuit, Confectionery & Chocolate Manufacturing Trade, Coconut Growing Trade, Rubber Growing & Manufacturing Trade, Paddy Hulling Trade and the Tea Growing & Manufacturing Trade

\(^{28}\) 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).
51. 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. Further, a specified portion of the maternity leave entitlement can be availed of as pre-confinement leave, and a 42 working days of paid leave (SOE Act) or 06 weeks of paid leave (MBO) are granted in the event of the birth of a dead child or the issue of a “viable foetus” (as defined in the two Laws). Both SOE Act and the MBO mandate two nursing intervals per day be granted to children until the child is 12 months old. The nursing intervals are to be granted in addition to any other intervals available, are required to be granted at such time as the female employee requires and be regarded as time worked. However, females in the informal economy, including those involved in small time construction work are rarely, if ever granted leave or any other statutory benefits or protections on maternity.

Minimum wage:

52. There are several laws that relate to payment and fixing of wages. The Wages Board Ordinance of 1941 mandates the Minister of Labor to establish a Wages Board for any trade to which provisions of the Ordinance have been applied. In total, 43 wage boards established by the Ministry of Labor set minimum wages and working conditions by sector and occupation in consultation with unions and employers. Additionally, minimum wage rates are also set by employment status (for example, trainees/apprenticeship and piece-rate workers).

53. 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 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). 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.

Employee Provident Fund, Trust Fund and Gratuity:

54. The Employees Provident Fund (EPF) was established under the Act No. 15 of 1958 and is currently the largest Social Security Scheme in Sri Lanka. According to the EPF Act, an employee is required to contribute a minimum of 8% and the employer a minimum of 12% of the total salary of
the employee monthly.\textsuperscript{33} Further, the Employees’ Trust Fund Act No 15 of 1980 established the Employees’ Trust Fund (ETF) to supplement the functions of the Employee Provident Fund (EPF). Under the ETF, employers must contribute 3\% of payroll to the ETF on behalf of their employees, who do not contribute to this fund. All employees from the private sector and all public servants who are not entitled to a civil pension (or till such an employee becomes eligible to receive a civil pension) are covered by this act.\textsuperscript{34}

55. Further, in Sri Lanka, severance pay for workers with long job tenure is considered among the most generous in the world – 97.5 weeks of salary for a worker with 10 years of tenure, and for job tenure of 25 to 34 years, severance pay can reach up to 48 monthly salaries (or 208 salary weeks).\textsuperscript{35} In addition to severance pay, the Payment of Gratuity Act No. 12 of 1983 (as amended) requires employers\textsuperscript{36} to pay any dismissed employee with at least five years of tenure a gratuity equal to half a month’s salary for each year of completed service. For employees with less than five years of tenure, the gratuity will be equal to fourteen days’ wage or salary for each year of completed service.

56. It is also to be noted that when an Agent (i.e. includes a Contractor or Sub-contractor) fails to make Statutory Payments, liability for such payments may devolve on the Principal. Therefore, there is a need to ensure that EPF and ETF remittances are duly made for all relevant workers engaged in KMTT, and that any gratuity due in is paid within the prescribed time limits should be present in all outsourcing and sub-contracting Agreements.

Notice for termination of contract and dismissal rules:

57. 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-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.  

4.3.2 Occupational Health and Safety

58. 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.

\textsuperscript{33} http://www.epf.lk/  
\textsuperscript{34} https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_636599.pdf  
\textsuperscript{35} Note that “salary” includes the basic salary or wages plus cost of living allowances or any other similar allowances.  
\textsuperscript{36} Applicable to employers with fifteen or more employees during the preceding twelve months.
59. 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.

60. 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 following accidents and industrial diseases to the District Factory Inspecting Engineer (DFIE):

- All fatal accidents,
- Accidents that disable any person for more than three days from earning full wages at work,
- Accidents that make any person unconscious as a result of heat, exhaustion, electric shock or inhalation of irrespirable or poisonous fumes or gases.
- Every case of dangerous occurrence such as explosions, fire, collapse of buildings, collapse of cranes, etc. and prescribed industrial diseases.

61. 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.

62. 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.

4.3.3 Non-discrimination and Equal Opportunities

63. 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”.  

64. 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.

4.3.4 Child Labor

65. 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 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.

66. 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.

67. 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. 38

68. 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. 39

4.3.5 Forced Labor

69. 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 several actions which can be considered as forced labor. 40 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, 41 Hazardous Employment Amendment to the Employment of Women, Young Persons, and Children Act No. 47 of 1956, 42 Industrial Dispute Act, 43 and the Shop and Office Employment Act 1954. For instance, the


40 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.

41 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.

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

43 The Industrial Dispute Act introduced the right for workers to leave a job after serving due notice to the employer.
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\textsuperscript{44} 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.\textsuperscript{45}

4.4 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.\textsuperscript{46}

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.\textsuperscript{47}

4.5 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.\textsuperscript{48} 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

\textsuperscript{44} https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_700567.pdf
\textsuperscript{47} http://www.employers.lk/about-us
transaction of his/her official duties), ‘solicits or accepts any gratification\(^{49}\) 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…’

74. 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.’\(^{50}\)

\(^{49}\) ‘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.


5.1 General Roles and Responsibilities

75. 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 services in the country.

76. 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.

77. 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.

78. The Industrial Safety Division of the Department of Labor is responsible for ensuring occupational safety, health and welfare of the employee population in Sri Lanka. 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).

79. The National Institute of Occupational Safety and Health (NIOSH) was established on 28th April 2005 as an affiliated body to the Ministry of Labor. Among others, the objective of NIOSH is to advice the government in the formulation of a national policy on OHS and on the working environment both of employers and employees; advice the government on measures required for the prevention of accidents and injuries relating to occupations at work places; to 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. Further, the Occupational Hygiene Division under the

51 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.

52 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.

53 [Some link to NIOSH website]
Department of Labor is also responsible for serving as a research and monitoring unit to support industrialists to maintain the work environment of factories as laid down under the Factories Ordinance, and supports the inspectorate when information on environmental factors in factories is required for enforcement purposes. The Division also conducts medical examinations to determine temporary and permanent disabilities to employees due to injuries.

5.2 Labor Inspection

80. 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).

81. 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 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.

82. Further, the Industrial Safety Division is decentralized through District Factory Inspecting Engineers’ (DFIE) offices in several districts, including Kandy. 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.

5.3 Judicial Bodies

Office of the Commissioner of Workmen's Compensation

83. 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

84. 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 is appointed by the Judicial Service Commission from among practicing lawyers.

54 Other districts include Anuradhapura, Badulla, Colombo, Galle, Gampaha, Jaffna, Kalutara, Kurunegala, and Ratnapura.
with at least 6 years’ experience or from among Administrative officers with a degree and with 10 years’ experience.

85. A ‘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 cases where it is the employee alleging unjustified termination of his/her contract, the burden of proof is on the employer to show that it was justified. However, if the employer makes the case that s/he did not terminate the workman but that the workman vacated the post, the burden of proof would first be on the workman to prove that his/her services were terminated by the employer. Further, an employee can claim for gratuity and other benefits in the Labor Tribunal irrespective of whether the termination was by the employer or the employee. 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.55 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.

55 The workman himself may indicate in his application whether he is seeking re-instatement or compensation.
6. Responsible Staff for Labor Management of the Project

6.1 Project Management Units

The Project Management Unit (PMU) located in Kandy will be responsible for the overall project implementation and coordination of KMTT activities, including compliance with environment and social requirements in line with the World Bank’s ESF which would also comprise labor and working conditions. The PMU will engage consultants with expertise in environmental, social, occupational health and safety issues throughout the project period. The PMU will be responsible for the following tasks relevant to labor and working conditions:

87. Undertake the overall implementation of this LMP

- Engage and manage contractors/subcontractors in accordance with this LMP and the applicable procurement documents
- Ensure that contractors prepare their labor management procedures (Contractor’s LMP) that comply with this LMP and Contractor’s ESMP (including OHS provisions) for approval before the contractor is allowed to mobilize to the field.
- Monitor that contractors/subcontractors are meeting obligations towards contract workers as included in the Contractor’s LMP and ESMP and the applicable Procurement Documents.
- Monitor the potential risks of child labor, forced labor and serious safety issues in relation to primary supply workers.
- Monitor training of relevant project workers.
- Ensure that the grievance mechanism for project workers is established and implemented and that workers are informed of it.
- Monitoring the implementation of the Worker Code of Conduct and any other measures to address risks of sexual exploitation and abuse (SEA)/sexual harassment (SH).

6.2 Engineering and Supervision Consultant

The PMU will be supported by engineering and supervision consultant/s who will be responsible for monitoring the contractors of the civil works as well as monitoring adherence to the other environment and social instruments. They will oversee the performance on labor and working conditions on a daily basis on behalf of the PMU, which will be explicitly set out in their contract.

56 The PMU will establish resources and procedures for managing and monitoring the performance of the contractor in relation to the LMP. The PMU will ensure that the contract with the engineering and supervision consultants (and third-party monitor, where applicable) explicitly set out their monitoring responsibility for the contractor’s performance on labor and working conditions on a daily basis. Monitoring may include inspections, and/or spot checks of project location or work sites and/or of labor management records and reports compiled by the contractor. For more details, see Section 11 on ‘Contractor Management.’
The Engineering and Supervision Consultant will employ qualified expert(s) for such oversight and report on performance to the PMU.

### 6.3 Contractor(s)

89. The Contractor will be responsible for the following:

- Employ or appoint qualified environmental, social, occupational health and safety expert(s) to manage ESHS issues.
- Prepare and implement their labor management procedure (Contractor’s LMP) and Contractor’s ESMP (including OHS provisions) which will apply to the contract workers who work on the projects. These procedures and plans will be submitted to the PMU for review and approval before the contractor is allowed to mobilize to the field.
- Supervise their subcontractors’ adherence to the LMP and ESMP.
- Maintain records of recruitment and employment of contract workers (including subcontractors) with age verification to avoid child labor.
- Provide induction and regular training to contract workers on environmental, social and occupational health and safety compliances.
- Require the primary supplier to identify and address risks of child labor, forced labor and serious safety issues for primary supply workers.
- Develop and implement the grievance redress mechanism for contract workers, including ensuring that grievances received from their contracted workers resolved promptly, and reporting the status of grievances and resolutions.
- Ensure that all contractor and subcontractor workers understand and sign the Code of Conduct prior to the commencement of works, take all other measures to address risks of sexual exploitation and abuse (SEA)/sexual harassment (SH) as specified in the contractor’s LMP/ESMP and supervise compliance with such measures.
- Report to the PMU on labor and occupational health and safety performance.

### 6.4 KMTT Steering Committee

90. The Steering Committee chaired by the Ministry of Urban Development, Water Supply and Housing Facilities (UDWS&HF) with members represented from all relevant stakeholders including Ministry of Transport and Civil Aviation, SLTB, SLR and representation from the private sector, will be responsible for providing oversight of the project, liaising with UDWS&HF and supporting project monitoring. While the steering committee will have no direct responsibility for supervising routine labor issues in individual projects, it will support the PMU in addressing key labor issues that may require intervention. See Table 4.

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57 The Contractor’s LMP and the Contractor’s ESMP may be prepared as separate documents or integrated into a single document.
<table>
<thead>
<tr>
<th>Key Issues</th>
<th>Direct Workers</th>
<th>Contract Workers</th>
<th>Primary Supply Workers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hiring and managing individual project workers</strong></td>
<td>Ministry of Urban Development and Water Supply &amp; Housing Facilities to engage/manage PMU staff and consultants PMU to engage/manage PMU consultants PMU to engage/manage Engineering and Supervision Consultants</td>
<td>Contractor/Subcontractor (Site Manager and/or ESHS Officer)</td>
<td>Not Applicable (Outside the scope of ESS2)</td>
</tr>
<tr>
<td><strong>Occupational Health and Safety</strong></td>
<td>Applicable (Direct workers will follow OHS measures when visiting construction sites)</td>
<td>-To be combined with above-</td>
<td>Contractor to require the primary supplier to identify/address child labor/forced labor and serious safety risks PMU/Engineering and Supervision consultants to review</td>
</tr>
<tr>
<td><strong>Child labor and forced labor</strong></td>
<td>Not Applicable (Contract for direct workers does not allow child and forced labor)</td>
<td>-To be combined with above-</td>
<td>-To be combined with above-</td>
</tr>
<tr>
<td><strong>Training</strong></td>
<td>PMU/Engineering and Supervision Consultants</td>
<td>-To be combined with above-</td>
<td>Not applicable (outside the scope of ESS2)</td>
</tr>
<tr>
<td><strong>Code of conduct</strong></td>
<td>Not applicable (the contract for direct workers will address relevant risks)</td>
<td>-To be combined with above-</td>
<td>-To be combined with above-</td>
</tr>
<tr>
<td><strong>Grievance mechanism</strong></td>
<td>PMU/Engineering and supervision consultants</td>
<td>First-tier GRM: Contractor Second-tier GRM: PMU/Engineering and Supervision consultants</td>
<td></td>
</tr>
<tr>
<td><strong>Monitoring and reporting</strong></td>
<td>PMU/Engineering and supervision consultants to monitor and report to World Bank</td>
<td>Contractor to monitor and report to PMU PMU/Engineering and Supervision consultant to monitor and report to World Bank</td>
<td>Contractor to monitor and report to PMU PMU/Engineering and Supervision consultant to monitor and report to World Bank</td>
</tr>
</tbody>
</table>
7. Labor Policies and Procedures for KMTT

7.1 Policies and Procedures for Addressing Key Labor Risks

KMTT will apply the following policies and procedures to address the key labor risks identified under Section 3.2. The summary of indicative procedures to implement the policies is presented in Table 5, which will also be included in the bid documents for the contractor.

7.1.1 Occupational health and safety

As per the relevant provisions of the Factories Ordinance, 1942 (see Section 4.3.2), requirements under ESS2, World Bank Groups’ General Environmental, Health and Safety Guidelines (EHSGs\(^{58}\)), the ESMP prepared under KMTT, and the World Bank standard procurement documents\(^ {59} \), the contractor will be responsible for managing all construction sites in such a way that the workers and the community are properly protected against possible OHS risks. Key elements of OHS measures will include: (a) identification of potential hazards to workers; (b) provision of preventive and protective measures; (c) training of workers and maintenance of training records; (d) documentation and reporting of occupational accidents and incidents; (e) emergency preparedness; and (f) remedies for occupational injuries and fatalities. These measures will be included in the Occupational Health and Safety Management Plan prepared by the Contractor during the pre-construction stage and submitted to the supervision consultant for approval.

7.1.2 Child labor

The minimum age of project workers eligible for any type of work under KMTT (including construction work) is set at 18. The engagement of project workers between the age of 15 and 18 years will be allowed in rare instances while employment of children below age 14 will be prohibited under KMTT. To prevent engagement of under-aged labor, all contracts 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. More details including the procedures for age verification are provided in Section 8.3.

7.1.3 Labor influx

To minimize the labor influx, KMTT will contractually require the contractor to preferentially recruit unskilled labor from the local communities and nearby areas. All contract workers will be required to sign the code of conduct (see Annex on the Guideline on Code of Conduct) prior to the commencement of work, which includes a provision to address the risk of Gender Based Violence (GBV). Relevant trainings will be provided to workers, such as induction and daily toolbox talks outlining expected conduct and local community values.

7.1.4 Labor disputes over terms and conditions of employment

To avoid labor disputes, fair terms and conditions will be applied for project workers in KMTT (more details are provided in Section 9). KMTT project will also have grievance mechanisms

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\(^{58}\) The WBG General EHSGs are technical reference documents with general statements of Good International Industry Practice, which provide guidance to users on general EHS issues. The applicability of the ESHGs should be tailored to the hazards and risks established for each project.

\(^{59}\) The WB Standard Procurement Document for Work is likely to be used for KMTT construction works, which will include relevant ESHS provisions, such as the appointment of ESHS officer, development of Contractor-ESMP, compliance with ESHS measures and reporting, and the use of Code of Conduct.
for project workers (direct workers and contract workers) in place to promptly address their workplace grievances (more details are provided in Section 10). Further, KMTT will respect the workers’ right of labor unions and freedom of association, as set out in Trade Union Ordinance, 1935.

7.1.5 Discrimination and exclusion of vulnerable/disadvantaged groups

96. The employment of project workers under KMTT will be based on the principle of equal opportunity and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, terms of employment (including wages and benefits), termination and access to training. To address the risk of exclusion of vulnerable groups (such as women, IDPs and persons with disabilities) from employment opportunities, KMTT will require the contractor to employ such groups as part of their unskilled workforce. The contractor will be also required to comply with the Factories Ordinance 1942, Employment of Women, Young Persons and Children’ Act 1956, Shop and Office Employees’ Act 1954, and the Maternity Benefits Ordinance 1939 on gender equality in the work place, which will include provision of maternity leave and nursing breaks and sufficient and suitable toilet and washing facilities, separate from men and women workers. The contractor will be also required to enable safety in the workplace to address potential sexual exploitation or harassment in recruitment or retention of skilled or unskilled female workers supported under the project.

7.1.6 Security Risks

97. Considering the security incident that occurred in Sri Lanka in April 2019, the project will take appropriate and proportionate security measures to minimize the potential risk to the workers. Key security measures will include security protection by public security personnel (such as by district police) to prevent terrorist attacks and restrictions on work hours if security risks become high (such as night time). While security measures to address external security risks (such as terrorism and armed insurgency) will be determined by relevant public security personnel, KMTT will address internal security risks associated with the deployment of such security personnel on the community and project workers in line with the WB Good Practice Note “Assessing and Managing the Risks and Impacts of the Use of Security Personnel” (such as the training of security officers on the principles of proportionality in the use of force).

7.2 Monitoring and Reporting

98. The contractor will report to the PMU and the engineering and supervision consultants on the status of implementation of the above policies and procedures on a monthly basis. The PMU and the Engineering and supervision consultants will closely monitor the contractor/subcontractor on labor and occupational health and safety performance and report to the World Bank on a quarterly basis (see Section 11 for more details).

7.3 Fatality and serious incidents

99. In the event of an occupational fatality or serious injury, the PMU will report to the Bank as soon as becoming aware of such incidents and inform the government authorities (where available) in accordance with national reporting requirements. Corrective actions will be implemented in response to project-related incidents or accidents. The PMU or, where relevant the contractor, will be required to conduct a root cause analysis for designing and implementing further corrective actions.
Table 5: Overview of KMTT Policies and Indicative Procedures to Address Key Labor Risks

<table>
<thead>
<tr>
<th>Key Labor Risks</th>
<th>Policies to Address Risks</th>
<th>Procedures to back up the policy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OHS Risks</strong></td>
<td>• Abide by OHS requirements as set out in Factory Ordinance, ESS2 (including WBG EHSGs), the ESMP for KMTT which will include a standalone health and safety plan and WB standard procurement documents</td>
<td>• Select legitimate and reliable contractor through screening OHS records. • Require contractor to prepare OHS Management Plan prior to commencement of construction and submit it to the supervision consultant for approval. • Address adequately OHS risks with non-compliance remedies in procurement documents. • Require contractor to engage qualified ESHS staffing • Enhance workplace OHS awareness and training. • Conduct routine monitoring and reporting.</td>
</tr>
<tr>
<td><strong>Child labor</strong></td>
<td>• Set the minimum age of project workers eligible for any type for work (including construction work) at 18 years. • Allow the engagement of project workers between the age of 15 and 18 years in rare instances (in particular, vulnerable individuals) only for non-hazardous work that would not interfere with the child’s education in accordance with ESS2.</td>
<td>• Include minimum age in procurement documents. • Raise awareness on child protection with contractors and in the communities. • Maintain labor registry of all contract workers with age veriﬁcation. • Develop remedial procedures to deal with child labor incidents.</td>
</tr>
<tr>
<td><strong>Labor Influx</strong></td>
<td>• Minimize the labor influx through tapping the local workforce. • Minimize labor-related risks on the community through the code of conduct, including GBV.</td>
<td>• Require the contractor to preferentially engage unskilled local workforce form the local communities. • Make all contract workers sign code of conduct, including prevention of GBV. • Conduct induction and toolbox talks outlining expected conduct and local community values. • Introduce disciplinary measures for violations and misbehaviors.</td>
</tr>
<tr>
<td><strong>Labor disputes</strong></td>
<td>• Respect the national regulations relating to trade unions and industrial relations, and promptly address workplace grievances to minimize the risk of labor disputes.</td>
<td>• Provide workers with contracts with fair terms and conditions. • Have grievance mechanisms in place to promptly address workplace concerns. • Respect national code on workers’ right of labor unions &amp; freedom of association, incl. Shop &amp; Office Employees Act, Factories Ordinance, Termination of Employment of Workmen, Trade Unions Ordinance, etc. • If fixed term/temporary contracts have been issued by the Contractor/s to their employees, ensure their timely renewal</td>
</tr>
<tr>
<td>Key Labor Risks</td>
<td>Policies to Address Risks</td>
<td>Procedures to back up the policy</td>
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<tr>
<td>Discrimination and exclusion of vulnerable or</td>
<td>• Promote no discrimination and equal opportunity with respect to any aspects of the</td>
<td>• Require the contractor to employ vulnerable groups as part of unskilled workforce.</td>
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<tr>
<td>disadvantaged groups</td>
<td>employment relationship.</td>
<td>• Provide maternity leave &amp; nursing breaks, if relevant.</td>
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<td></td>
<td></td>
<td>• Arrange sufficient and suitable toilet and washing facilities, separate for men and women</td>
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<td></td>
<td></td>
<td>workers.</td>
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<td></td>
<td></td>
<td>• Require the contractor to address potential sexual exploitation or harassment in recruitment or</td>
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<td></td>
<td></td>
<td>retention of skilled or unskilled female workers.</td>
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<tr>
<td>Security risks</td>
<td>• Take appropriate and proportionate security measures to minimize the potential risk to</td>
<td>• Arrange security protection to be determined by security authorities to address external</td>
</tr>
<tr>
<td></td>
<td>the workers.</td>
<td>security risks (such as terrorism and armed insurgency).</td>
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<td></td>
<td></td>
<td>• Restrict work hours to minimize security threat.</td>
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<td></td>
<td>• Maintain low profile of the site and workers.</td>
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<tr>
<td></td>
<td></td>
<td>• Address internal security risks associated with the deployment of security personnel on the</td>
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<td>community and project workers in line with the WB Good Practice Note “Assessing and Managing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>the Risks and Impacts of the Use of Security Personnel” (such as the training of security</td>
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<td></td>
<td></td>
<td>officers on the principles of proportionality in the use of force.).</td>
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</table>

The provisions mentioned in Table 5, will be incorporated into the bid documents for contractors.
8. **Age of Employment**

8.1 **Age limitation for hazardous work**

As presented above, the Employment of Women, Young Persons and Children Act (EWYPC) provides that it is unlawful to employ children under the age of 14 years. The same Act amended in 2006 proscribes employment of children under 14-18 years in hazardous work, providing that the minimum age for employment on underground work in quarries or mines shall be 18 years. Hazardous Occupations Regulations Gazette of 20th August 2010 lists out 49 types of work (including one limitation on time, one on working at height, and one on load to be carried) in which no person can employ a person under 18 years of age. Construction is not included in this list. However, several processes linked to a construction have been prohibited, including “any type of work cutting or carrying of stones” and “., any type of work involving leveling, ramping or tarring for the purpose of road construction or land reclamation. Similarly, ESS2 (para 19) sets out further conditions on the minimum age, stating that a child over the minimum age and under the age of 18 will not be employed or engaged in connection with the Bank-financed project in a manner that is likely to be hazardous or interfere with the child’s education or be harmful to the child’s health or physical, mental and any other relevant development. Considering these national and the ESF requirements, the minimum age for hazardous work under KMTT (including construction) is set at 18 (for example, work at quarries to obtain construction materials; work with dangerous machinery, equipment or tools; work involving handling or transport of heavy loads; or work at height).

8.2 **Minimum age for project workers**

The national Employment of Women, Young Persons and Children Act (EWYPC) as well as ESS2 allow persons under 18 and over 15 to be engaged if the work is non-hazardous and does not interfere with the child’s education and not harmful to the child’s development (for example, administrative work, site cleaning or rubbish removal). The Hazardous Occupations Regulations No. 1667/41 of 2010 specifically states that no person shall employ a person under 18 years of age “in any type of work involving the collection or disposal of garbage or sewage or the scavenging of garbage.” Further ESS2, set out in footnote (d) is relevant. According to it, the rubbish being removed should not include substances which might be harmful to the health of the young person, “in unhealthy environments exposing children to hazardous substances, agents or processes. Considering this, the minimum age of project workers for such (non-hazardous) work under KMTT is set at 15 but subject to certain conditions described under section 4.3.4 of this report. This is also consistent with the objectives of KMTT to provide inclusive income opportunities for vulnerable groups including the youth. However, the engagement of project workers between the age of 15 and 18 years (in particular, vulnerable individuals) will be only allowed subject to prior risk assessment and regular monitoring.

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60 Examples of hazardous work activities prohibited for persons between the minimum age and 18 under ESS2 include work: (a) with exposure to physical, psychological or sexual abuse; (b) underground, underwater, working at heights or in confined spaces; (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads; (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or (e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.

61 In 2010, the Government of Sri Lanka, through Gazette Notification No 1667/41 of 2010.08.20 under the Employment of Women, Young Persons and Children Act No.47 of 1956, approved the Hazardous Occupation Regulations, where a new section, 20 A, was added prohibiting the employment of children in hazardous occupations and identifying 51 hazardous forms of child labor.
on health and safety conditions, hours of work and any other aspects as required under the national Employment of Women, Young Persons and Children Act (EWYPC) and ESS2.

8.3 Process of age verification

102. In order to prevent engagement of under-aged labor, all contracts with work contractors will have contractual provisions to comply with the minimum age requirements including penalties for non-compliance, and it will be well communicated to all potential stakeholders including the local community where the unskilled workforce will be sourced. The contractor is required to maintain labor registry of all contract workers with age information. Verification of the age will be undertaken prior to the engagement of labor and be documented. Below is indicative age verification means that will be used under KMTT, including in cases where national identity card (NIC) is unavailable:

a) Check the birthday on official documents such as birth certificate, NIC or other credible records, where available;

b) Obtain written confirmation from the medical practitioner;

c) Obtain written and signed declaration from the worker and his/her parents or guardian; or

d) Inquire with the local community leader, community action group or with other credible community sources.

8.4 Responsible remedial measures

103. In case a project worker who does not satisfy the age limit is identified working on the project (i.e., over 18 years old for hazardous work; and over 15 years for non-hazardous work), the employer (contractor, subcontractor or primary supplier) will be required to terminate the engagement of such a project worker in a responsible manner. Indicative approach may include:

a) Offer a project employment to a member of the family who satisfies the age limit in exchange of keeping the under-aged worker away from work.

b) If a family member who satisfies the age limit is not available, require the employer (using the contractual penalty provisions) to continue the wage payment to the underage worker without engaging in work for an agreed period.

c) If the worker is over 15 years old and under 18, consider transferring the worker to an alternative position that is not hazardous and does not interfere his/her education.
9. **Terms and Conditions**

9.1 **Types of Workers**

9.1.1 *Direct workers*

104. The terms and conditions for direct workers in PMU, PIU and the engineering and supervision consultants will be governed by the Standard World Bank Consultancy contracts.

9.1.2 *Contract workers*

105. The labor laws of Sri Lanka presented in Section 4 (Overview of Labor Legislation) above is the guiding legislation on employment terms and conditions for contract workers. As the Contractor/s would probably be a Private Sector entity, the labour laws of Sri Lanka – the Statute laws set out in foregoing Part 4 of this document, as well as principles of common law and judicial decisions, where relevant - will apply to the employment contracts entered into between the Contractor/s and its employees. Where not specifically stated, such provisions will be read into the contracts. Any terms which are contrary to or less beneficial than any statutory entitlement will not be valid. E.g. leave provisions which operate less favorable than those granted in terms of a written law (Statute). The Ministry of Labor, Ministry of Urban Development, Water Supply and Housing Facilities, where the KMTT will be located, have confirmed that they generally follow provisions of labor laws for all matters related to labor engagements and management. Below are key components of the terms and conditions that should be applied to contract workers under KMTT.\(^{62}\)

9.2 **Employment Terms and Conditions**

9.2.1 *Provision of written individual contract of employment*

106. A written individual contract of employment will be provided to workers that specify the following: (a) name of workers; (b) address, occupation, age and sex of workers; (c) employer’s name and address; (d) nature and duration of contract; (e) hours and place of work; (f) remuneration payable to the worker; (g) procedure for suspension or termination of contract. Depending on the origin of the employer and the employee, employment terms and conditions will be communicated in a language that is understandable to both parties. In addition to written documentation, an oral explanation of conditions and terms of employment will be provided to workers who may have difficulty in understanding the documentation. The Worker should sign (or where he/she is not literate) place a thumb print on the duplicate of the employment contract, which should be retained by the Employer (Contractor). If the PMU requires an original, the document should be prepared in triplicate.

9.2.2 *Notice for termination of contract*

107. Either of the contracting parties may terminate a contract of employment by giving written notice as under: (a) not less than ten days in the case of manual workers; or (b) not less than 30 days in the case of non-manual workers. No notice needs to be given in case the duration of contract does not exceed one month.

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\(^{62}\) While there are other provisions applicable to labor engagement as set out in Section 4, the applicability of such provisions will be reviewed during the contracting stage, when the approach to work implementation is better understood.

\(^{63}\) It should be noted that some provisions (such as annual leave) will not be applicable to short-term unskilled contracted workers.
108. The type of contract issued is also to be considered, in the termination the contracts. In a fixed term or temporary contract under 12 months, the notice clause is enforceable. However, in permanent contracts, or even fixed term contracts of a longer duration, the effect of the Termination Act limits the ability of the employer to effect a non-disciplinary termination using this clause.

9.2.3 Minimum wages

109. The fair market rate will be identified and applied for KMTT project workers but will not be below the minimum monthly wage of Rs10,000 (about US$67.56) set by The National Minimum Wages Act, No. 3 of 2016 and Rs. 21,000/ per month as provided in the Budgetary Relief Allowances of Workers Act No. 4 of 2016 in Sri Lanka.

9.2.4 Hours of work

110. The normal hour of work of a project worker will not exceed 8 hours a day or 45 hours a week. 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.

9.3 Leave and Rest Period

9.3.1 Rest per week

111. Every worker shall be entitled to 1 day’s rest each week, following 45 hours of work in a week. Workers will also be entitled to a rest day on public holidays recognized as such by the State.

9.3.2 Annual leave

112. Workers will be entitled to 21 days’ leave with pay for every year of continuous service. An entitlement to leave with pay shall normally be acquired after a full year of continuous service.

9.3.3 Maternity leave.

113. According to SOE act, a female worker shall be entitled to 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. Similarly, MB Ordinance provides for 12 weeks of paid maternity leave, on the same basis, without differentiation on account of the number of surviving children. An employee is entitled to utilize leave up to a maximum of 14 days prior to confinement and the balance of leave after confinement. Maternity leave shall be in addition to other paid leave/holidays she is entitled to.

9.4 Other issues related to terms and conditions

9.4.1 Deductions from remuneration

114. No deductions other than those prescribed by the labor laws or regulations made thereunder or any other law or collective labor agreement shall be made from a worker’s remuneration, except for repayment of advances received from the employer and evidenced in writing. The contractor shall not demand or accept from workers any cash payments or presents of any kind in return for admitting them to employment or for any other reasons connected with the terms and conditions of employment.

9.4.2 Medical treatment of injured and sick workers
115. It will be the duty of the employer to arrange at his own expense for the conveyance to the nearest hospital of any injured or sick worker who can be so conveyed and who cannot be treated on the spot with the means available.

9.4.3 Collective Agreements

116. A collective agreement is an agreement relating to terms and conditions of work concluded between the representatives of one or more trade unions, on the one hand, and the representatives of one or more employers, on the other hand. Where collective agreements exist between the employer and project workers, such agreements will be applied, where relevant.
10. Grievance Redress Mechanism

10.1 General principles

117. While KMTT will have in place a grievance redress mechanism to address concerns of project-affected parties, the nature of workplace concerns of workers is usually different. For example, typical workplace grievances include demand for employment opportunities; labor wages rates and delays of payment; disagreement over working conditions; and health and safety concerns in work environment. Therefore, a separate grievance mechanism will be established for project workers (direct workers and contract workers), as required in ESS2. Handling of grievances will be objective, prompt and responsive to the needs and concerns of the aggrieved workers. Different ways in which workers can submit their grievances will be allowed, such as submissions in person, by phone, text message, mail and email. 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 (see below for more details). The mechanism will also allow for anonymous complaints to be raised and addressed. Individuals who submit their comments or grievances may request that their name be kept confidential.

10.2 Direct workers

118. Considering the number of direct workers employed under KMTT, the project will have an effective grievance system for direct workers. Each unit engaging direct workers (PMU, the engineering and supervision consultants) will hold periodic team meetings to discuss any workplace concerns. The grievance raised by workers will be recorded with the actions taken by each unit. The summary of grievance cases will be reported to the World Bank as part of the regular report.

10.3 Contract workers

119. The site manager and the ESHS officer (or any other appropriate officers) of the contractor will hold a daily team meeting with all present contract workers at site at the end of the daily work to discuss any workplace grievances. The grievance raised will be recorded with the actions taken by the contractor. The summary of grievance cases will be reported to the PMU and the engineering and supervision consultant as part of contractor’s periodic report. Where appropriate and available, the contract workers will be allowed to utilize an existing grievance mechanism within the contractor. 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 and/or the engineering supervision consultant. The contract workers will be informed of the grievance mechanism at the induction session prior to the commencement of work. The contact information of the PMU and/or the engineering supervision consultants will be shared with contract workers.

10.4 National appeal process

120. As per the laws related to labor dispute resolution, any individual labour dispute can be submitted by any of the parties to the competent district labour inspector for conciliation, where such labour inspector is available. The inspector is mandated to attempt to settle the dispute within 180 days of its submission.
10.5 Grievances related to Gender Based Violence (GBV).

121. 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.

122. 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.
11. Contractor Management

11.1 Selection of Contractors

123. The KMTT project will use the World Bank Standard Procurement Documents for Works for solicitations and contracts. These include labor and occupational, health and safety requirements. The PMU on behalf of the KMTT and other relevant parties, will make reasonable efforts to ascertain that the contractor who will engage contract workers is legitimate and reliable entities and able to comply with the relevant requirements under the LMP. Such requirements shall be included in the bidding documents. As part of the process to select the contractors who will engage contract workers, the PMU may review the following information:

- Business licenses, registrations, permits, and approvals
- Company standardization under ISO certification and Environmental and Social Management Systems
- Public records, for example, corporate registers and public documents relating to violations of applicable labor law; accident and fatality records and notifications to authorities; labor-related litigations
- Documents relating to the contractor’s labor management system and OHS system (e.g., HR manuals, safety program)
- Company ESHS personnel and their qualifications
- Previous contracts with contractors and suppliers (showing inclusion of provisions and terms reflecting requirements on labor and working conditions).

11.2 Contractual Provisions and Non-Compliance Remedies

124. The PMU will incorporate the agreed labor management requirements as specified in the bidding documents into contractual agreements with the contractor, together with appropriate non-compliance remedies. Specifically, as the construction of KMTT will be a large works contract, the Standard Bidding Document (SBD) as of July 2019, will be adopted. The revised SBD is fully aligned with the ESF requirements and contains ESHS guidelines, including non-compliance remedies. In the case of subcontracting, the PMU will require the contractor to include equivalent requirements and non-compliance remedies in their contractual agreements with subcontractors.

11.3 Performance Monitoring

125. The PMU will establish resources and procedures for managing and monitoring the performance of the contractor in relation to the LMP. The PMU will ensure that the contract with the engineering and supervision consultants (and the third-party monitor, where applicable) explicitly set out their monitoring responsibility for the contractor’s performance on labor and working conditions on a daily basis. The monitoring may include inspections, and/or spot checks of project locations or work sites and/or of labor management records and reports compiled by the contractor. Contractors’ labor management records and reports that will be reviewed would typically include the following:

- Representative samples of employment contracts and signed code of conduct;
- Grievances received from the community and workers and their resolution;
• Reports relating to fatalities and incidents and implementation of corrective actions;

• Records relating to incidents of non-compliance with national labor laws and regulations and the provisions of the LMP; and

• Records of training provided for contract workers to explain occupational health and safety risks and preventive measures.
12. Primary Supply Workers

12.1 Potential risks in primary supply workers

126. The construction work under KMTT will require primary supplies including construction materials essential for the functions of the priority infrastructure, such as aggregates, bitumen and precast concrete interlocking blocks. Some contractors may be able to produce such construction materials by their workforce. However, where the contractor will source (a) essential materials (b) directly from primary suppliers (c) on an ongoing basis, the workers engaged by such primary suppliers (that meet all three criteria (a) to (c)) are deemed “primary supply workers”, as defined in ESS2.

127. As discussed in Section 3 (Key Labor Risks), OHS risks, labor disputes, discrimination and exclusion of vulnerable groups, forced labor, child labor, etc., are deemed to be generally significant in the construction sector, though risks of child labor and forced labor in the case of the Project is envisaged to be less. To address these potential risks, the following measures as described in Section 12.2 and 12.3, will be taken.

12.2 Selection of primary suppliers

128. When sourcing construction materials from primary suppliers, the contractor will require such suppliers to identify the risk of child labor/forced labor and serious safety risks in producing the construction materials. The PMU and the engineering and supervision consultants will review and approve the purchase of primary supplies from the suppliers following such risk identification/assessment and any other relevant due diligence (such as the review of license for quarries). Where appropriate, the contractor will be required to include specific requirements on child labor/forced labor and work safety issues in all purchase orders and contracts with primary suppliers.

12.3 Remedial process

129. If child labor/forced labor and/or serious safety incidents are identified in relation to primary supply workers under KMTT, the PMU and the engineering and supervision consultants will require the primary supplier to take appropriate steps to remedy them. Such mitigation measures will be monitored periodically to ascertain their effectiveness. Where the mitigation measures are found to be ineffective, the PMU and the engineering and supervision consultants will, within reasonable period, shift the project’s primary suppliers to suppliers that can demonstrate that they are meeting the relevant requirements.
ANNEX I: Guideline on Code of Conduct

1. A satisfactory code of conduct will contain obligations on all project workers (including sub-contractors) that are suitable to address the following issues, as a minimum. Additional obligations may be added to respond to particular concerns of the stakeholders, the location and the project sector or to specific project requirements.

2. The Code of Conduct should be written in plain language and signed by each worker to indicate that they have:
   - received a copy of the code;
   - had the code explained to them;
   - acknowledged that adherence to this Code of Conduct is a condition of employment; and
   - understood that violations of the Code can result in serious consequences, up to and including dismissal, or referral to legal authorities.

3. The Contractor should conduct continuous awareness raising and training activities to ensure that workers abide by the Code of Conduct (such as through toolbox talks). The Contractor should also ensure that local communities are aware of the Code of Conduct and enable them to report any concerns or non-compliance.

4. The issues to be addressed include:
   a) Compliance with applicable laws, rules, and regulations of the jurisdiction
   b) Compliance with applicable health and safety requirements (including wearing prescribed personal protective equipment (PPE), preventing avoidable accidents and a duty to report conditions or practices that pose a safety hazard or threaten the environment)
   c) The use of illegal substances
   d) Non-Discrimination (for example on the basis of family status, ethnicity, race, gender, religion, language, marital status, birth, age, disability, or political conviction)
   e) Interactions with community members (for example to convey an attitude of respect and non-discrimination)
   f) Sexual harassment (for example to prohibit use of language or behavior, in particular towards women or children, that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate)
   g) Violence or exploitation (for example the prohibition of the exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior)
   h) Protection of children (including prohibitions against abuse, defilement, or otherwise unacceptable behavior with children, limiting interactions with children, and ensuring their safety in project areas)
   i) Sanitation requirements (for example, to ensure workers use specified sanitary facilities provided by their employer and not open areas)
   j) Avoidance of conflicts of interest (such that benefits, contracts, or employment, or any sort of preferential treatment or favors, are not provided to any person with whom there is a financial, family, or personal connection)
   k) Respecting reasonable work instructions (including regarding environmental and social norms)
l) **Protection and proper use of property** (for example, to prohibit theft, carelessness or waste)
m) Duty to report violations of this Code

n) **No retaliation against workers** who report violations of the Code, if that report is made in good faith.
## ANNEX 2: Assessment of Labor Requirements for KMTT

### Implementation of Kandy Multimodal Transport Terminal

#### Staff Requirement of PMU

| Staff Category                  | 2020  Q1 | 2020  Q2 | 2020  Q3 | 2020  Q4 | 2021  Q1 | 2021  Q2 | 2021  Q3 | 2021  Q4 | 2022  Q1 | 2022  Q2 | 2022  Q3 | 2022  Q4 | 2023  Q1 | 2023  Q2 | 2023  Q3 | 2023  Q4 | 2024  Q1 | 2024  Q2 | 2024  Q3 | 2024  Q4 |
|---------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 1 Project Director/s           | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 2 Project Manager/s            | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 3 Financial Management         | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       |
| 4 Procurements                 | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 5 Environmental safeguards     | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 6 Social safeguards            | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       |
| 7 Monitoring and evaluation    | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 8 Quantity surveys             | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       |
| 9 Snr Engineers                | 1       | 1       | 1       | 1       | 1       | 1       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       | 3       |
| 10 Engineers                   | 1       | 1       | 1       | 1       | 2       | 2       | 2       | 2       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       |
| 11 Technical offices           | 1       | 1       | 1       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       |
| 12 CAD draftsmen               | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 13 Document controller         | 1       | 1       | 1       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       | 2       |
| 14 Administration officer      | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       | 1       |
| 15 Support staff               | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       | 4       |
## Implementation of Kandy Multimodal Transport Terminal

### Staff Requirement of Consultant

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## Implementation of Kandy Multimodal Transport Terminal

### Staff Requirement of Contractor

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**Period of Construction - Year**

- 2020
- 2021
- 2022
- 2023
- 2024

52