

THE JAMMU AND KASHMIR INDUSTRIAL ESTABLISHMENTS



(NATIONAL AND FESTIVAL) HOLIDAYS ACT, 1974

THE JAMMU AND KASHMIR INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL) HOLIDAYS ACT, 1974

| | |
|--|---|
| 1. Short title, extent and commencement..... | 3 |
|--|---|



| | |
|---|--------------|
| 2. Definitions..... | 3 3. |
| Grant of National and Festival Holidays..... | 4 4. |
| Employer to display statement of Holidays..... | 4 5. |
| Wages..... | 5 6. |
| Inspector | 6 7. |
| Powers of Inspectors..... | 6 8. |
| Penalties..... | 6 9. |
| Penalty for obstructing Inspectors..... | 6 10. |
| Exemption..... | 6 11. |
| Rights and privileges under other laws, etc..... | 7 12. |
| Power to make rules..... | 7 |

THE JAMMU AND KASHMIR INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL) HOLIDAYS ACT, 1974

[ACT NO.XII OF 1974]

An Act to provide for the grant of National and Festival Holidays to persons employed in Industrial Establishments in the State.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty—fifth Year of

the Republic of India as follows:—

extent and commencement

1. Short title,

(1) This Act may be called the Jammu and Kashmir

Industrial

Establishments (National and Festival) Holidays Act, 1974.

(2) It extends to the whole of the Jammu and Kashmir State.

(3) It shall come into force on such 1date as the Government may by notification in the Government Gazette appoint.

2. Definitions

In this Act, unless the context otherwise requires,—

(a) “day” means a period of twenty-four hours beginning at midnight:

Provided that in the case of an employee who works in a shift which extends beyond midnight, such period of twenty-four hours shall begin when his shift ends;

(b) “employee” means—

(i) any person (including an apprentice) employed in any Industrial Establishment to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward whether the terms of employment be expressed or implied; or

(ii) any other person employed in any Industrial Establishment whom the

Government may, by notification, declare to be an employee for the purposes of this Act;

(c) “employer” when used in relation to an Industrial Establishment means the person who has the ultimate control over the affairs of the Industrial Establishment and, where the affairs of any industrial establishment are entrusted to any other person, (whether called a Managing Agent, Manager, Superintendent or by any other name) such other person;

(d) “holiday” means holiday as provided in this Act;

(e) “Industrial Establishment” means—

(i) any factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act LXIII of 1948) or anyplace which is deemed to be a factory under section 85 of that Act;

(ii) any other establishment which the Government may, by notification, declare to be an Industrial Establishment for the purposes of this Act;

(f) “Inspector” means an Inspector appointed under sub-section (1) of section 6;

(g) “wages” means all remuneration capable of being expressed in terms of money which would, if the terms of employment, express or implied were fulfilled, be payable to an employee in respect of his employment or of the work done by him in such employment and includes—

(i) such allowances (including dearness allowance) as the employee is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical facilities or other amenity (or of any service or of any

concessional supply of food-grains or other articles); but does not include—

- (a) any bonus;
- (b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;
- (c) any gratuity payable on the termination of his service;
- (d) any sum paid to the employee to defray special expenses entailed on him by the nature of his employment; and
- (e) any traveling concession;

(h) "prescribed" means prescribed by rules made under this Act.

3. Grant of National and Festival Holidays

(1) Every employee shall be allowed in each calendar year a holiday of one whole day on the 26th January, 15th August and 2nd October and four other holiday each of one whole day for such festivals as the Inspector may, in consultation with the employer and the employees, specify in respect of any Industrial Establishment.

(2) Every employee shall be allowed a holiday also on 13th July in each calendar year in addition to the National and Festival holidays provided for in sub-section (1).

4. Employer to display statement of Holidays

Every employer shall prominently display at a conspicuous place in the Industrial Establishment, a statement showing the holidays allowed in each calendar year under section 3, in such form, in such manner and within such time as may be prescribed. `

5. Wages

(1) Notwithstanding any contract to the contrary, every employee shall be paid wages for each of the holidays allowed to him under section 3.

(2) Where an employee works on any holiday allowed under section 3, he shall at his option, be entitled to—

(a) twice the wages; or

(b) Wages for such day and to avail himself of substituted holiday with wages on any other day within six months from the holiday on which he so works.

(3)

Notwithstanding anything contained in sub-section(1) or sub-section (2), an employee who is paid wages by the day or at piece rates shall be entitled to be paid wages for any holiday allowed under section 3, —

(i) only at a rate equivalent to the daily average of his wages for the days on which he actually worked during the month immediately preceding such holiday,

(ii) where he works on any such holiday, only at twice the rate mentioned in clause

(1) or in lieu thereof, at the rate mentioned in that clause and to avail himself of a substituted holiday with wages at that rate on any other day within six months from the holiday on which he so works:

Provided that no such employee shall be entitled to be paid any wages for any of the holidays allowed under section 3 if his name was not on the rolls of the industrial establishment continuously for a month immediately prior to the holiday:

Provided further that no such employee shall be entitled to be paid any wages for any of the holidays allowed under section 3 if he was enjoying leave with pay. (4) Where any money is due to an employee from an employer under this Act, the employee or any other person authorised by him in writing in this behalf, or, in the case of death of the employee, his assignee or heir may, without prejudice to any other mode of recovery, make an application to the Government for recovery of the money due to him and if the Government are satisfied that any money is so due, they shall issue a certificate for that amount to the Collector within whose jurisdiction the Industrial Establishment is situate and Collector shall thereupon proceed to recover the same in the same manner as if it were an arrear of land revenue payable to the Government:

Provided that every such application shall be made within one year from the date on which the money become due to the employee:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

6. Inspector

(1) The Government may by notification, appoint such persons or such class of persons as they think fit to be Inspectors for the purposes of this Act for such local limits as they may specify.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code, 1989.

7. Powers of Inspectors

Subject to any rules made by the Government in this behalf, an Inspector may, within the local limits for which he is appointed.—

(a) enter, at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority, as he thinks fit to take with him, any place which is or which he has reasons to believe to be an Industrial

Establishment;

(b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise, the evidence of such person as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purpose of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

8. Penalties

Any employer who contravenes any of the provisions of section 3 or section 5 shall, on conviction, be punishable with fine which for the first offence may extend to twenty five rupees and for a second and subsequent offence may extend to two hundred and fifty rupees.

9. Penalty for obstructing Inspectors

Whoever willfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act or fails to produce on demand in writing by an Inspector any register, record or notice in his custody which may be required to be kept in pursuance of this Act or of any rule made thereunder, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

10. Exemption

(1) Nothing contained in this Act shall apply to—

- (a) any employee in a position of management;
- (b) any employee whose work involves travelling;

(c) any Industrial Establishment under the control of the Central Government, the Reserve Bank of India, a railway administration operating any railway as defined in clause (20) of article 366 of the Constitution or a cantonment authority; or (d) any mine or oil field.

(2) The Government may, by notification, exempt either permanently or for any specified period any establishment or class of establishments or person or class of persons from all or any of the provisions of this Act, subject to such condition as they may deem fit.

11. Rights and privileges under other laws, etc.

Nothing contained in this Act, shall adversely affect any rights or privileges which any employee is entitled to with respect to national and festival holidays on the date on which this Act comes into force under any other law, contract, custom or usage, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

12. Power to make rules

(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In making a rule under this Act, the Government may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.