

AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.

Dated the April, 1976.

No. 1454/SL/76. The following Act of the Legislative Assembly received the assent of the President on the 8th of April, 1976, and is hereby published for general information:-

(ACT I OF 1976)

An Act to provide for the regulation of minimum rates of Wages for workers employed in certain Industrial undertakings.

Whereas it is expedient to provide for the relation of Minimum rates of wages for workers employed in certain Industrial undertaking and for matters ancillary thereto;

It is hereby enacted as follows:-

1. Short title, Extent and commencement.- (1) This Act may be called the Azad Jammu and Kashmir Minimum Wages Act, 1976.

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

(3) It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

qd) "adult" has the same meaning as in clause (b) of section 2 of the factories Act, 1934 (XXV of 1934), and adapted in Azad Jammu and Kashmir;

(2) "Board" means a minimum Wages Board established under section 3;

(3) "Employer" means any person who employs either directly or through an other person, whether on behalf of himself or any other person, any person for whom a minimum rate of wages may be declared under this Act, and includes.-

(a) in relation to a factory, a managing agent or other person who has ultimate Control over the

affairs of the factory; and

(b) in other cases, any person responsible to the owner for supervision and control of such worker or for payment of his wages;

(4) "Factory" means a factory as defined in clause (j) of section 2 of the factory Act, 1934 (XXV of 1934), as adapted in Azad Jammu and Kashmir, and includes any place deemed to be a factory under sub-section (3), of section 5 thereof ;

(5) "Industry" with its grammatical variations and cognate expressions, means and industry as defined in clause 14 of section 2 of the Azad Jammu and Kashmir Industrial Relations ordinance, 1974 (III of 1974), and includes a plantation as defined in clause (III) of section 2 of the payment of Wages Act, 1936 (IV of 1936), as adapted in Azad Jammu and Kashmir;

(6) "juvenile worker" means a worker who is not adult;

(7) "Wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include—

(a) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund;

(b) any traveling allowance or the value of any traveling concession;

(c) any sum paid to such person to defray special expenses

incurred by him in respect of his employment;

(d) any sum paid as annual bonus; or

(e) any gratuity payable on discharge; and

(8) "Worker" means any person including an apprentice employed in any industry to do any skilled or unskilled, intellectual, technical, clerical, manual or other work, including domestic work, for hire or reward but does not includes-

(i) persons employed by the Azad Government of the State of Jammu and Kashmir;

(ii) persons employed in agriculture.

(9) "Government" means the Azad Government of the State of Jammu and Kashmir.

Establishment of Minimum Wages Boards- (1) As soon as may be after the commencement of this Act, the Government shall establish a Minimum Wages Board consisting of the following four members to be appointed by it, namely:-

(a) the Chairman of the Board;
(b) One independent member;

(c) One member to represent the employers of Azad Kashmir; and

(d) One member to represent the workers of Azad Kashmir:

Provided that for the purpose of discharging the function of a Board specified in section 5 the following two more members appointed by the Government shall be added, namely:-

(i) One member to represent the employers connected with the industry concerned; and

(ii) One member to represent the workers engaged in such industry.

(2) The Chairman of the Board and the independent member shall be appointed from persons with adequate knowledge of industrial labor and economic conditions of Azad Kashmir who are not connected with any industry or associated with any employers 'or workers' Organization.

(3) The member to represent the employers of Azad Kashmir and the member to represent the workers of Azad Kashmir under sub-section (i) shall be appointed after considering nominations, if any of such organizations, as the Government considers to be representative organizations of such employers and workers respectively.

(4) The member referred to in the proviso to sub-section (1) to represent the employers connected with and the workers engaged in the industry concerned shall be appointed after considering nominations, if any, of such organizations as the Government considers to be representative organization of such employers and workers respectively.

(5) The terms of office of the members of the Board, the manner of filling casual vacancies therein, the appointment of its committees, if any, the procedure and conduct of the meetings of the Board and its committees and all matters connected therewith, including the fees and allowances to be paid for attending such meetings, and other expenses including expenses for the services of experts and advisers obtained by the Board, shall be such as may be prescribed by rules made under section 15.

Recommendation of Minimum rates of wages for unskilled and Juvenile workers. —

qd) A Board shall, upon a reference made to it by the Government, recommend to the Government, after such enquiry as the Board thinks fit, the minimum rates of wages for adult unskilled workers and juvenile workers employed in industrial undertakings in Azad Kashmir.

(2) In its recommendations under sub section (i), the Board shall indicate, whether the minimum rates of wages should be adopted uniformly throughout Azad Kashmir or with such local variations for such localities as are specified therein.

Recommendation of Minimum rates of wages for workers with respect to Particular Industries.-

qd) Wherein respect of any particular industry in Azad Kashmir for which no adequate machinery exists for effective regulation of wages, the Government is of the opinion that, having regard to the wages of the workers employed in the undertakings engaged in such industry it is expedient to fix the minimum rates of wages of such workers, it may direct the Board to recommend, after such enquiry as the Board thinks fit, the minimum rates of wages either for all such workers or for such of them as are specified in direction.

(2) In pursuance of a direction under sub-section (i), the Board may recommend minimum rates of wages for all classes of workers in any grade and, in such recommendation , may specify-

(a) the minimum rates of wages for—

- (i) time work;
- (ii) piece work;

(iii) overtime work; and

(iv) work on the weekly day of rest and for paid holidays; and

(b) the minimum time rates for workers employed on piece work so as to guarantee minimum wages on a time basis for such workers.

(3) The time rates recommended by the Board may be on hourly, daily, weekly or monthly basis.

(4) The rates recommended under this section for overtime work and work on paid holidays shall not be less than the minimum rates fixed for such work under any other law for the time being in force.

Power to Declare Minimum rates of wages - (1) Upon receipt of a recommendation of the Board under section 4 or section 5, the Government may,

(a) by notification in the official Gazette, declare that the minimum rates of wages recommended by the Board for the various workers shall, subject to such exceptions as may be specified in the notification, be the minimum rates of wages for such workers; or

(b) if it considers that the recommendation is not, in any respect equitable to the employers or the workers, within thirty days of such receipt, refer it back to the Board for reconsideration with such comments there on and giving such information relating thereto as the Government may think fit to make or give.

(2) Where a recommendation is referred back to the Board under clause (b) of sub-section (1), the Board shall reconsider it after taking into account the comments made and information given by the Government and, if necessary, shall hold further enquiry and submit to the Government—

(a) a revised recommendation, or

(b) if it considers that no revision or change in the recommendation is called for, make report to that effect stating reasons therefore.

(3) Upon receipt of the recommendation of the Board under

sub-section (2), the Government may, by notification in the official Gazette, declare that the minimum rates of wages recommended under that sub-section by the Board for various workers shall, subject to such modifications and exceptions as may be specified in the notification, be the minimum rates; of wages for such workers.

(4) Unless any date is specified for the purpose in the notification and under sub-section (1) or subsection (3), the declaration thereunder shall take effect, on the date of publication of such notification.

(5) Where after the publication of a notification under subsection (i) or sub-section (3) or after the minimum rates of wages declared thereunder have taken effect, it comes to the notice of the Government that there is a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the workers, it may refer the matter to the Board and any such reference shall be deemed to be a reference under subsection (2).

(6) The minimum rates of wages declared under this section shall be final and shall not in any manner be questioned by the person in any court or before any authority.

Periodical Review of Minimum Rates of wages.- (1) The Board shall review its recommendations if any change in the economic conditions and cost of living and other relevant factors so demand, and recommend to the Govt. any amendment, modification or revision of the minimum rates of wages declared under section 6 :

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances of a case so require, and later than three years from such date.

(2) Review and recommendation under this section shall be deemed to be an enquiry and recommendation under section 4 or, as the case may be, under section 5, and, so far as may be, the provisions of this Act shall, to such review and recommendation, apply accordingly.

Prohibition to pay wages at a Rate below the Minimum Rate of Wages.- (1) Subject only to such deductions as may be authorized under this Act, or under any other law for the time being in force, no employer shall pay any worker wages, at a rate

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lower than the rate declared under this Act to be the Minimum rate of wages for such worker.

(2) Nothing in sub-section (1) shall be deemed—

- (a) to require or authorize an employer to reduce the rate of wages of any worker ; or
- (b) to affect, in any way, the right of a worker to continue to receive wages at a rate higher than the maximum rate declared under this Act if, under any agreement, contract or award, or as a customary differential, or otherwise, he is entitled to receive wages at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such worker to enjoy; or
- (c) to affect the provisions of the payment of Wages Act, 1936 (iv of 1936), as adapted in Azad Jammu and Kashmir.

(3) Any employer who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, and if the court trying such contravention by order so directs, shall also pay to the worker concerned such sum as may be specified in the order to represent the difference between the amount actually paid to such worker and the amount which would have been paid to him had there been no such contravention.

Cognizance of Offences.- No court inferior to that of a Magistrate of the first class shall take cognizance of an offence punishable under this Act or the rules made thereunder, and cognizance shall not be so taken except upon a complaint in writing made by the Government or by any person authorised in this behalf by the Government.

Protection of the Proceedings of a Board.- No act or proceeding of a Board shall be invalid or questioned merely on the ground of existence of any vacancy therein or of any defect in the constitution or in the appointment or qualification of any member thereof.

Power of Boards, etc., to collect Information.- (1) Any member or the Chairman of a Board may, for the purpose of an enquiry under this Act or the rules made thereunder, direct any employer to furnish such records, documents or information and

do such other acts as the Board or the Chairman, as the case may be, may require, and every such employer shall comply with such direction.

(2) The Chairman of the Boards and such members, officers and servants thereof as are authorized in this behalf by the rules made may, for the discharge of any functions under this Act or the rules made thereunder,-

(a) enter, at all reasonable times, any factory ;

(b) inspect any books, registers and other documents relating to such factory ; and

(c) record statement of persons connected with the working of such factory :

Provided that no one shall be required under this clause to answer any question tending to criminate himself.

(3) Any employer who contravenes the provisions of sub-section (i), and any person who willfully obstructs anyone in the exercise of any power under sub-section (2), or fails to produce on demand thereunder any books, registers or other documents, shall be punishable with fine which may extend to five hundred rupees.

Certain Powers of Court to Boards etc.- (1) The Boards shall while holding an enquiry under this Act or the rules made thereunder be deemed to be Civil Courts and shall have the same powers as are vested in such Courts under the Code of Civil Procedure, 1908 (Act V of 1908), as adapted in Azad Jammu and Kashmir in respect of the following matter namely :-

(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ; and ,

(c) issuing commissions for the examination of witnesses.

Chairmen, etc., deemed to be public servants.- The Chairmen of the Boards and the members, officers and servants thereof, shall all be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860).

Bar to legal proceedings.- No suit, prosecution or other legal

proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Rules relating to Boards.- (1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the matters specified in sub-section (5) of section 3 ;

(b) the giving of opportunities to persons likely to be effected by the minimum rates of wages to offer comments and make suggestions ;

(c) fixing normal hours of work for the purpose of determining time work ;

(d) giving adequate publicity to the minimum rates of wages declared under this Act ;

(e) the maintenance of wage books, wage slips, registers and other records and prescribe their forms and particulars to be entered therein and the manner of authenticating such

entries ;

(f) the preparation and submission of reports and returns ;

(g) the appointment of inspections or other officers and

prescribe their powers and functions ; and

(h) such other matters for which rules are considered necessary for effectively carrying out the provisions of this Act.

(3) Rules made under this section may provide that any

contravention thereof shall be punishable with fine not exceeding five hundred rupees.

Sd/-

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