

# THE ANDHRA PRADESH FACTORIES AND ESTABLISHMENTS (NATIONAL, FESTIVAL & OTHER HOLIDAYS) ACT, 1974

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## THE ANDHRA PRADESH FACTORIES AND ESTABLISHMENTS (NATIONAL, FESTIVAL & OTHER HOLIDAYS) ACT, 1974

### ACT NO. 32 OF 1974

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An Act to provide for the grant of National, festival and other holidays to persons employed in factories and establishments in the State of Andhra Pradesh.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Twenty-fifth Year of the Republic of India, as follows :-

#### 1. Short title extent and commencement

(1) This Act may be called the Andhra Pradesh Factories and Establishments (National, Festival and other Holidays) Act, 1974.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall <sup>1</sup>come into force on such date as the Government may, by notification,

appoint.

## 2. Definitions

In this Act, unless the context otherwise requires –

- (a) **“day”** means a period of twenty-four hours beginning at midnight ;
- (b) **“employee”** means any person (including an apprentice) employed in any factory or establishment to do any skilled or unskilled, manually, supervisory, technical, or clerical work for hire or reward, whether the terms of employment be expressed or implied; and includes any other person employed in any factory or establishment whom the Government, may by notification, declare to be an employee for the purpose of this Act ;
- (c) **“employer”** when used in relation to a factory or establishment means a person who has the ultimate control over the affairs of such factory or establishment and where the affairs of any such factory or establishment are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person ;
- (d) **"establishment"** means any establishment as defined in <sup>2</sup>clause (10) of Section 2 of the Andhra Pradesh Shops and Establishments Act, 1966 (Andhra Pradesh Act 15 of 1966) and includes any other establishment which the Government may, by notification, declare to be an establishment for the purposes of this Act.
- (e) **"factory"** means any factory as defined in <sup>3</sup>clause (m) of Section 2 of the Factories Act, 1948 (Central Act 68 of 1948), or any place which is deemed to be a factory under sub clause (2) of Section 85 of the Act;
- (f) **"Government"** means the State Government;
- (g) **"Inspector"** means an Inspector appointed under sub section (1) of Section 6;
- (h) **"notification"** means a notification published in the Andhra Pradesh Gazette and the word "notified" shall be construed accordingly;
- (i) **"prescribed"** means prescribed by rules made under this Act;
- (j) **"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 attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles, but does not include
    - (a) any bonus;

(b) any contribution paid or payable by the employer to any pension or provident funds, 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 entitled on him by the nature of his employment;

(e) any travelling concession.

### **3. Grant of National, Festival and other holidays**

(1) Every employee shall be allowed in each calendar year a holiday of one whole day on the 26th January<sup>4</sup>[the 1st May], the 15th August and the 2nd October and <sup>5</sup>[four other holidays]each of one whole day for such festivals as may be notified by the Government or by such other authority as may be prescribed:

<sup>6</sup>[Provided that it shall be open for any employer to declare, with the consent of the employees in any factory or establishment and under intimation to the Government or prescribed authority, a substituted holiday in lieu of any of the festival holidays aforesaid.]

(2) Notwithstanding anything in this Act, the Government may, having due regard to any emergency or special circumstances prevailing in the State or any part thereof, notify any other whole day as a holiday to be allowed in any calendar year, to such employees or class of employees as they may deem fit.

### **4. Employer to send statement to Inspector**

Every employer shall send to the Inspector having jurisdiction over the area in which the factory or establishment is situated and display in the premises of such factory or establishment, a statement showing the holidays allowed in each calendar year under Section 3, in such form, within such time and in such manner 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.

[Provided that no wages for any such holiday shall be allowed in respect of any employee, who has not put in atleast thirty days work within a continuous period of ninety days immediately preceding that holiday, or who is on leave with wages during any period including any such holiday.]

(2)

(a) Notwithstanding anything contained in Section 3, any employee may be

required by the employer to work on any holiday allowed under that section if the employer has, not less than twenty four hours before such holiday

(i) served in the prescribed manner on the employee a notice in writing requiring him to work as aforesaid; and

(ii) sent to the Inspector having jurisdiction over the area in which the factory or establishment is situated and displayed in the premises of the factory or establishment a copy of such notice.

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

(i) twice the wages; or

(ii) wages for such day and to avail himself of a substituted holiday with wages on one of the three days immediately before or after the day on which he so works.

Provided that 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 only at a rate equivalent to the daily average of his wages to be calculated in the prescribed manner.

## **6. Inspectors**

(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 the Government may specify.

(2) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act 45 of 1860).

## **7. Powers of Inspectors**

An Inspector may, subject to any rules made by the Government in this behalf, 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 any local authority as he thinks fit to take with him, any place which is, or which he has reason to believe, is a factory or an 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 purpose of this Act;

(c) exercise such other powers as may be necessary for carrying out the purposes 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. Recovery of wages for holidays**

(1) Where any employer defaults in payment of the wages to the employee for each of the holidays allowed under this Act, the employee himself or any trade union of which he is a member or any Inspector under this Act, or any authorised representative of the employee, may apply to the authority specified in Section 15 of the Payment of Wages Act, 1936 (Central Act 4 of 1936).

(2) The provisions of Sections 15, 15 A, 16, 17, 17 A. and 18 of the Payment of Wages Act, 1936 shall, as far as may be, apply to all claims arising out of default in payment of the wages of employees for the holidays allowed under this Act.

### **9. Penalties**

Any employer who contravenes any of the provisions of Section 3 or Section 5 shall be punished with fine which, for the first offence, may extend to [one hundred and fifty rupees] and for a second and subsequent offences may extend to [seven hundred and fifty rupees].

### **10. Penalty for obstructing Inspector**

Whoever wilfully 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 punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

### **[10A. Cognizance of offences**

No Court shall take cognizance of any offence punishable under this Act, except on a complaint made by, or with the previous sanction in writing of, an Inspector, within six months from the date on which the offence comes to the knowledge of the Inspector.]

### **11. Exemptions**

(1) Nothing in this Act shall apply to

- (a) any employee in a position of management;
- (b) any employee whose work involves travelling;
- (c) any factory or establishment under the control of the Central or any State Government, local authority, 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 and for reasons to be specified therein, exempt either permanently or for any specified period, any factory or establishment or class of factories or establishments or persons or class of persons from all or any of the provisions of this Act subject to such conditions as the Government may deem fit.

## **12. Rights and privileges under other laws, etc., not affected**

Nothing contained in this Act shall affect any rights or privileges, which any employee is entitled to, on the date on which this Act came into force, under any other law, award, agreement or settlement, 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. 13. Power to make rules**

- (1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act.
- (2) In making a rule under this Act, the Government may provide that a contravention thereof shall be punished with fine which may extend to fifty rupees.
- (3) Every rule made under this Act shall, immediately after it is made, be laid before each House of the State Legislature if it is in session, and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session, or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1 Came into force w.e.f. 1-1-1975 vide G.O.Ms. No. 967 E. & S. W. (Labour-II) d/ 16-12-74-published in issue No. 409 of part I Extraordinary, A.P. Gazette d/ 19-12-74

2 The relevant Section is reproduced on page 16/17 for reference.

3 The relevant Section is reproduced on page 16/17 for reference.

4 Inserted by S. 2 of Amd. Act 21 of 1980 w.e.f. 30-4-1980.

5 Substituted for 'five other holidays' by ibid w.e.f. 30-4-1980.

6 Substituted for the following original proviso by ibid w.e.f. 30-4-80.

provided that if the majority of the employees in any factory or establishment or desire, the 1st may shall be one of the five festival holidays aforesaid in that factory or establishment'