

THE PUNJAB INDUSTRIAL ESTABLISHMENT (NATIONAL AND FESTIVAL HOLIDAYS AND CASUAL AND SICK LEAVE) ACT, 1965

Contents

1. Short title, extent and commencement	3
2. Definitions.....	3
3. National and festival holidays.....	4
4. Casual and sick leave	5
Wages.....	5
Account of holidays and leave to be kept	6
Inspectors.....	6
Powers of Inspectors	6
Penalties	6
Power to recover wages.....	6
Penalty for obstructing Inspector.....	7
Cognizance of offences.....	7
Exemptions.....	7
Rights and privileges under other laws, etc., not affected.....	7
Power to make rules.....	8

THE PUNJAB INDUSTRIAL ESTABLISHMENT

(NATIONAL AND FESTIVAL HOLIDAYS AND CASUAL AND SICK LEAVE) ACT, 1965

Received the assent of the Governor of Punjab on 19th May, 1965, and was first published in the Punjab Government Gazette Extraordinary, dated 22nd June, 1965.

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

Be it enacted by the Legislature of the State of Punjab in the Sixteenth Year of the Republic of India as follows:

Statement of Objects and Reasons: This Bill seeks to regulate the grant of various kinds of leave and holidays to workmen employed in Industrial Establishments in the State. At present these facilities are only available as a result of some awards or settlements or, in some cases, through Standing Orders. It would also reduce industrial disputes and friction among the employees on the grounds of non-grant of National and Festival holidays, Casual and Sick Leave and thus ameliorate the condition of workmen and improve their relations with the employers.

(Punjab Government Gazette Extraordinary, dated the 25th February, 1965.)

1. Short title, extent and commencement

- (1) This Act may be called the Punjab Industrial Establishment (National and Festival Holidays and Casual and Sick Leave) Act, 1965.
- (2) It extends to the whole of the State of Punjab/Haryana.
- (3) It shall come into force on the 1st day of July, 1965.

2. Definitions

In this Act, unless the context otherwise requires:

(a) "day" means a period of twenty-four hours beginning at mid-night.

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

(b) "Worker" 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 a worker for the purposes of this Act;

(c) "employer" when used in relation to an industrial establishment, means the person who has 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 shall be deemed to be the employer;

(d) "Government" means the Government of the State of

Punjab/Haryana; (e) "Industrial establishment" means-

(i) any factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act 63 of 1948), or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act; or

(ii) any plantation as defined in clause (f) of section 2 of the Plantation Labour Act, 1951 (Central Act 69 of 1951);

(f) "Inspector" means an Inspector appointed under sub-section (1) of section

7; (g) "prescribed" means prescribed by rules made under this Act;

(h) "wages" means all remuneration (whether by way of salary, allowances or otherwise)

expressed in terms of money or capable of being so expressed which would, if the term of employment, express or implied where fulfilled, be payable to a worker in respect of his employment or of work done in such employment, but does not include:

- (a) any bonus;
- (b) the value of any house accommodation, supply of light, water, medical facilities or other amenity or of any service or of any concessional supply of food grains or other articles;
- (c) any contribution paid or payable by the employer-
 - (i) to any pension or provident fund, and the interest which may have accrued thereon; or
 - (ii) for the benefit of the worker under any law for the time being in force;
- (d) any travelling allowance or the value of any travelling concession;
- (e) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment; or
- (f) any gratuity payable on the termination of employment.

3. National and festival holidays

- (1) Every worker shall, in each calendar year, be allowed in such manner and on such conditions as may be prescribed-
 - (a) three national holidays of one whole day each on the 26th January, 15th August and 2nd October; and
 - (b) ¹[four] ²[five] other holidays on any of the festival specified in the Schedule appended to this Act;

Provided that for purposes of clause (b), where at least ten per centum of the workers of an industrial establishment so desire, they may, in lieu of the festival holidays, avail of two half holidays on any of the festival days of their choice specified in such Schedule after settlement in this behalf has been made between the employer and the representative of the workers in such manner as may be prescribed.

- (2) The Government may, by notification, add to the Schedule appended to this Act any festival and thereupon the Schedule shall be deemed to be amended accordingly.

4. Casual and sick leave

Every worker shall, in each calendar year, be allowed by the employer casual leave for seven days and sick leave for fourteen days in such manner and on such conditions as may be prescribed

Explanation: For purposes of this section, such conditions may provide that one kind of

leave shall not be linked with another kind of leave, whether due under this Act, or under any other law for the time being in force.

5. Wages

(1) Notwithstanding any contract to the contrary, every worker shall, for each of the national and festival holidays and of the days of casual or sick leave, be paid by the employer wages at a rate equivalent to his average daily wage;

Provided that

(a) no worker shall be entitled to be paid such wages for any holidays, or leave, other than a national holiday, if his name was not on the rolls of

the industrial establishment continuously for a period of one month immediately preceding such holidays or leave;

(b) where a worker is entitled to sickness benefit under the Employees State Insurance Act, 1948, or sickness allowance under the Plantation Labour Act, 1951, he shall not be entitled to be paid such wages for the days of sick leave allowed to him under this act; and

(c) where a worker is not entitled to such sickness benefit or sickness allowance, he shall be paid wages for the days of sick leave, allowed to him under this Act at a rate equivalent to one half of the average daily wage.

(2) Where a worker works on any holiday allowed under section 3, he shall, at his option, be entitled to-

(a) twice his average daily wage for that day, or

(b) his average daily wage for that day and a substituted holiday with his average daily wage on any other day within ninety days from the day on which he so works.

Explanation: For the purposes of this section, the average daily wage of a worker shall be computed on the basis of his total full time wages during the preceding three calendar months exclusive of any over-time wages, if any;

Provided that the average daily wage of a worker who is paid wages by the day or at piece rate shall be computed on the basis of his wages for the days on which he actually worked during the month immediately preceding such holidays or leave. **6. Account of holidays and leave to be kept**

Every employer shall keep in such form and manner as may be prescribed an account of the festival holidays, casual leave and sick leave of every worker and every worker shall have access to such account.

7. Inspectors

(1) The Government may, by notification, appoint such persons or class of persons as it may think fit to be Inspectors for carrying out the purposes of this Act for such

areas as may be specified in the notification.

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

8. Powers of inspectors

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

- (a) enter at all reasonable times any place which is, or which he has reason 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;
- (c) exercise such other powers as may be necessary for carrying on 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.

9. Penalties

Any employer who contravenes any of the provisions of sections 3, 4, 5 and 6 shall be punishable, for the first offence, with fine, which may extend to one hundred rupees and for a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

For Haryana

[9. ³Penalties

Any employer who contravenes any of the provisions of sections 3, 4, 5 and 6, shall be punishable, for first offence, with a fine which may extend to two thousand rupees but not less than one thousand rupees and for a period or subsequent offence, with a fine which may extend to four thousand rupees but not less than two thousand rupees.]

10. Power to recover wages

- (1) Where a Magistrate, while convicting an employer under section 9, is satisfied that the worker has not been paid his due wages under this Act, the amount of which shall be determined by the Magistrate, he shall direct the employer to pay such wages to the worker.
- (2) The amount of wages determined under sub-section (1) shall, for the purposes of recovery, shall be deemed to be a fine imposed under this Act, in addition to the penalty imposed under section 9 and shall be realised as such.

11. Penalty for obstructing Inspector

Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act or intentionally omits to produce on demand in writing by an Inspector

any register, record or notice in his custody which may be required to 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 to⁴[five hundred rupees] ⁵[five thousand rupees but not less than two thousand rupees] or with

both. 12. Cognizance of offences

(1) No court shall take cognizance of any offence under this Act or the rules made thereunder except on a complaint in writing by an aggrieved person or an Inspector. (2) No court below that of a Judicial Magistrate of the first class shall try any offence punishable under this Act or the rules made thereunder.

13. Exemptions

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

(a) any worker drawing wages exceeding ⁶[two thousand and five hundred rupees] per mensem and employed mainly in the managerial administrative or supervisory capacity;

Clause (a) For Haryana

(a) ⁷[***]

(b) any worker employed in any industrial establishment under the control of the Government or the Central Government, or any State Government to whom the Civil Service Rules or any other similar (rules or regulations notified in this behalf by the Government, Central Government or any State Government, as the case may be apply; and

(c) any mine or oil field.

(2) The Government may, in public interest by notification, exempt either permanently or for any specified period, any class of industrial establishments from all or any of the provisions of this Act subject to such conditions as the Government may deem fit.

14. Rights and privileges under other laws, etc., not affected

Nothing contained in this Act shall affect any rights or privileges which any workers is entitled to receive under any other law,⁸[award] 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.

15. Power to make rules

(1) The Government may, by notification and after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for-

(a) the manner in which, and the conditions on which, national and other holidays shall be allowed to the workers under section 3;

(b) the number of days for which, the manner in which and the conditions in which, casual and sick leave shall, be allowed to workers under section 4;

(c) the form and manner in which an account of festival holidays, casual leave and sick leave of workers shall be maintained by employers under section 6;

(3) 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. (4) Every rule made under this section shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one sessions or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, the Legislature agree in making any modification in the rule or the Legislature agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.

THE SCHEDULE

[See Section 3 (1) (b)]

New Year Day Milad-ul-Nabii
Basant Panchmi Janam Ashtami
Guru Ravi Dass' Birthday Dussehra
Shivratri Maharishi Balmiki's Birthday
Holi Diwali
Hola Lala Lajpat Rai's Death Anniversary
Id-ul-fiter Guru Nanak's Birthday
Ram Naumi Guru Teg Bahadur's Martyrdom Day
Lord Mahavir's Birthday
Christmas Day
Good Friday
Jor Mela Fategarh Sahib

Baisakhi Guru Gobind Singh's Birthday
Id-ul-Zuha Vishwa Karma Jainti

Guru Arjun Dev's Martyrdom Day	May Day
-----------------------------------	---------

Muharrum

1 For Punjab

2 Subs for the word "four" by Haryana Act No. 8 of 1972

3 Substituted by Haryana Act No 9 of 2007 dated 4th April 2007

4 Substituted by Haryana Act No 9 of 2007 dated 4th April 2007 for the words "five hundred rupees" 5 For Punjab

6 Substituted by Punjab Act No. 7 of 2003 dated 28th April 2003

7 Clause (a) omitted by Haryana Act no. 9 of 2007 dated 4th April 8 For Haryana