

THE BIHAR INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS AND CASUAL LEAVE) Act, 1976

An

Act

To Provide For National And Festival Holidays And Casual Leave To The Persons Employed In Industrial Establishments In The State Of Bihar

Be it enacted by the Legislature of the State of Bihar in the Twenty-Second year of the Republic of India as follows: -

1. Short title, extent and commencement. - (1) This Act may be called the Bihar Industrial Establishment (National and Festival Holidays and Casual Leave) Act, 1976.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall come into force from such date as the State Government may appoint by a notification in the Official Gazette.

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

(a) “Day” means a period of twenty four hours beginning from the midnight.

(b) “Employee” means –

(i) a workman employed in any industrial establishment for skilled or unskilled, manual, supervisory, technical or clerical job whether on hire or reward and includes an apprentice whether the terms of employment are expressed or implied; or

(ii) such other workmen or group of workmen employed in any industrial establishment whom the State Government may declare to be “employer” for the purposes of this Act, by a notification in the Official Gazette.

(c) “Employer” in relation to an industrial establishment, means the person who has ultimate control over the affairs of the industrial establishment and where the said affairs are entrusted to any other person, such other person, whether called by name of managing agent, manager, superintendent or by any other name.

(d) “Government” means the State Government of Bihar.

(e) “Industrial Establishment” means –

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

(ii) a plantation as defined in clause (j) of section 2 of the Plantations Labour Act, 1951 (Act 69 of 1951).

(2)

- (f) "Inspector" means an inspector appointed under sub-section (1) of section 7;
- (g) "Prescribed" means prescribed by rules made under this Act; and
- (h) "Wages" means all remuneration whether by way of salary and allowances or otherwise expressed in terms of money or capable of being so expressed, which would, if the terms of employment, expressed or implied, were compiled, be payable to an employee in respect of his employment or of work done in such employment, but does not include the following: -
 - (i) Any bonus;
 - (ii) The value of any house accommodation, supply of light and water, medical or any other amenity or of any service or any concessional supply of foodgrains or other articles;
 - (iii) Contribution paid or payable by the employer as follows: -
 - (a) on account of any pension or provident fund and interest accruing thereon; or
 - (b) on account of any benefit of the employee under any law for the time being in force.
 - (iv) Any travelling allowance or the value of any travelling concession;
 - (v) Any sum paid to the employee for defraying special expenses incurred on him due to the nature of his employment; or
 - (vi) Any gratuity payable on the termination of employment.

3. National and Festival Holidays. – (1) Every employee shall be granted following holidays in each calendar year in such manner and on such terms and conditions as may be prescribed: -

- (a) Three National Holidays on the 26th January, 15th August and the 2nd October.
- (b) Four other holidays on any festival out of the festivals mentioned in the Schedule.
- (c) International Labour day on 1st May.

(2) The Government may add to or exclude a festival from the schedule by a notification in the Official Gazette and on publication of such notification the schedule shall be deemed to be amended accordingly.

4. Casual leave. – Every employee shall be granted in each calendar year, in addition to all other leaves admissible under any other law, at least seven days of casual leave in such manner and on such terms and conditions as may be prescribed.

5. Account of Holidays and Leave. – Every employer shall maintain an account of Festival Holidays and casual leave of every employee in such form and in such manner as may be prescribed and every employee shall be allowed to see that account.

6. Wages. – (1) Notwithstanding any contract to the contrary every employee shall be paid wages for the days of National festival holidays and casual leave allowed to him.

(2) If any employee works on any holiday allowed under section 3 he shall at his discretion be entitled for the following. –

(a) Double wages for that day; or

(b) Wages for that day and in lieu thereof holiday of any other day with wages within three days of the day on which he so works;

Provided that an employee, whose name is not borne, on the rolls of the industrial establishment continuously for one month immediately before such holiday or leave, shall not be entitled for wages for such holiday or leave except for national holidays.

7. Inspections. – (1) The Government may, by notification in the official Gazette, appoint such class of persons as it thinks fit, to be Inspectors for 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 (45 of 1860).

8. Powers of Inspectors. – Subject to rules made by the Government in this behalf, Inspector may, within the areas for which he is appointed: -

(a) enter at all reasonable times any place which is an industrial establishment, or which he has reasons to believe to be such an establishment;

(b) search the premises and examine any prescribed registers, records and notices maintained in pursuance of this Act or the rules made thereunder;

(c) take evidence of such persons on the spot or otherwise, which he may consider necessary to examine for carrying out the purposes of the Act:

Provided that no person shall be compelled to answer any question or to give any evidence tending to implicate himself of an offence, and.

(d) exercise such other powers which may be prescribed for carrying out the purposes of this Act.

9. Penalty. – Any employer who contravenes any provisions of sections 3, 4, 5 and 6 or any rule or order made under this Act, shall be punishable for the first offence with fine which may extend to rupees fifty and for every subsequent offence after the first conviction with a fine which may extend to rupees two hundred and fifty and the court while delivering judgement may order that the whole or any part of the fine realised shall be paid, as compensation to any person who in the opinion of the court has sustained any loss or injury on account of such offence.

10. Penalty for obstructing Inspector. – Whoever wilfully obstructs any Inspector in exercise of any powers conferred on him by or under this Act or knowingly fails to produce on demand by an Inspector any register, record or notice which is required to be maintained under the provision of the Act or any

rule made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with a fine which may extend to five hundred rupees or with both:

Provided that in no case such imprisonment shall be less than for a week and such fine shall be less than rupees fifty.

11. Cognizance of offence. – (1) No court shall take cognizance of any offence punishable under this Act or the rules made thereunder save and except on a complaint made in writing by the aggrieved person or the Inspector.

(2) No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act or the rules made thereunder.

12. Exemptions. – (1) Nothing contained in this Act shall apply to –

- (a) any such employee who gets monthly wages of more than five hundred rupees and be chiefly employed on a managerial administrative or supervisory post;
- (b) any industrial establishment under the control of the Central Government or the State Government; and
- (c) any mine or oil field.

(2) The Government may by notification in the official Gazette, subject to such terms and conditions as it may think fit, exempt any class of industrial establishments from all or any provisions of this Act, permanently or for a specific period.

13. Rights and privileges under any other law not to be affected. – Where any employee of an industrial establishment is entitled to such rights and privileges under any other law for the time being in force or under any contract or custom or usage applying to the said establishment, which are more favourable to him, than any right and privileges conferred by this Act, nothing contained in this Act shall affect such rights or privileges.

14. Power to make rules. – (1) The Government may, subject to previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

- (a) The manners and conditions under which the employees shall be granted national and other holidays and casual leave under sections 3 and 4.
- (b) the form and the manner in which the account of festival holidays and casual leave shall be maintained; and
- (c) any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature, while it is in session for a period of fourteen days which may be comprised in one session or in two successive sessions and if, before, the expiry of the session in which it is laid or the session immediately following, the legislature agree in making any modification

(5)

in the rule or the legislature agree that the rule should not be made, the rule shall thereafter have effect only in such notified 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.

SCHEDULES

Section 3 (1) (b)

1. New Year's day.
2. Id-Uz-Zoha.
3. Basant Panchami.
4. Good Friday.
5. Holi.
6. Id-Ud-Zoha.
7. Muharram.
8. Dashahara.
9. Diwali.
10. Chirstmas Day.
11. Guru Govind Singh Birthday.
12. Ram Navami.
13. Birthday of Bhagwan Mahabir.
14. Janmashtami.
15. Vishwakarma Diwas.
16. Budh Purnima.

The 18th December 1984

S.O. 1298 dated the 25th November, 1985 – In exercise of powers conferred by sub-section (2) of section 3 of the Bihar Industrial Establishment (National and Festival Holidays and Casual Leave) Act, 1976, the Bihar State Government is pleased to add the following festivals after serial number 16 of the Scheduled Appended to the said Act: -

- “[17. Chhath.
18. Makar Sankranti.
 19. Guru Nanak Birth-day.
 20. Bhaiya Dooj.
 21. Maha-Shivaratri
 22. Raksha Bandhan.
 23. Sarhul.”