

THE TAMIL NADU INDUSTRIAL ESTABLISHMENTS ¹[(NATIONAL, FESTIVAL AND SPECIAL HOLIDAYS)] ACT, 1958

(ACT XXXIII OF 1958)

(Received the assent of the Governor on the 4th December, 1958; first published in the Fort St. George Gazette on the 10th December, 1958)

An Act to provide for the grant of ¹[National, festival and special holidays] to persons employed in industrial establishments in the State of Tamil Nadu.

[4th December, 1958]

WHEREAS it is expedient to provide for the grant of National, festival and special holidays to persons employed in industrial establishments in the State of Tamil Nadu;

BE it enacted in the Ninth Year of the Republic of India as follows:--

1. Short title, extent and commencement—(1) This Act may be called the Tamil Nadu Industrial Establishments ¹[(National, Festival and Special Holidays)] Act, 1958.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall 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—

(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;

(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 a 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) "Government" means the State Government;

¹ Subs. for the words "National and Festival Holidays" by Act 36 of 2017 S.1,2,3 w.e.f 26.09.17

(e) "industrial establishment means,-

(i) any establishment as defined in clause (6) of section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXIII of 1947);

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

(iii) any plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951);

(iv) 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 attendance 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;

(e) any travelling concession.

3. ¹[Grant of National, Festival and Special Holidays - (1)] Every employee shall be allowed in each calendar year a holiday of one whole day on ² [the 26th January, the 1st May, the 15th August and the 2nd October and five other holidays 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.

¹ Subs. by Act 36 of 2017 S.5 (w.e.f 26th September, 2017)

² Subs. by Act 7 of 1970 S.2 (w.e.f 25th April, 1979)

¹[(2) Notwithstanding anything contained in sub-section (1), the Government may, having due regard to any emergency or special circumstances prevailing in the State or any part thereof, by notification, declare any other day as a special holiday, to the employees of the industrial establishments, as it 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 industrial establishment is situated, and display in the premises of the industrial 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. ²[Such wages shall be paid along with the wages for the wage period in which such holiday falls.]

³ [(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 industrial establishment is situated and displayed in the premises of the industrial 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 ⁴ [on one of the three days immediately before or after the day 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 to be calculated in the prescribed manner;

¹ Ins. by Act 36 of 2017 S.5 (w.e.f 26th September, 2017)

² Ins. by Act 11 of 2007 S.2 (w.e.f 15th June, 2007)

³ Subs. by Act 43 of 1961, S.2

⁴ Subs. by Act 17 of 1964, S.2

(ii) where he works on any such holiday, only at twice the rate mentioned in clause (i), or in lieu thereof, at the rate mentioned in that clause and to avail himself of a substituted holiday with wages at that rate ¹ [on one of the three days immediately before or after the day on which he so works]:

² [Provided that no such employee shall be entitled to be paid any wages for any of the holidays allowed under section 3 other than ³ [the 26th January, the 1st May, the 15th August and the 2nd October] unless he has been in the service under the employer for a total period of 30 days, within a continuous period of ninety days immediately preceding such holiday.

Explanation – For the purpose of this proviso, a weekly or any other holiday or authorized leave availed of by an employee shall be included in computing the period of thirty days mentioned therein.]

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 XLV of 1860).

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 reason to believe is, 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;

⁴ [(bb) seize or take copies of such registers, records or notices or portions thereof which he considers relevant in respect of an offence under this Act, on giving the employer a receipt therefor. The registers, records or notices or portions thereof so seized shall be returned by the Inspector, on completion of examination or inquiry or proceeding under this Act;

Provided that such registers, records or notices or portions thereof shall not be retained by the Inspector for more than thirty days except with the permission of the Commissioner of Labour.]

(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.

¹ Subs. by Act 17 of 1964, S.2

² Subs. by Act 43 of 1961, S.2

³ Subs. by Act 7 of 1970 S.2 (w.e.f 25th April, 1979)

⁴ Ins. by Act 11 of 2007 S.3 (w.e.f 15th June, 2007)

¹ **[8. Penalties** – Any employer who contravenes any of the provisions of section 3 or 5 shall be punishable with fine which, for the first offence, shall not be less than five hundred rupees but which may extend to five thousand rupees and for the second and subsequent offences, shall not be less than five thousand rupees but which may extend to ten thousand rupees.]

² **[8-A. Compounding of offences** – (1) Any offence punishable under section 8 or any rule made under section 12 may, either before or after the institution of the prosecution, be compounded by the Commissioner of Labour or such other officer as may be authorised in this behalf by the Commissioner of Labour, on payment, for credit to the Government of such sum as the Commissioner of Labour or such other officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of fine which may be imposed under this Act for the offence so compounded.

(2) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded and the offender, if in custody, shall be discharged forthwith.

(3) No offence punishable under this Act shall be compounded except as provided by this section.]

9. 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 punishable with imprisonment for a term which may extend to three months or with fine which may extend to ³ [one thousand rupees] or with both.

10. Exemptions – (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 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 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 conditions as the Government may deem fit.

¹ Subs. by Act 26 of 2018 S.2 (w.e.f 2nd August, 2018)

² Ins. by Act 49 of 2000, S.2 (w.e.f 22nd January, 2001)

³ Subs. by Act 26 of 2018 S.2 (w.e.f 2nd August, 2018)

11. 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 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

¹ [**11-A Protection of action taken in good faith** – No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.]

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 the contravention thereof shall be punishable with fine which may extend to ² [five thousand rupees].

³ [(3) All rules made under this Act shall be published in the Fort St. George Gazette# and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the table of the Legislative Assembly, and if, before the expiry of the session, in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or the Legislative Assembly agrees 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.]

—

¹ Ins. by Act 11 of 2007 S.3 (w.e.f 15th June, 2007)

² Subs. by Act 26 of 2018 S.2 (w.e.f 2nd August, 2018)

³ Subs. by Act 43 of 1961, S.3

Now the Tamil Nadu Government Gazette