

The U.P. Employment of Substitute Workmen Act, 1978

UTTAR PRADESH

India

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Act 4 of 1978

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The U.P. Employment of Substitute Workmen Act, 1978 U.P. Act No. 4 of 1978 Statement of Objects and Reasons. - In several cotton, jute, woollen textiles, synthetic fibres and yarn factories and relative industrial establishments, substitute workers in the reserve pool who are unable to get work for a number of days have been getting a raw deal. This results in labour unrest and avoidable industrial disputes. It is, therefore, proposed to provide that if a reserve pool workman presented himself for work and the employer failed to provide work to him the latter shall pay to the former a specified sum as "disappointment allowance" for each such day. It is also considered advisable to make the contravention of provisions of the proposed legislation a penal offence punishable with imprisonment for a term extending up to three years or with fine or both. The Uttar Pradesh Employment of Substitute Workmen Bill, 1978 is accordingly being introduced. [Dated 16th April, 1978] Received the assent of the Governor on April 16, 1978, and published in U.P. Gazette (Extraordinary), dated 18th April, 1978. An Act to provide for the employment of substitute workmen in certain industrial establishment and for matters connected therewith. It is hereby enacted in the Twenty-ninth year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Uttar Pradesh Employment of Substitute Workmen Act, 1978. (2) It extends to the whole of Uttar Pradesh. (3) It shall be deemed to have come into force on January 26, 1978.

2. Definitions.

- In this Act, - (1) "disappointment allowance" means an amount equal to Thirty-three per cent, of the wages payable to a workman for one day ; (2) "industrial establishment" means any establishment pertaining to cotton, jute, woollen, textiles, synthetic fibres, synthetic yarn factories, and includes

such other establishments as may be notified by the State Government in this behalf ;(3)"reserve pool workman" means a person who was employed by an employer for 300 days or more during the twenty-four calendar months immediately preceding the commencement of this Act on a job of permanent nature ;(4)"wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money, which would, if the terms of employment express or implied were fulfilled, be payable to a workman in respect of his employment or of work done in such employment ;(5)The words "employer" and "workmen" shall have the meanings respectively assigned to them in the U.P. Industrial Disputes Act, 1947 ;(6)The word "factory" shall have the meaning assigned to it in the Factories Act, 1948.

3. Employer to maintain register of pool workmen.

- Every employer shall maintain a register of reserve pool workmen and shall enter therein the names of all reserve pool workmen categorywise and arrange in order of seniority reckoned on the basis of the highest number of days worked during the twenty-four calendar months, immediately preceding the commencement of this Act.

4. List of pool workmen to be displayed.

- A list of the names of the reserve pool workmen categorywise shall be pasted on the notice board of the industrial establishment concerned within thirty days from the date of commencement of this Act.

5. Payment of disappointment allowance on failure to provide work.

- When a reserve pool workman presents himself for work and the employer fails to give work to him, he shall pay to such workman disappointment allowance for every such day :Provided that no disappointment allowance shall be payable for more than ninety days, during any period of continuous twelve calendar months.

6. Permanent appointment of reserve pool workmen.

- Every employer shall while making permanent appointment of reserve pool workmen in relation to any category in which vacancy occurs, follow the order in which the names of such workmen are entered in the register maintained under section 3.

7. Penalty.

- Whoever contravenes any provision of this Act shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

8. Cognizance of offences.

(1) No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the District Magistrate or any officer authorised by him in this behalf. (2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

9. Offences by companies.

(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, he shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section - (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director" in relation to a firm, means a partner in the firm.

10. Savings for other laws.

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

11. Repeal.

(1) The Uttar Pradesh Employment of Substitute Workmen Ordinance, 1978 (U.P. Ordinance No. 1 of 1978), is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act were in force at all material times.