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MAHARASHTRA

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Act 23 of 1988

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The Maharashtra Workmen's Minimum House Rent Allowance Act, 1983.[17th October, 1988]MAHARASHTRA ACT NO. XXIII OF 1988An Act to provide for payment of minimum house-rent allowance to workmen employed in industries in Maharashtra.WHEREAS, it is expedient to provide for payment of minimum house-rent allowance to workmen employed in industries in Maharashtra and to provide for matters connected therewith;It is hereby enacted in the Thirty-fourth Year of the Republic of India as follows: —

1. Short title, extent, commencement and application. —

(1)This Act may be called the Maharashtra Workmen's Minimum House-rent Allowance Act, 1983.(2)It extends to the whole of the State of Maharashtra.(3)It shall come into force on such date² as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different areas in the State and for different industries or classes of industries.(4)It shall apply in the area in which it is in force to every factory or establishment in an industry, in respect of which a notification is issued under sub-section (3), where, in relation to any industrial dispute concerning such industry, the State Government is the appropriate Government under sub-clause (ii) of clause (a) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), or to which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), apply, and in which factory or establishment fifty or such higher number of workmen as may be specified by the State Government by notification in the Official Gazette, are employed.(5)Notwithstanding anything contained in sub-sections (3) and (4), the State Government may, after giving not less than two months' notice of its intention to do so, by notification in the Official Gazette, and after considering any objections and suggestions which may be received, by like notification, apply from a specified date the provisions of this Act to any factory or establishment in any industry or industries specified

in the notification, wherein less than fifty workmen, but not less than such number of workmen as may be specified in the notification, are employed.(6)Once the provisions of this Act apply or are applied to any factory or establishment in any industry under this section, they shall continue to apply to such factory or establishment, notwithstanding that the number of workmen employed therein falls below fifty or such higher or lesser number of workmen as may be specified under the notification issued under sub-section (4) or (5) as the case may be.Explanation: — For computing the number of workmen employed in any industry for the purposes of this section, the number of workmen employed in all the branches and units of the factories and establishment in the industry in the State of Maharashtra shall be taken into consideration, and if there is any doubt or dispute, the matter shall be referred to, and decided by, the State Government or any officer authorised by it in this behalf, and its or his decision, as the case may be, shall be final.

2. Definitions. —

In this Act, unless the context otherwise requires, —(a)“Controlling Authority” means the Authority appointed by the State Government under section 3;(b)“employer”, in relation to any factory or establishment in any industry, means the person or authority, who has the ultimate control over the affairs of the industry, and includes the Manager, Managing Director or any other person, (by whatever name called) who is responsible to the owner for the supervision and control of the workmen employed therein;(c)“establishment” means an establishment as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948);(d)“factory” means a factory as defined in the Factories Act, 1948 (LXIII of 1948);(e)“industry” means an industry as defined in the Industrial Disputes Act, 1947 (XIV of 1947);(f)“month” means a month as defined in the Bombay General Clauses Act, 1904 (I of 1904);(g)“prescribed” means prescribed by rules made under this Act;(h)“wages” means basic wages and dearness allowance;(i)“workman” means a workman as defined in the Industrial Disputes Act, 1947 (XIV Of 1947), or an employee as defined in the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), as the case may require;(j)words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the Industrial Disputes Act, 1947 (XIV of 1947), or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), as the case may require.

3. Appointment of Controlling Authority. —

The State Government may, by notification in the Official Gazette, appoint an officer, not below the rank of Assistant Commissioner of Labour, to be the Controlling Authority for the administration of this Act and for carrying out the purposes of this Act, and different Controlling Authorities may be appointed for different areas or for different industries, or in the same areas or different industries or for the same industry in different areas.

4. Responsibility for payment of house-rent allowance. —

(1)Every employer shall pay to every workman employed by him a house-rent allowance which shall not be less than five per cent, of the wages payable to the workman for his services during a month, or twenty rupees, whichever is higher:Provided that in case a workman renders service for less than

a month, the house-rent allowance shall be payable to him pro rata: Provided further that the service during a month shall include the days on which—(a) the workman has been laid off under an agreement or as permitted by the Standing Orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), or the Industrial Disputes Act, 1947 (XIV of 1947), or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), or under any other law for the time being in force; (b) he was unable to work due to lock-out or cessation of work, for which the employer pays wages; (c) he has been absent due to his temporary disablement, because of accident arising out of and in the course of his employment; (d) he has been on any-authorised leave including weekly or other declared holiday, sick leave or permissible casual or optional leave; (e) he has been on any kind of leave with wages; (f) in the case of a female workman, she has been on maternity leave, so, however, that the total period of such leave, including sick leave, weekly-offs etc., does not exceed twelve weeks. (2) The house-rent allowance payable to a workman under sub-section (1) shall be paid to him in cash, along with his wages for the month. (3) Notwithstanding anything contained in sub-section (1), a workman, who is entitled to draw under the terms of his service or under any agreement, settlement or award, a house-rent allowance at a higher rate than that provided in sub-section (1), shall continue to draw the same at such higher rate. (4) Where a workman is provided residential accommodation by the employer and a deduction is made therefor from his wages, then—(a) if the amount deducted for such accommodation is higher than the house-rent allowance admissible under sub-section (1), the deduction shall be reduced by the amount mentioned in that sub-section, and no house-rent allowance shall be payable to such workman; and (b) if the amount deducted is less than the house-rent allowance admissible, under sub-section (1), the said allowance shall be reduced by the amount deducted, and the balance shall be paid to the workman.

5. House-rent allowance when not payable. —

Where a workman is provided with residential accommodation by the employer and no deduction is made therefor from his wages, the employer shall not be required to pay house-rent allowance to such workman as required by section 4.

6. Recovery of house-rent allowance as fine. —

(1) If the house-rent allowance payable under this Act is not paid by the employer within the prescribed period, the workman or any person authorised by him in writing in this behalf, or, in case of his death, his heir or legal representative, may, without prejudice to any other mode of recovery, make an application, in such form and in such manner as may be prescribed, to the Controlling Authority having jurisdiction, for the recovery of the amount of the house-rent allowance due to him from the employer: Provided that such application shall be made within a period of one year from the date the house-rent allowance became due: Provided further that such application may be entertained, after expiry of the said period of one year, if the Controlling Authority is satisfied that the workmen had sufficient cause for not making the application in time. (2) The Controlling Authority to whom an application under sub-section (1) is made may, after giving the applicant and the employer concerned a reasonable opportunity of being heard and after making such further inquiry as may be considered necessary, determine the amount of house-rent allowance due to the

applicant and may, by order, direct, without prejudice to any other action which may be taken under this Act or any other law for the time being in force against the employer, the payment to the applicant of the amount of house-rent allowance as so determined.(3)An appeal shall lie, in the prescribed manner and within the prescribed period, from an order of the Controlling Authority dismissing any application made under sub-section (1) or giving any direction under sub-section (2), to such Appellate Authority, not below the rank of Deputy Commissioner of Labour, as the State Government may, by notification in the Official Gazette, appoint in this behalf, and different Appellate Authorities may be appointed for the same or different industries or for the same or different areas.(4)Any order made by the Controlling Authority under this section, subject to an appeal to the Appellate Authority, and any order made by the Appellate Authority on any such appeal, shall be final.(5)Any amount of the house-rent allowance found due and directed to be paid by any order made under this section, which has become final, may be recovered by any Judicial Magistrate to whom the Controlling Authority makes an application in this behalf, as if it were a fine imposed by such Magistrate and shall be paid to the applicant concerned or his heir or legal representative, as the case may be.

7. Reference of a dispute under this Act. —

Where any dispute arises between an employer and any workman or workmen with respect to the house-rent allowance payable under this Act or with respect to the application of this Act to any factory or establishment in any industry or to any workmen employed therein, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947), or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), as the case may require, and the provisions of the relevant Act, shall mutatis mutandis, apply for investigation and settlement of such dispute.

8. Maintenance of registers, accounts and records. —

Every employer to whom the provisions of this Act apply shall maintain such registers, account books and records giving such particulars of workmen employed by him, the wages and house-rent paid to them, the receipts given by them and such other particulars and in such manner and form, as may be prescribed.

9. Appointment of Inspectors. —

(1)The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions under the supervision of the Controlling Authority concerned.(2)For the purpose of ascertaining whether any provisions of this Act are being complied with or not, an Inspector may, within the local limits for which he is appointed, —(a)enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place of a factory or establishment in an industry for the purpose of examining any registers, account books and other records required to be kept under this Act or the rules made thereunder and require any one found in charge thereof to produce

before him for examination any registers, account books and other records relating to the employment of the workmen and the payment of wages and house-rent allowance to them;(b)examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person in charge of the factory or establishment or the records or any person whom the Inspector has reason to believe to be or to have been a workman in that factory or establishment;(c)seize or take copies of such registers, account books or other records of portions thereof as he may consider relevant in respect of any offence under this Act, which he has reason to believe has been committed by any employer or other person;(d)require the employer or his agent or servant or any workman to furnish such further information as he thinks fit;(e)exercise such other powers and discharge such other functions as may be prescribed.(3)Any person required to produce any registers, account books or other records or to give any information, which is in his power to produce or give, to an Inspector as required by him under sub-section (2), shall be legally bound to do so.

10. Penalties for offences. —

(1)Whoever, for the purposes of avoiding any payment to be made by himself under this Act, or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation or false entry in any register, account book or other record shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.(2)Any person who contravenes, or makes default in compliance with, any other provision of this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

11. Cognizance of offences. —

(1)No Court shall take cognizance of an offence punishable under this Act, except on a complaint made by the Controlling Authority or an Inspector or by any officer of the State Government authorised by it in this behalf.(2)No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

12. Protection of action taken under the Act. —

No suit, prosecution or other legal proceeding shall lie against the Controlling Authority, any Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

13. Power to exempt in special cases. —

(1)Notwithstanding anything contained in this Act, the State Government may, by order published in the Official Gazette, and subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the order direct that the provisions of this Act shall not apply to any

specified factory or establishment or to any specified class of factories or establishments in any industry, if it is satisfied that it is just and proper so to do in the public interest or for any special reasons having regard to the more favourable conditions of employment in such factory or factories or establishment or establishments or to the financial position and other relevant circumstances of such factory or factories or establishment or establishments, as the case may be.(2)Any order made under this section may be made so as to be retrospective to any date not earlier than the date on which the Act became applicable to that factory or factories or establishment or establishments, as the case may be.

14. Power to make rules. —

(1)The powers to make all rules under this Act shall be exercisable by the State Government by notification in the Official Gazette, subject to the condition of previous publication.(2)Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act. Such rules may provide for payment of fees for any of the purposes of this Act, for which no provision is made in this Act.(3)Every rule made under this Act 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 total period of thirty days, which may be comprised in one session or two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, without prejudice to the validity of anything previously done or omitted to be done under that rule.

15. Protection of rights under other laws or agreements. —

Nothing contained in this Act shall adversely affect any rights of the workmen or their representatives to demand or to get or to raise an industrial dispute under any agreement or any other law for the time being in force, for better service conditions relating to housing accommodation or house-rent allowance, in addition to those provided under this Act.