

# **The Maharashtra Unemployment Allowance Payment To Workmen In Factories (For Temporary Period) Act, 1976**

MAHARASHTRA

India

## **The Maharashtra Unemployment Allowance Payment To Workmen In Factories (For Temporary Period) Act, 1976**

### **Act 14 of 1976**

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The Maharashtra Unemployment Allowance Payment To Workmen In Factories (For Temporary Period) Act, 1976[18th April, 1976]Act No. XIV of 1976An Act to require employers to pay unemployment allowance to certain workmen who, due to short working of factories on account of shortage of power, cannot be given employment therein on certain days during a certain temporary period and to provide for matters connected therewith.WHEREAS both Houses of the Legislature of the State were not in Session;AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to require employers to pay unemployment allowance to certain workmen who, due to short working of factories on account of shortage of power, could not be given employment therein on certain days during a temporary period notified either in relation to the whole State or any part thereof and to provide for matters connected therewith, and for that purpose promulgated the Maharashtra Unemployment Allowance Payment to Workmen in Factories (for Temporary Period) Ordinance, 1976 (Mah. Ord. II of 1976), on the 5th day of February 1976;AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature;It is hereby enacted in the Twenty-Seventh Year of the Republic of India as follows: —

### **1. Short title, extent, commencement and operation. —**

(1)This Act may be called the Maharashtra Unemployment Allowance Payment to Workmen in Factories (for Temporary Period) Act, 1976.(2)It extends to the whole of the State of Maharashtra.(3)It shall be deemed to have come into force on the 16th day of December 1975, but save as provided in section 9 shall be in operation only during the temporary periods notified, from

time to time, under-clause (e) of section 2, in the whole State or any part thereof as may be specified in such notification.

## **2. Definitions. —**

In this Act, unless the context requires otherwise, —(a)“Badli workman” means a workman who is provided with a Badli card and who is employed in a factory in place of another workman who is temporarily absent and whose name is borne on the muster roll of the factory;(b)“factory” means any premises including precincts thereof wherein ten or more workers are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a factory in respect of which the Central Government is the appropriate Government in relation to industrial disputes concerning it under the Industrial Disputes Act, 1947 (XIV of 1947);(c)“Manager” means the person who is for the time being managing the factory, and includes any other officer duly authorised by the employer to act as Manager, such authorisation being notified to the workmen by displaying it on the notice board of the factory;(d)“permanent workman” means a workman who has been employed on a permanent basis or whose appointment has been confirmed in writing by the Manager or by a person duly authorised in this behalf by the Manager, and includes a workman who has completed a probationary period of three months in the aggregate in the same or another occupation in the factory, and an apprentice who is asked or appointed to work in a post or vacancy of a permanent workman for the purposes of payment of wages to him during the period he works on such post or in such vacancy;(e)“temporary period” means such period (including its extension) as the State Government may for the whole State or any part thereof from time to time by notification in the Official Gazette specify in this behalf; and any notification under this clause may be made so as to be retrospective to any date not earlier than the 16th day of December 1975;(f)“temporary workman” means a workman who has been appointed in a factory for a limited period for work which is of an essentially temporary nature or who is employed temporarily as an additional workman in connection with temporary increase in work of a permanent nature;(g)the expression “workman” and any other words or expressions used in this Act but not defined therein shall have the same meanings respectively assigned to them in the Industrial Disputes Act, 1947 (XIV of 1947), with this modification that the expression “workman” shall include a Badli workman, a temporary workman, and for avoidance of doubt, also a permanent workman.

## **3. Payment of unemployment allowance. —**

(1)Where any workman, whose name is borne on the muster roll or, as the case may be, Badli Register, of a factory on, the first day of the temporary period is not provided, with employment therein on any days during the temporary period, due to short working of factories on account of shortage of power or on account of discontinuance or reduction of the supply of power to the factory for contravention of any provisions of the Bombay Electricity (Special Powers) Act, 1946 (Bom. XX of 1946), or of any orders of directions issued thereunder then notwithstanding anything contained in any law for the time being in force, he shall, subject to the provisions of this Act be paid by the employer an unemployment allowance at such rate per day and for such number of days in each calendar month during the temporary period as is provided in sub-section (2) of this section.(2)The

rate of unemployment allowance payable shall be equal to 50 per cent. of the total of the basic wages and dearness allowance that would have been payable to him had he been provided with employment during the temporary period: Provided that where the unemployment is on account of discontinuance or reduction of the supply of power for the reasons stated in sub-section (1), the rate of allowance payable shall be hundred per cent. of the total of the basic wages and dearness allowance. The number of days in each calendar month for which the unemployment allowance shall be paid at the rate aforesaid shall be equal to the average of the total number of days in each month on which a workman has actually worked during a period of one year immediately before the commencement of the temporary period: Provided that, such number of days in each calendar month shall not exceed the number of days in that month on which he is not provided with unemployment. Explanation. — Where the interval between two or more temporary periods is less than one year, then for calculating the period of one year in relation to the last of such temporary periods for the purposes of this sub-section, the temporary period or periods immediately before such last temporary period shall be excluded. (3) In computing the amount of unemployment allowance, the amount payable shall, where necessary, be rounded off to the nearest rupee, fractions of fifty paise and over being counted as one, and less than fifty paise being disregarded. (4) Where a workman does not actually work for the full number of hours on any day, then in counting the number of days on which he has actually worked on such days, the number of hours during which a workman has worked on each such day shall be added together to ascertain the number of days.

#### **4. Workmen not entitled to unemployment allowance in certain cases. —**

No unemployment allowance shall be paid to any workman—(a) if he is entitled to any lay-off compensation under the provisions of the Industrial Disputes Act, 1947 (XIV of 1947); (b) if he refuses to accept any alternative employment in the same factory in which he has been provided with his usual employment, or in any other factory belonging to the same employer in the same town or village or situated within a radius of 8 kilometres from the factory to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also; (c) if such non-provision for employment on any day is due to any strike or slowing down of production on the part of the workmen in another part of the factory.

#### **5. Recovery of money due from employer. —**

(1) Where any money by way of unemployment allowance is due to a workman from an employer under the provisions of this Act, the workman himself or any other person authorised by him in writing in this behalf, or in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the State Government or one or more officers authorised by it for any area or areas, for the recovery of money due to him, and subject to provisions of sub-section (2), if the State Government or the authorised officer is satisfied that any money is so due, it or such authorised officer shall issue a certificate for that amount to the Collector, who shall proceed to recover the same in the same manner as an arrear of land revenue: Provided that, every such application shall be made within one year from the date on which

the money became due to the workman from the employer: Provided further that, any such application may be entertained after the expiry of the said period of one year, if the State Government or the authorised officer is satisfied that the applicant had sufficient cause for not making the application within the said period. (2) No certificate under sub-section (1) shall be issued unless the employer has been given an opportunity to represent his case as to why he did not pay the unemployment allowance to the workman in accordance with the provisions of section 3, and his representation or any evidence produced by him is duly considered, if necessary, after hearing the employer.

## **6. Penalty. —**

Any person who commits a breach of any of the provisions of this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both, and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the line realised from him shall be paid by way of unemployment allowance to any person who, in its opinion, has been injured by such breach.

## **7. Cognizance of offence. —**

(1) No Court shall take cognizance of any offence punishable under the Act, or of the abetment of any such offence, save on complaint made by or under the authority of the State Government. (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.

## **8. Offences by companies. —**

(1) Where 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, and 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 provided in 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 of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence, and 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.

## **9. Savings. —**

(1)Notwithstanding the expiry of any temporary period, notified underclause (e) of section 2, the provisions of this Act shall continue to have effect for the purposes of recovery of any money by way of unemployment allowance due, or for the purpose of any penalty incurred on or before the expiry of such period, or for any other purposes connected with, or incidental to, any of the purposes aforesaid.(2)Nothing under this Act shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the 5th day of February 1976. or as the case may be, before the first day of any temporary period if such act or omission was not an offence before such date or day.

## **10. Repeal of Mah. Order II of 1976 and savings. —**

(1)The Maharashtra Unemployment Allowance Payment to Workmen in Factories (for Temporary Period) Ordinance, 1976 (Mah. Ord. II of 1976) is hereby, repealed.(2)Notwithstanding such repeal, anything done or any action taken including any notification or order issued under the Ordinance so repealed shall be deemed to have been made, done or issued, as the case may be, under the corresponding provisions of this Act.