

U.P. Industrial Peace Timely Payment of Wages Act, 1978

UTTAR PRADESH

India

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Act 5 of 1978

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U.P. Industrial Peace Timely Payment of Wages Act, 1978 U.P. Act No. 5 of 1978 [Dated 16th April, 1978] (As passed by the Uttar Pradesh Legislature) Received the assent of the Governor on 16th April, 1978, and published in U.P. Gazette, Extraordinary, dated 18.4.1978. An Act to provide, in the interests of maintenance of industrial peace, for timely payment of wages in bigger industrial establishments 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 Industrial Peace (Timely Payment of Wages) Act, 1978.

2. It extends to the whole of Uttar Pradesh.

3. It shall be deemed to have come into force on December 12, 1977.

2. Definitions.

- In this Act, - (a) "industrial establishment" means any factory, workshop or other establishment in which articles are produced, processed, adopted or manufactured with a view to their use, transport or sale; (b) "Labour Commissioner" includes an officer, not below the rank of an Assistant Labour Commissioner, authorised by him to discharge, exercise and perform the duties, powers and functions of a Labour Commissioner under this Act; (c) "Occupier" in relation to an industrial establishment, means the employer of workmen employed in such establishment, and includes in the case where the employer is a company the Managing Director and where it is a firm the partner designated in that behalf by the firm and in case of any other employer an officer designated in that behalf by the employer with his consent and whose name is intimated by the employer to the Labour

Commissioner in the prescribed form by the prescribed date;(d)"wages-bill" means the total amount of wages payable by an industrial establishment to its workmen;(e)"wages" shall have the meaning assigned to it in the Payment of Wages Act, 1936;(f)"workmen" shall have the meaning assigned to it in the U.P. Industrial Disputes Act, 1947;(g)an occupier of an industrial establishment shall be deemed to be in "default" of payment of wages if such wages are not paid within time as provided in Section 5 of the Payment of Wages Act, 1936.

3. Recovery of wages in certain industrial establishments as arrear of land revenue.

(1)Where the Labour Commissioner is satisfied that the occupier of an industrial establishment is in default of payment of wages and that the wage-bill in respect of which such occupier is in- exceeds fifty thousand rupees, he may, without prejudice to the provisions of Sections 5 and 6, forward to the Collector, a certificate under his signature specifying the amount of wages due from the industrial establishment concerned.(2)Upon receipt of the certificate referred to in sub-section (1), the Collector shall proceed to realise, from the industrial establishment, the amount specified therein, besides recovery charges at the rate of ten per cent, as if such amount were an arrear of land revenue.(3)The amount realised under-section (2) shall, after deducting the recovery charges, be placed at the disposal of the Labour Commissioner who shall disburse,the same or cause it to be disbursed among the workmen entitled thereto.(4)Where the amount so realised falls short of the wages-bill in respect of which the occupier has been in default, the Labour Commissioner may arrange for disbursement of such proportion or respective proportions of the wages due to various categories of workmen as he may think fit.(5)The liability of the occupier towards each workman in respect of payment of wages, shall to the extent of the amount paid to such workman under this section stand discharged.

4. Power of Labour Commissioner.

- For the purpose of ascertaining the wages-bill of an establishment in respect of which default has been committed the Labour Commissioner shall have all the powers of a Civil Court, while trying a suit, under the Court of Civil Procedure, 1908 in respect of enforcing the attendance of witnesses and examining them on oath compelling the production of documents and shall be deemed to be a Civil Court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

5. Penalties.

(1)No occupier of an industrial establishment shall, at any time, be in default of a wage-bill exceeding rupees one lakh.(2)Every occupier who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which shall not be less than months but may extend to three years and shall also be liable to fine :Provided that the Court may for any adequate and special reasons to be recorded impose a sentence of imprisonment for a term of less than three months.

6. Offences by companies.

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence 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 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 any 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 that the commission of offence is attributable to any neglect on the part of any managing agent, secretaries and treasurers, director, manager, or other officer of the company, such managing agent, secretaries and treasurers, director, manager or other officer of the company shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes 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.

7. Protection for action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported or intended to be done in pursuance of the provisions of this Act or a rule or order made thereunder.

8. Rule making power.

- The State Government may, by notification, make rules for carrying out the purposes of this Act.

9. Repeal and saving.

(1) The Uttar Pradesh Industrial Peace (Timely Payment of Wages) Ordinance, 1977 (U.P. Ordinance No. 20 of 1977) is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the aforesaid ordinance shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.