

The Karnataka Industrial Establishments (National and Festival Holidays) Act, 1963

KARNATAKA

India

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Act 24 of 1963

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The Karnataka Industrial Establishments (National And Festival Holidays) Act, 1963(KARNATAKA ACT No. 24 OF 1963)An Act to provide for the grant of national and festival holidays to persons employed in industrial establishments in the State of Karnataka.WHEREAS it is expedient to provide for the grant of national and festival holidays to persons employed in industrial establishments in the State of Karnataka;BE it enacted by the Karnataka State Legislature in the Fourteenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.

(1)This Act may be called the Karnataka Industrial Establishments (National and Festival Holidays) Act, 1963.(2)It extends to the whole of the State of Karnataka.(3)It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

In this Act, unless the context otherwise requires,—(1)“day” means a period of twenty-four hours beginning at midnight;(2)“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 express or implied;(ii)any other person employed in any industrial establishment whom the State Government may, by notification, declare to be an employee for the purposes of this Act;(3)“employer”, when used in relation to an industrial establishment, means a person who has the ultimate control over the affairs of any 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;(4)“industrial establishment” means,—(i)any shop or commercial establishment as defined in clauses (e) and (u) of section 2 of the Karnataka Shops and Commercial Establishments Act, 1961;(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 Plantation Labour Act, 1951 (Central Act LXIX of 1951);(iv)any other establishment which the State Government may, by notification, declare to be an industrial establishment for the purpose of this Act;(5)“Inspector” means an Inspector appointed under sub-section (1) of section 6;(6)“notification” means a notification published in the official Gazette;(7)“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 foodgrains 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 an employee to defray special expenses entailed on him by the nature of his employment;(e)any travelling concession.

3. Grant of National and festival Holidays.

(1)Every employee shall be allowed in each calendar year, a holiday of one whole day on the 26th January, 15th August, 2nd October and five other holidays each of one whole day for such festivals as the employer may specify, from out of the list of festivals specified in the Schedule appended to this Act in consultation with the trade unions or in the absence of any trade union in consultation with the employees or their authorised representatives in such manner as may be prescribed:Provided that except in the case of Industrial establishments owned or controlled by the Government of India, the number of such other holidays shall be seven including first day of May and first day of November.(2)Whenever there is any disagreement between the employer and employees or the trade Unions concerned as to the festivals to be allowed as holidays during each calendar year the employer or the employees of the concerned Trade Union shall refer the dispute to the Inspector, having jurisdiction over the area in which the Industrial establishment is situated, for his decision and his decision shall be final.

3A. Grant of Holidays on the polling day, for House of the People or to the State Legislative Assembly.—

Notwithstanding anything contained in section 3, when a general election to the House of the People or to the State Legislative Assembly or an election to fill up any casual vacancy in the House of the People or the State Legislative Assembly is held under the Representation of the People Act, 1951 (Central Act 43 of 1951), every employee (other than an employee in an Industrial establishment owned or controlled by the Government of India) whose name is included in the electoral roll of the constituency where such election is held, shall be allowed on the polling day, a day's paid holiday to

enable him to exercise his franchise.

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 or 3A.(2)Where an employee works on any holiday allowed under section 3 or 3A, he shall, at his option, be entitled to,—(a)twice the wages; or(b)wages for such day and to avail himself of a substituted holiday with wages on any other day.(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 holidays allowed under sections 3 and 3A,—(i)only at a rate equivalent to the daily average of his wages to be calculated in the prescribed manner;(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 on any other day:Provided that no such employee shall be entitled to be paid any wages for any of the holidays allowed under section 3, other than the 26th January, the 15th August and the 2nd October and the holiday allowed under section 3A unless he has been in the service under the employer for a total period of thirty 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 authorised leave availed of by an employee shall be included in computing the period of thirty days mentioned therein.

6. Inspectors.

(1)The State Government may, by notification, appoint such persons or such class of persons as it thinks fit to be Inspectors for the purposes of this Act for such local limits or one or more industrial establishments or class of industrial establishments therein as the State Government may specify. Where an Inspector is appointed for one or more industrial establishments or class of industrial establishments, such Inspector and none other shall have jurisdiction over such industrial establishment or industrial establishments or such class of industrial establishments.(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 1960).

7. Powers of Inspectors.

Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed or within which the industrial establishment or class of industrial

establishments for which he is appointed is or are situated,—(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, any industrial establishments or as the case may be, the industrial establishment or one belonging to such class of industrial establishments for which he is appointed;(b)make such an 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;(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.

8. Penalties.

Any employer who contravenes any of the provisions of section 3 1[or section 3A]1 or section 5 shall be punishable with fine which, for the first offence may extend to one hundred and twenty-five rupees and for a second and subsequent offences may extend to two hundred and fifty rupees.

9. Penalty for obstructing Inspectors.

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 five hundred rupees or with both.

9A. Cognisance of offences.

(1)No Court shall take cognisance of any offence punishable under this Act or any rule made thereunder except upon a complaint made in writing by an Inspector.(2)No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act or any rule made thereunder.

10. Exemptions.

The State Government may, by notification, exempt any establishment or class of establishments or persons or class of persons from all or any of the provisions of this Act, subject to such conditions as the State Government may deem fit.

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.

11A. Power of State Government to amend the Schedule.

The State Government may, by notification in the Official Gazette, amend the Schedule appended to this Act.

12. Power to make rules.

(1)The State Government may, by notification, 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 a contravention thereof shall be punishable with fine which may extend to two hundred and fifty rupees.

13. Rules and notifications to be laid before the State Legislature.

Every rule made under this Act and every notification issued under sub-section (2) of section 10 shall be laid as soon as may be after it is made or issued, 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 in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification, 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 or notification.

[See section 3]

LIST OF FESTIVALS(1)New Year's Day(2)Bhogi Festival(3)Uttarayana Punyakala (Sankranthi)(4)Kanu Festival(5)Tyagaraja Aradhana(6)Purandara Dasara Punyadina(7)Garuda Jayanthi(8)Ratha Sapthami(9)Vyasa Poornima(10)Maha Shivarathri(11)Holi Festival(12)Holi Saturday(13)Good Friday(14)Shabh Barath(15)Chandramana Ugadi(16)Souramana Ugadi(17)Sriramanavami(18)Dr. Ambedkar Jayanthi(19)Mahaveera Jayanthi(20)May Day Celebration(21)Chitra Poornima(22)Shebe-E-Quader(23)Jumat-Ul-Vida(24)Sri Ramanujacharya Tiru Nakshatra(25)Basava Jayanthi(26)Ramzan(27)Shankara Jayanthi(28)Buddha Poornima(29)Bakrid(30)Varamahalakshmi Vrata(31)Last Day of Mohram(32)Upakarma(33)Sri Krishna Jayanthi(34)Swarna Gowri Vrata(35)Ganesha Vrata(36)Thiru Onam(37)Ananthapadmanabha Vrata(38)Mahalaya Amavasye(39)Mahanavami(40)Vijaya Dashami(41)Id-Milad(42)Thula Sankramana(43)Naraka Chathurdashi(44)Bali Padyami(45)Kannada Rajyotsava(46)Uttana Dwadasi(47)Gurunanak Jayanthi(48)Geetha Jayanthi(49)Shiva Deepa(50)Christmas Eve(51)Christmas(52)Madhva Navami.