

Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981

TAMILNADU

India

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Act 46 of 1981

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Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981) Statement of Objects and Reasons - Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981). - For Statement of Objects and Reasons, please see Part IV-Section 1, page 522 of the Tamil Nadu Government Gazette Extraordinary, dated the 20th April 1981. Statement of Objects and Reasons - Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1999. - The Government have decided to bring out a legislation to amend section 2(4)(c) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981) so as to enhance the ceiling limit of the wages of workmen employed in supervisory category to three thousand and five hundred rupees per mensem with a view to give a wider coverage of persons for the applicability of the Act. The Bill seeks to give effect to the above decision. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 4th May 1999. Statement of Objects and Reasons - Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000). - The High Court, Madras, while disposing a batch of Writ Petitions challenging the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981) has held that an apprentice or a badli worker could not be included in the "workman" referred to in section 3(1) and (2) of the said Act, and they are, therefore, not entitled to the benefit of section 3 of the said Act and also struck down certain portions in section 3(2) of the said Act. The Government have, therefore, decided to amend the said Tamil Nadu Act 46 of 1981 so as to include badli workers in the definition of "workman" so that the badli workers also will be entitled to the benefit of section 3 of Tamil Nadu Act 46 of 1981 and to omit the portion in section 3(2) of the Act, which has been declared as void by the High Court, Madras. 2. The Bill seeks to give effect to the above decision. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 18th May 2000. Statement of Objects

and Reasons - Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2003 (Tamil Nadu Act 9 of 2003). - Section 6 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981) provides for penalties for contravention of the provisions of section 3 of the said Act. There is no penal provision in the said Act for contravention of any rule made under section 10 of the said Act.2. The Government have, therefore, decided to amend section 6 of the said Act, suitably so as to provide for penalties for contravention of any rule made under section 10 of the said Act.3. The Bill seeks to give effect to the above decision. Published in Part IV-Section 1, page 164 of the Tamil Nadu Government Gazette Extraordinary, dated the 28th April 2003. Received the assent of the President on the 5th August 1951 and published in Part IV-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 10th August 1981. An Act to provide for the conferment of permanent status to workmen in the industrial establishments in the State of Tamil Nadu. Be it enacted by the Legislature of the State of Tamil Nadu in the Thirty-second Year of the Republic of India as follows:-

1. Short title, extent, application and commencement.

(1) This Act may be called the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. (2) It extends to the whole of the State of Tamil Nadu. (3) It applies to every industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than fifty workmen were employed on any day of the preceding twelve months. If any question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the Government thereon shall be final: Provided that the Government may, by notification, apply the provisions of this Act to any industrial establishment employing such number of workmen less than fifty as may be specified in the notification. (4) It shall come into force on such date as the Government may, by notification, appoint: Provided that nothing contained in this Act shall apply to any industrial establishment until the expiry of a period of two years from the date of its establishment.

2. Definitions.

- In this Act, unless the context otherwise requires,- (1) "employer" means the owner of an industrial establishment to which this Act, for the time being, applies and includes- (a) in a factory, any person named under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (Central Act LXIII of 1948) as manager of the factory; (b) in any industrial establishment under the control of any department of any State Government in India, the authority appointed by such State Government in this behalf, or where no authority is so appointed, the head of the department; (c) in any other industrial establishment, any person, responsible to the owner for the supervision and control of the industrial establishment; (2) "Government" means the State Government; (3) "industrial establishment" means- (a) a 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; or (b) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (Central Act LXIX of 1951); or (c) a motor transport undertaking as defined in

clause (g) of section 2 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961); or(d)a beedi industrial premises as defined in clause (i) of section 2 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (Central Act 32 of 1966); or(e)an establishment as defined in clause (6) of section of the Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947); or(f)a catering establishment as defined in clause (1) of section 2 of the Tamil Nadu Catering Establishments Act, 1958 (Tamil Nadu Act XIII of 1958); or(g)any other establishment which the Government may, by notification, declare to be an industrial establishment for the purpose of this Act.(4)"workman', means any person 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 [and includes a badli workman,] [Inserted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000).] but does not include any such person,-(a)who is employed in the police service or as an officer or, other employee of a prison; or(b)who is employed mainly in a managerial or administrative capacity; or(c)who, being employed in a supervisory capacity, [draws wages exceeding three thousand and five hundred rupees per mensem] [Substituted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1999 (Tamil Nadu Act 17 of 1999).] or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.[Explanation. - "Badli workmen" means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment.] [Added by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000).]

3. Conferment of permanent status to workmen.

(1)Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty-four calendar months in an industrial establishment shall be made permanent.(2)A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike, which is not illegal, or a lock-out [xxx] [Omitted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 2000 (Tamil Nadu Act 48 of 2000).], or a cessation of work which is not due to any fault on the part of the workman.Explanation [I] [Explanation was renumbered as Explanation I by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).]. - [For the purposes of computing the continuous service referred to in sub-sections (1) and (2), a workman shall be deemed to be in continuous service during the days on which] [Substituted by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).]-(i)he has been laid-off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946) or under any other law applicable to the industrial establishment;(ii)he has been on leave with full wages, earned in the course of this employment; and(iv)in the case of a female, she has been on maternity leave; so however, that the total period of such maternity leave does not exceed twelve weeks.[Explanation II. - For the purpose of this section,

Taw' includes any award, agreement, settlement, instrument or contract of service whether made before or after the commencement of this Act.] [Added by Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Amendment Act, 1985 (Tamil Nadu Act 44 of 1985).]

4. Appointment of Inspectors.

(1)The Government may, by notification, appoint such persons or such class of persons as they think fit to be Inspectors for the purpose of this Act within such local limits as the Government may specify.(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 1860).

5. Powers and duties of Inspectors.

- Subject to any rules made by the Government in this behalf, the Inspector may, with in the local limits for which he is appointed,-(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 industrial establishment;(b)make such examination of the industrial establishment and of any registers, records and notices and take on the spot or elsewhere the evidence of such person as he may deem necessary, for carrying out the purposes of this Act; and(c)exercise such other powers as may be necessary for carrying out the purposes of this Act.

6. Penalties.

(1)Every employer who contravenes the provisions of section 3 shall be punishable with fine which may extend to live thousand rupees and in the case of continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.(2)No prosecution for an offence punishable under the section shall be instituted except with the previous sanction of the prescribed authority.

7. Act not to apply to workmen employed in certain industrial establishment.

- Nothing contained in this Act, shall apply to workmen employed in an industrial establishment engaged in the construction of buildings, bridges, roads, canals, dams or other construction work whether structural, mechanical or electrical.

8. Cognizance of offence.

- No Court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence under this Act.

9. Power to exempt.

- The Government may, by notification, exempt conditionally or unconditionally any employer or class of employers or any industrial establishment or class of industrial establishments from the provisions of this Act.

10. Power to make rules.

(1)The Government may make rules to carry out the purposes of this Act.(2)All rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.(3)All notifications issued under this act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.(4)Every rule made or notification issued under this Act, shall as soon as possible after it is made or issued, be placed on the table of [the Legislative Assembly] [Substituted for the words 'both Houses of the Legislature' by the Tamil Nadu Adaptation of Laws Order, 1987.], and if, before the expiry of the session in which it is so placed or the next session, [the Legislative Assembly agrees] [Substituted for the words 'both Houses agree' by the Tamil Nadu Adaptation of Laws Order, 1987.] in making any modification in any such rule or notification or [the Legislative Assembly agrees] [Substituted for the words 'both Houses agree' by the Tamil Nadu Adaptation of Laws Order, 1987.] that the rule or notification should not be made or issued, 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.Appointment of Certain Persons as Inspectors Under Tamil Nadu Industrial Establishment (Conferment to Permanent Status of Workmen) Act, 1981(Tamil Nadu Act 46 of 1981)(G. O. Ms. No. 2813, Labour and Employment, dated the 24th December 1981)No. 11(2)/LE/5494 (z)/81. - In exercise of powers conferred by sub-section (1) of Section 4 the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (Tamil Nadu Act 46 of 1981), the Governor of Tamil Nadu hereby appoints the persons mentioned in column (1) of the Schedule below to be Inspectors for the purposes of the said Act within the local limits specified in the corresponding entries in column (2) thereof.

Schedule

Persons	Local Limits
(1)	(2)
(1) Inspector of Factories.	Local limits assigned to them under theFactories Act, 1948 (Central Act LXIII of 1948).
(2) Inspectors of Plantations.	Local limits to them under the Plantation LabourAct, 1951 (Central Act LXIX of 1951).
(3) Inspectors of Labour.	Local limits assigned to them under the TamilNadu Weights and Measures (Enforcement) Act, 1958 (Tamil Nadu ActXX of 1958).

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| (4) Assistant Inspector of Factories | Local limits assigned to them under theFactories Act, 1948 (Central Act LXIII of 1948). |
| (5) Deputy Chief Inspector | Local limits assigned to them under theFactories Act, 1948 (Central Act LXIII of 1948). |