

Manipur Shops and Establishments Act, 1972

MANIPUR

India

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Act 4 of 1973

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Manipur Shops and Establishments Act, 1972(Manipur Act 4 of 1973)Last Updated 24th February, 2020An Act to provide for better regulation of conditions of service in shops and establishments and for purposes pertaining thereto.Be it enacted by the Legislature of Manipur in the Twenty fourth Year of the Republic of India as follows : -

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Manipur Shops and Establishments Act, 1972.(2)It extends to the whole of the State of, Manipur.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act or for different areas or for different classes of shops or establishments.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,(1)"apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft, business or employment in a shop or an establishment(2)"child" Means a person who has not completed his twelfth year of age ;(3)"closed" means not open for the service of any customer or for any business connected with a shop or an establishment involving work by an employee;(4)"commercial establishment" means an establishment which carries on the business, trade or profession of advertising, commission agency, forwarding or commercial agency or which is a clerical department of a factory or of any industrial or commercial. undertaking, includes-(a)an establishment undertaking the business, trade or profession, of public transport ;(b)an insurance

company, joint stock company, broker's office or exchange ; and(c)such other establishment or class thereof as the State government -may, by notification in the Official Gazette, declare to be a commercial establishment for tip:Imposes of this, Act ;but does not include a shop or an establishment for public entertainment or amusement ;(5)"day" means a period of twenty-four hours beginning at midnight;(6)"employee" means a person wholly or principally employed in, and in connection with, a shop or an establishment and includes an apprentice but does not include a member of the employer's family ;(7)"employer" means a person having charge of, or owning or having ultimate control over the affairs of a shop or art establishment and includes the manager, agent or other person acting in the general management or control of a shop or An establishment;(8)"employer's family" means the husband or wife, children, father or mother, of the employer and includes the brother or sister, brother's son, sister's son; daughter's son, son's son, of such employer living with, and dependent on him ;(9)"establishment" means a commercial establishment or an establishment for public entertainment or amusement ;(10)"establishment for public entertainment or amusement" means a restaurant, eating house, cafe, residential hotel, cinema. " the tie and such other establishment or class thereof as the State Government may, by notification in the Official Gazette, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment ;(11)"factory" means a factory as 'defined in the Factories Act, 1948 (63 of 1948) ;(12)"holiday" means a day on which a shop or an establishment shall remain closed or on which an employee shall be give* a holiday under the provisions of this Act ; ,(13)"Inspector" means an Inspector appointed under this of ;(14)"Official Gazette" means the Manipur Gazette ;(15)"opened" means opened for the service of any/customer or for any business connected with a shop or an establishment ;(16)"period of work" means the time during which an employ*e is at the, disposal of the employer ;(17)"prescribed" means prescribed by rules made under this Act ;(18)"shop" Means any premises used wholly or in part for wholesale or retail sale of commodities or articles, either for cash or on credit, and such other premises as the State Government may, by notification in the Official Gazette, declare to be a shop for the purposes of this Act, but does not include a 'commercial establishment for public entertainment or amusement ;(19)"spread-over" means the period between the commencement and the termination of work in an establishment on any day ;(20)"State Government" means the State Government of Manipur ;(21)"Wage period", in relation to the payment of wages of an employee,- means a wage period fixed by an employer under section 16 in respect of such employee ;(22)"Wages" means wages as.defined in the Payment of Wages Act, 1936 (IV of 1936) and includes any allowance to which an employee is for the time being entitled ;(23)"Week" means a period of seven days beginning at midnight of Saturday night ;(24)"Year" means a period of twelve months of the Gregorian Calendar commencing on the first day of January.

3. Declaration by the State Government.

(1)Notwithstanding anything contained in this Act, the State Government may, by notification in. the Official Gazette, declare any shop or any establishment or any class thereof to be a shop or an establishment, as the case may be, for the purposes of this Act.(2)On such declaration under sub-section (1) the shop or the establishment specified in the notification shall be deemed to be a shop or an establishment, as the case may be, to which this Act applies, and the provisions of this Act shall apply to such a shop or such an establishment.

4. Act not application to certain shops establishment and person.

(1) Nothing in this Act shall apply to Act not (a) offices of the Union or the State Government or of local applicable to authorities and of the Reserve Bank of India, the State central Bank of India and other nationalised banks and corporations; (b) any transport service, motor service, any industry business or undertaking which supplies power, light or water to the public and such other public utility corporate bodies and associations or classes thereof as the state government may by, notification in the official gazette, exempt from the operation of this act. (c) establishment run by the union or the state government. (d) establishments for the treatment or care of the sick, the infirm or the mentally deranged and for the benefit of the destitute. (e) Pharmacies or shops dealing mainly in medicines, surgical or medical appliances so far as the sale of these articles is concerned; (f) surgical of clinical homes. (g) shops dealing in articles required for funerals, burials or cremations so far as the sale of these articles is concerned; (h) shops or stalls dealing mainly in vegetables, meat, fish, dairy produce, bread, pastries, sweetmeats, flowers so far as the retail sale of these article.; is concerned; (i) stalls or refreshment rooms run by, or with the permission of, the Union or the State Government, and situate within the premises or precincts of institutions belonging to, or run by such Government; (j) shop, stalls or refreshment rooms in any public exhibition or show, or so far as such shops, stalls or refreshment rooms deal in retail trade which is solely subsidiary or ancillary to the main purposes of such exhibition or show; (k) shops or stalls in any public fair; (l) shops or establishments dealing in petroleum products; (m) excise shops; (n) persons whose work is inherently intermittent, such as a traveller, a canvasser, a watchman, a messenger or a caretaker (o) persons exclusively employed in connection with the collection; despatch, delivery or conveyance of goods or the customs formalities thereof; and (p) such other shops, establishments or persons or such classes of any of them as the State Government - may, by notification in the Official Gazette exempt from the operation of all or any of the provisions of this Act. (2) Notwithstanding anything contained in sub-section (1) the State Government may, by notification in the Official Gazette declare that any shop, establishment or person specified in that sub-section shall not be exempt from the operation of such provisions of this Act as may be specified in the notification and that this provisions of this Act specified in such notification shall apply to such shop, establishment or person.

5. Suspension of provisions of the Act.

- Prior to or during a festival or other special occasions the State Government may suspend, by order notified in the Official Gazette, the operation of all or any of the provisions of this Act for such period and subject to such conditions as it may deem fit.

Chapter II

Employment of Woman and Young-Man

6. Exemption of child.

- No child shall be employed in any shop or establishment.

7. Woman and young-man to work only between 7 a. m. and 7. p. m.

- Notwithstanding anything contained in this Act, no man who has not attained majority under the Indian Majority Act, 1875 (IX of 1875) and no woman shall be required or allowed to work whether as an employee or otherwise in a shop or an establishment before 7 ante meridiem and after 7 post meridiem.

8. Daily and weekly hours of work for woman and young-man.

- Notwithstanding anything contained in this Act, - (a) no man who has not attained majority under the Indian Majority Act, 1875 (IX of 1875) and no woman shall be required or allowed to work as an employee in a shop or an establishment for more than seven hours in a day or forty-two hours in a week ; and (b) no such man and no woman shall be required or allowed to work in a shop or an establishment for more than four hours continuously in a day unless such an employee has had an interval for rest of at least one hour. Explanation. - The period of "seven hours" or "forty-two hours" referred to in clause (a) does not include the intervals for rest.

Chapter III Shops

9. Opening and closing hours of shops.

(1) No shop shall on any day be opened before the hour of seven o'clock ante meridiem during the months of September, October, November, December, January and February, and before the hour of six O'clock ante meridiem during the months of March, April, May, June, July and August: (2) No shop shall on any day remain open after the hour of seven O'clock post meridiem during the months of September, October, November, December, January and February, and after the hour of eight O'clock post meridiem during the months of March, April, May, June, July and August.

10. Closing day of shops.

(1) Every shop shall be closed on one day in each week. (2) The State Government may, by notification in the Official Gazette, require in respect of every shop, or of any specific class of shops that it shall be closed at such hour as may be specified in the afternoon of one specified day in each week, in addition to the day referred to in sub-section (1). (3) The day on which a shop shall be closed in each week under subsection (1) shall be specified and displayed by the employer in a conspicuous place in, the shop: Provided that no employer shall, more often than once in a period of three months, after the day so specified, (4) No deduction shall be made from the wages of any employee in a shop

on account of any day on which it has remained closed under this section.

11. Hours of work and intervals for rest in shop.

(1) No employee in a shop shall be required or allowed to work Hours of in such shop for more than nine hours in a day and for more than forty work and eight hours in a week or after the hours prescribed under sub-section (2) intervals for of section 9. rest in shops. (2) An employee in a shop shall be allowed an interval for rest of at least half an hour after every three hours of continuous work. (3) The periods of work and intervals for rest of each employee in a shop shall be so arranged by the employer that together they do not extend over more than twelve- hours in a day. Explanation. - The period of "nine hours" or "fifty hours" referred to in sub-section (1) does not include the intervals, for rest.

Chapter IV Establishments

12. Holidays is establishments.

(1) Every employee in a commercial establishment or an establishment for public entertainment or amusement shall be allowed as holiday at least one day in a week. (2) No deduction shall be made from the wages of any employee in such an establishment on account of any holiday under this section.

13. Hours of work and intervals for rest in commercial establishment.

(1) No employee in a commercial establishment shall be required or permitted to work in such establishment for more than seven hours in a day. (2) An employee in a commercial establishment shall be allowed an interval for rest of at least half an hour after the first three or four hours, as may be specified by the employer, of continuous work : Provided that the interval for rest in the case of each employee shall not exceed one hour. Explanation. - The period of "seven hours" referred to in sub-section (1) does not include the interval for rest.

14. Hours of work and- intervals for rest in establishment for public entertainment or amusement.

(1) No employee in an establishment for public entertainment or amusement shall be required or allowed to work in such establishment for more than ten hours in a day. (2) An employee in an establishment for public entertainment or amusement shall be allowed an interval for rest of at least half an hour after every three or four hOurs, as may be specified by the employer, of continuous work. (3) The periods of work and intervals for rest of each employee in an establishment for public entertainment or amusement shall be so arranged by the employer that, together they do not extend over more than twelve hours in a day. Explanation. - The period of "ten hours" mentioned in

sub-section (1) does not include the intervals for rest.

15. Maximum point of time for spread over in an establishment for public entrainment or amusement.

- Notwithstanding anything contained in section 14, the spread-over of an establishment for public entertainment or amusement shall not extend beyond 12 midnight.

16. wages period.

- Every employer shall fix -period in respect or which wages shall payable to the employee. Provided that the employer may fix different wage periods for 'different employees or different classes of employee Provided further that no wage period shall exceed, one month,

17. Payment of wages.

(1) All wages payable to an employee in a shop or an establishment shall be paid by the employer before the expiry of the seventh day after the last day of the wage period in respect of which the wages are payable. Provided that in case an employee is absent until such expiry the wages shall be paid within a period of three working days from the day on which he attends for work again. (2) Where an employee in a shop or an establishment is required to work in excess of the limits of hours of work specified in section 11 or section 13 or section 14, as the case may be, he shall be entitled in respect of the overtime work, to proportionate wages at the rate of twice the ordinary rate of, wages received by him 'for the time being. (3) Where the service of an employee is terminated by or on behalf of his, employer or where it is terminated on account of the closure of the shop or the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second working day from the day on which his service is terminated. (4) All payments of wages shall be made on a working day at or near the place of work and during working hours. Explanation. - The provisions contained in sub-section (15) shall not be construed as a bar to the payment of wages, on account of a festival or otherwise, before the expiry of the wage period in respect of which the wages are payable.

18. Deductions from wages.

- No deductions other than those which may be prescribed shall be made by the employer from the wages of his employee.

19. Leave.

- An employee in a shop or an establishment shall be entitled- (a) after every twelve months' continuous service, to privilege leave on full wages for a total period of one month; (b) in every year, to casual leave on full wages for a total period not exceeding twelve days; and (c) after every twelve months' continuous service, to sick leave on half wages for a period not exceeding one month on the

certification of registered medical practitioner whose name is in the Indian Medical Council Act, 1956 (CII of 1956); Provided that no leave admissible under this section shall be accumulated, Explanation. - For the purposes of this section, an employee shall be deemed to have completed a period of twelve months' continuous service in a shop or an establishment notwithstanding interruptions in the service during those twelve months caused by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by a lock-out or by intermittent period of involuntary unemployment not exceeding thirty days in the aggregate, and authorised leave shall be deemed not to include any weekly holiday allowed under this Act which occurs at the beginning or end of an interruption caused by such leave.

20. Limited application of the payment Of Wages Act,1936.

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936), herein referred to as "the said Act", the Government may, by notification in the Official Gazette, direct that subject to the provisions of sub-section (2), the said Act shall apply to such shops or establishments as may be mentioned in that notification. (2) On the application of the provisions of the said Act to any shop or establishment under sub-section (1), the Inspector, appointed under this Act, shall be deemed to be the Inspector for the purpose of enforcement of the provisions of the said Act within the local limits of his jurisdiction.

Chapter VI

Inspection and Penalties.

21. Appointment of Inspectors.

(1) The State Government may, by notification in the Official Gazette, appoint such persons or such classes of persons as it may think fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively. (2) The State Government may, by notification as aforesaid, appoint any person to be the Chief Inspecting Officer who shall, in addition to such powers as may be prescribed, exercise the powers of an Inspector throughout the State.

22. Inspectors to the public servant.

- Every Inspector appointed under section 21 of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

23. Powers and jurisdiction of an Inspector.

(1) Subject to any rules made under this Act by the State Government, an Inspector may within the limits of his jurisdiction - (a) enter, during such hours as may be prescribed and with such assistance, if any, as may be necessary, any premises which is, or which he has reason to believe as, a shop or an establishment ; (b) inspect any registers, other documents and notices maintained under this Act or,

the rules made thereunder ;(c)record on the spot or otherwise the statement of any, person which he may consider necessary for carrying out the purposes of this Act :Provided that no person shall be compelled to answer any question or give any evidence tending to incriminate himself ; and(d)exercise such other powers as may be prescribed for carrying out the purposes of this Act.(2)The Inspector shall for the purposes of any inquiry under this Act have the same powers regarding the summoning and attendance of witnesses and 'production of documents as a Civil Court has under the Code of Civil Procedure, 1908 (V of 1908).

24. Penalty for obstructing Inspector.

- Any person who voluntarily obstructs an Inspector in the exercise of any power conferred on him by or under this Act or any person lawfully assisting an Inspector in the exercise of such power or who fails without sufficient cause to comply with any lawful direction made by an Inspector shall be punishable with imprisonment which may extend to six months or with fine which may extend to two hundred and-fifty rupees or with both.

25. General Penalties.

- Any person who contravenes any provision of this Act or any rule or order made thereunder shall, if no other penalty is provided for the offence, be punishable with a fine which may extend to two hundred and fifty rupees for the first offence and to five hundred rupees for every subsequent offence after the first conviction:Provided that in case such a person is a company or a registered partnership firm, every director, partner, manager or secretary thereof or every officer thereof who functions as such by whatever designation shall, unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention, be deemed to have committed such contravention.

26. Cognizance of offences.

(1)No Court inferior to a Magistrate of the First Class shall try an offence punishable under this Act or rules or orders made thereunder.(2)No Court shall take cognizance of such offence except on a complaint made by an Inspector or by an aggrieved employee in a shop or an establishment or by a relative of such an employee, including his legal representative in the case of a minor :Provided that a complaint under this sub-section shall be made within I ninety days from the date on which the offence is alleged to have been committed.Explanation. - For the purposes of this section, "relative" means any lineal descendant or ascendant, brother or sister, or father-in-law, or mother in- law of the employee.

Chapter VII

Removal And Re-Employment

27. Discharge of employees.

(1) No employee in a shop or an establishment, who has been in continuous service for not less than six months in that shop or establishment shall be discharged from his service except for a reasonable cause (a) he has been given one month's notice in writing indicating the reasons for discharge and the period of notice has expired, or he has been paid in lieu of notice, one month's wages in advance; and (b) he has been paid, at the time of discharge, compensation which shall be equivalent to fifteen days' wages : Provided that no notice under clause (a) shall be the discharge is under an agreement which specified a date for of service ; and Provided further that such notice shall not be necessary if the is on a charge of such misconduct as may be prescribed or on his cons lion on a criminal charge involving moral turpitude. (2) A discharge done against the provisions of sub-section (1) shall be an offence under this Act, and the Court shall, without prejudice to air other provisions of this Act, have power to give relief to the aggrieved person by way of reinstatement or money compensation or both. Explanation. - For the purposes of this section, an employee shall be deemed to be in continuous service in a shop or an establishment notwithstanding any interruption in the service caused by sickness, accident, authorised leave or lock-out, or by intermittent periods of involuntary unemployment, and authorised leave shall be deemed not to include any weekly holiday allowed-under this Act which occurs at the beginning or end of-an interruption caused by such leave.

28. Termination of service by or on behalf of employee.

(1) No employee in a shop or an establishment shall terminate his service unless he has given to the employer a notice in writing or at least one month. (2) Where an employee in a shop or an establishment contravenes the provision of sub-section (1), the employer may forfeit any in, wages for a period not exceeding fifteen days.

29. Re-employment of discharged employee.

- Where an employee in a shop or an establishment has, been discharged under section 27, and the employer proposes subsequently to take into the shop or the establishment as the case may be, any person, as an employee thereof, he shall, in such manner as may be prescribed give an opportunity to, the discharged employee to offer himself fOr re-employment, and such discharged employee, as offers himself for re-employment, shall have preference over other persons Provided that in case the discharged employee is not a citizen of India or has left Manipur without giving his address to the employer, the employer shall not give him such opportunity.

Chapter VIII

Miscellaneous

30. Annual statement of the employees.

(1)The employer of a shop or an establishment shall, in such manner as may be prescribed, submit to the Chief Inspecting Officer, an annual statement showing the number of employees in his shop or establishment the rates of wages and other benefits given to the employees before the end of the month of January following the year to which the statement relates.(2)In case an employer fails, without reasonable cause to the satisfaction of the Chief Inspecting Officer to submit the statement as provided in sub-section (1) and the rules Made thereunder, he shall be liable to pay a fine not exceeding fifty rupees.(3)Non-payment of such a fine shall be an offence punishable under this Act.

31. Maintenance of registers, etc.

(1)The employer of a shop or an establishment shall maintain such registers and other documents, and display such notices, as may be prescribed.(2)Such employer shall on demand produce for inspection of an Inspector, all registers, documents and notices required to be kept under or for the purposes of this Act.

32. Composition of offences.

- An offence under this Act may be compounded by the complainant or by his legal representative in the case of a minor, and the 'composition shall have the effect of acquittal of the accused with, whom the offence has been compounded :Provided that if the complainant is an Inspector, he shall not compound the offence without the concurrence of the employee, if any, for whose benefit the complaint was made.

33. Bail.

- All offences under this Act shall be bailable.

34. Indemnity.

- No suit or any other legal proceeding shall lie against any person in respect of anything done in good faith under this Act or rules or orders made thereunder.

35. General holiday.

- Notwithstanding anything contained in this Act, every employee in a shop or an establishment shall be entitle to leave of absence for three national holidays and for any days he may select, not more than three in number in a year, for the purpose of attending ceremonies or performing functions or duties connected with or enjoined by his religious faith.

36. provident fund of Employees.

- The employer shall, in accordance with rules made by the State Government, provide a provident fund for the benefit of every employee in his shop or establishment and shall contribute to this fund an amount of 6 1/4 percent of the total wages of every such employee: Provided that this section shall apply only to such places or such classes of shops or establishment as may by notification in the Official Gazette, be specified in that behalf by the State Government ; and Provided further that such employers as fail to provide provident fund in spite of such a notification shall be punishable with imprisonment which may extend to six months or with a fine not exceeding five hundred rupees, or with both.

37. Power to make rules.

- The State Government may, by notification in the Official gazette and subject to the condition of previous publication therein, make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the fore going power, such rules may provide for -(a)the special circumstances wherein deductions from the wages of employees may be made by the employee;(b)the powers of the Chief Inspecting Officer under subsection (2) of section 21 ;(c)the powers of the Inspectors, and the hours during which the Inspector can enter certain premises, under section 23 ;(d)the manner of giving opportunity to a discharged employee for offering himself for re-employment under section 29 ;(e)the manner of submission of annual statement under section 30 ;(f)the registers and other documents to be maintained by the employer of a shop or an establishment, and the notices to be displayed, under section 31, and the mode of display of such notice.(g)measures of sanitation, proper upkeep and ventilation of shops and establishments, and(h)the provident fund of employees in a shop or an establishment under section 36.(3)Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Manipur while it in session for a total period of fourteen 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 in the session immediately following, the Assembly resolves that any modification be made in the rule or that the rule should not be made, the rule 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.

38. Workmen's Compensation Act to apply to employees.

- The provisions of the Workmen's Compensation Act, 1923 (VIII of 1923) and of rules made thereunder shall, mutatis mutandis, apply to every employee in a shop or an establishment.

39. Non-application of Weekly holiday Act.

- On and from the date on which this Act comes into operation in any area or in respect of any class of shops or establishments, the Weekly Holidays Act, 1942 (XVIII of 1942) shall cease to apply to such area or such Glass.

40. Persons employed in factories to be not go learned by this Act.

- Nothing in this Act shall be deemed to apply to any person employed in a factory which is governed by the Factories Act, 1948 (LVIII of 1943).

41. Repeal and savings.

(1)The Assam Shops and Establishments Act, 1948 (Assam Act XIII of 1948) as extended to Manipur is hereby repealed:(2)Anything done or any action taken (in chiding any notification, order, rule, form made or issued) under the repealed Act shall in so far as it is not inconsistent with the provisions of this Act, continue in force unless and until it is/superseded by anything done or any action taken in accordance With this Act.