

The Orissa Industrial Establishments (National and Festival) Holidays Act, 1969

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Act 22 of 1969

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The Orissa Industrial Establishments (National and Festival) Holidays Act, 1969 Orissa Act No. 22 of 1969 Published vide Orissa Gazette Extraordinary/8-12-1969. For Statement of Objects and Reasons see Orissa Gazette Extraordinary No. 1544/8-10-1969 An Act to provide for the grant of national and festival holidays to persons employed in industrial establishments in the State of Orissa Be it enacted by the Legislature of the State of Orissa in the Twentieth Year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Orissa Industrial Establishments (National and Festival) Holidays Act, 1969. (2) It extends to the whole of the State of Orissa. (3) It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires- (a) "day" means a period of twenty-four hours beginning at midnight; (b) "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 Government may, by notification, declare to be an employee for the purposes of this Act; (c) "employer" when used in relation to an industrial establishment means a person who has the ultimate control over the affairs of the 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; (d) "holiday" means holiday as provided in this Act; (e) "industrial establishment" means- (i) any establishment as defined in Clause (8) of Section 2 of the Orissa Shops and

Commercial Establishment Act, 1956 (Orissa Act 30 of 1956);(ii)any factory as defined in Clause (m) of Section 2 of the Factories Act, 1948 (63 of 1948) or any place which is deemed to be a factory under Section 85 of that Act;(iii)any plantation as defined in Clause (f) of Section 2 of the Plantations Labour Act, 1956 (61 of 1956) ; and(iv)any other establishment which the State Government may, by notification, declare to be an industrial establishment for the purpose of this Act;(f)"Inspector" means an Inspector appointed under Sub-section (1) of Section 6 ;(g)"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 the employee to defray special expenses entailed on him by the nature of his employment ; and(e)any travelling concession.

3. Grant of national and festival holiday.

- [(1)] [Re-numbered vide Orissa Gazette Extraordinary No. 463/30-3-1 992-O.A. No. 17 of 1992.] Every employee shall be allowed in each calendar year a holiday of one whole day on the 26th January, [1st May] [Inserted vide O.A. No. 21 of 1989.], the 15th August and the 2nd October and four other holidays each of one whole day for such festivals as the Inspector may, in consultation with the employer and the employees, specify in respect of any industrial establishment.(2)[In addition to the holidays provided in Sub section (1), in the event of any general election or bye-election to Parliament or the State Legislative Assembly, the date of every such election as notified by the Election Commission shall be allowed as a holiday of one whole day ;Provided that in the case of a bye-election, the date or such election shall be allowed as a holiday only in respect of employees who belongs to the concerned constituency.] [Inserted vide Orissa Gazette Extraordinary No. 463/30-3-1992-O. A. No. 17 of 1992.]

4. Employer to display statement of holidays.

- Every employer shall 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.(2)Where an employee works on any holiday allowed under Section 3, 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 within six months from the holiday, on which he so works.(3)Notwithstanding anything contained in Sub-section (1) or

Subsection (2) an employee who is paid wages by the day or at piece rates shall be entitled to be paid wages for any holiday allowed under Section 3-(i) only at a rate equivalent to the daily average of his wages for the days on which he actually worked during the month immediately preceding such holiday ;(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 within six months from the holiday on which he so works :Provided that no such employee shall be entitled to be paid any wages for any of the holidays allowed under this section, if his name was not on the rolls of the industrial establishment continuously for a month immediately prior to the holiday :Provided further that no such employee shall be entitled to be paid any wages for any of the holidays allowed under this section if he was enjoying leave with pay.(4) Where any money is due to an employee from an employer under this Act, the employee or any other person authorised by him in writing in this behalf, or, in the case of death of the employee, his assignee or heir may, without prejudice to any other mode of recovery make an application to the State Government for recovery of the money due to him, and if the State Government are satisfied that any money is so due, they shall issue a certificate for that amount to the Collector within whose jurisdiction the industrial establishment is situate and the Collector shall thereupon proceed to recover the same in the same manner as if it were an arrear of land revenue payable to the State Government :Provided that every such application shall be made within one year from the date on which the money became due to the employee :Provided further that any such application may be entertained after the expiry of the said period of one year, if the State Government are satisfied that the applicant had sufficient cause for not making the application within the said period.

6. Inspectors.

(1) The State Government may, by notification, appoint such persons or such class of persons as they think fit to be Inspectors for the purposes of this Act for such local limits as they may specify.(2) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

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-(a) enter, at all reasonable times and with such assistants, if any, who are persons in the service of the State Government or of any local authority, as he thinks fit to take with him, any place which is, or which he has reasons to believe to be an industrial establishment;(b) make such 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 ; and(c) exercise such other powers as may be necessary for carrying out the purpose 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 or Section 5 shall, on conviction, be punishable with fine, which for the first offence may extend to twenty-five rupees and for a second and subsequent offence may extend to two hundred and fifty rupees.

9. Penalty for obstructing Inspector.

- 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.

10. Exemption.

(1) Nothing contained in this Act shall apply to—(a) any employee in a position of management; (b) any employee whose work involves travelling; (c) any industrial establishment under the control of the Central Government, the Reserve Bank of India, a railway administration operating any railway as defined in Clause (20) of Article 366 of the Constitution or a cantonment authority; or (d) any mine or oil field. (2) The State Government may, by notification exempt either permanently or for any specified period any establishment or class of establishments or person or class of persons from all or any of the provisions of the Act, subject to such conditions as they may deem fit.

11. Rights and privileges under other laws, etc.

- Nothing contained in this Act shall adversely affect any rights or privileges which any employee is entitled to with respect to national and festival holidays 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.

12. Power to make rules.

(1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act. (2) In making a rule under this Act, the State Government may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees. (3) All rules made under this section shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein the rules shall thereafter have effect only in such modified form; so however that such modifications shall be without prejudice to the validity of anything previously done under the rules.