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THE PAYMENT OF WAGES ACT, 1936

(Act IV of 1936)

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[1]THE PAYMENT OF WAGES ACT 1936

(IV of 1936)

[23 April 1936]

An Act to regulate the payment of wages of certain classes of persons employed in industry.

Whereas it is expedient to regulate the payment of wages to certain classes of persons employed in industry;

It is hereby enacted as follows:-

1. Short title, extent, commencement and application.- (1) This Act may be called the Payment of Wages Act 1936.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date[2] as the [3][,[4] * * *] Government[5] may, by notification in the [6]Official Gazette], appoint.

(4) It applies [7] * * * to the payment of wages to persons employed in any factory [8], industrial establishment or commercial establishment[and to persons employed otherwise than in a factory [8], industrial establishment or commercial establishment] upon any railway by a railway administration or, either directly or through a subcontractor, by a person fulfilling a contract with a railway administration.

[9] * * * * * * * * * * * *

[10] * * * * * * * * * * * *

(5) Nothing in this Act shall be deemed to limit or affecting repugnant to the subject or context,-

(i) [11] "commercial establishment" means a commercial establishment as defined in the Shops and Establishments Act (Standard Ordering Ordinance) 1968 (W.P. Ordinance VI of 1968);

(ii) [12] "factory" means a factory as defined in clause (j) of section 2 of the Factories Act 1934 [13];

(iii) [14] "Government" means Government of the Punjab;

(iv) "industrial establishment" means any-

(a) factory or mine or omnibus service;

(b) tram or tramway;

(c) inland steam-vessel;

(d) mine, quarry or oil-field;

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(g) establishment of a contractor who, directly or indirectly, employs persons [15] * * * to do any skilled or unskilled, manual or clerical labour for hire or reward in connection with the manufacture, repair, maintenance, or any other work in or connection with which, or the site at which, any process connected with such execution is carried on;

Explanation.- Contractor includes a sub-contractor, landlord or agent;

(v) "prescribed" means prescribed by rules made under this Act;

(vi) "prescribed" means prescribed by rules made under this Act;

(vii) "railway administration" means railway administration as in clause (6) of section 3 of the Railways Act, 1890 [16]; and

(viii) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, payable, whether conditionally upon the regular attendance of a person in a place where he is employed or otherwise, or payable for any period of work or for piece work, to a person employed in respect of his employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include-

(a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the [17][Government];

[18] * * * *

(b) any travelling allowance or the value of any travelling concession;

(c) any sum paid to a person employed to defray special expenses entailed on him by the nature of his employment; or

[19] * * * *

2. Responsibility for payment of wages.- Every employer [20], including a contractor,[shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)-

(a) in factories, if a person has been named as the manager of the factory under clause (c) of section 7 of the Factories Act, 1934 [21],

(b) in other industrial establishments, if there is in respect of the establishment a person who is the immediate employer of a person employed therein,

such manager or such immediate employer, as the case may be, shall be deemed to be the employer of persons employed in the factory or in such other industrial establishment and the railway administration has nominated a person who is in this behalf for the local area concerned, the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

3. Fixation of wage-periods.- [1] Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

4. Time of payment of wages.- (1) The wages of every person employed upon or in-

(a) any railway, factory or industrial establishment [22] or commercial establishment] upon or in which less than one thousand persons are employed, shall be paid before the expiry of seventh day;

(b) any other railway, factory or industrial establishment [23] or commercial establishment], shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which wages are payable:

(2) Notwithstanding anything contained in sub-section (1), if the day fixed for the payment in any case happens to be a day on which the employer is not ordinarily open for business, the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:-

(i) fines;

(ii) deductions for absence from duty;

(iii) deductions for damages or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is occasioned by the negligence of the employed person;

(iii) deduction for house-accommodation supplied by the employer;

(iv) deductions for such amenities and services supplied by the employer as [24] * * * [25][Government] may, by general or special order, authorise;

Explanation.- The word 'services' in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

(v) deductions for recovery of advances or for adjustment of over-payments of wages;

(vi) deduction of income-tax payable by the employed person;

(vii) deductions required to be made by order of a Court or other authority competent to make such order.

(3) deductions for subscriptions to any provident fund or other fund to which the Provident Funds Act, 1925 [26], applies or any recognized provident fund as defined in section (3) of section 2 of the Income Tax Ordinance, 1979 [27], or any provident fund approved in this behalf by the [28][Government] during the continuance of such approval; [29] * * *

(4) deductions for payments to co-operative societies approved by the [30][Government] or in accordance with rules so approved;

[31] (5) deductions made in accordance with any scheme of insurance fund approved by the [32][Government] for the benefit of employees of the [33][Government of Pakistan] or [34][Government of Punjab] [35] * * * *;

(6) deductions made with the express written authorisation of the employed person, in furtherance of any War Savings Scheme, approved by the [36][Government] for the benefit of employees of the [37][Government of Pakistan] [38] * * * *;

5. Fines.- (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the [39][Government] or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person who has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed in the behalf by the [40][Government].

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to [41][three percent] of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on an employed person who is under the age of fifteen years.

(6) A fine shall not be imposed on any employed person shall be recovered from by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

6. Deductions for absence from duty.- (1) Deductions may be made under clause (ii) of sub-section (2) of section 7 only on account of the absence of an employed person from the place at places, where he is bound to work by reason of the fact that he has been absent from duty during a portion of the period for which he is to be paid the wages.

(2) The amount to be deducted shall be an amount bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

(3) A person employed may be absent from his place of work or place of employment without permission if he has given such notice of his intention to absent himself therefrom without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for the period of his absence as the [42][Government] or the prescribed authority may direct.

Explanation.- For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a strike or lock-out or for any other reason, to do any work or perform any other duty in connection with the employment.

10. Deductions for damage or loss.- (1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person, and shall not be made unless the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed in the behalf by the [43][Government].

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. Deductions for housing accommodation supplied by the employer.- (1) Subject to clause (iii) of section 7 shall not be made from wages of an employed person in respect of housing accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service so supplied, as the case may be, as determined by the [44][Government] or the prescribed authority, subject to such conditions as [45] * * * the [46][Government] may prescribe.

12. Deductions for recovery of advances.- Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:

(1) Such deductions shall be made only in accordance with the prescribed manner and shall be made only in the prescribed time and shall be made by prescribed instalments, but no recovery shall be made of such advances given for the purpose of any ceremony;

(2) recovery of advances of wages not already earned shall be subject to any rules made by the [47][Government]regulating the extent to which such advances may be given and the instalments by which they may be made;

13. Deductions for payments to co-operative societies and insurance schemes.- Deductions under clause (iii) and clause (ii) of sub-section (2) of section 7 shall be subject to such conditions as the [48][Government]may impose:

14. Inspectors.- (1) The Inspector of Factories appointed under sub-section (1) of section 16 of the Factories Act, 1934 [49], shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) [50] * * * * * * * * * * *