

THE PUNJAB MINIMUM WAGES ACT 2019
(XXVIII of 2019)

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TEXT

**'THE PUNJAB MINIMUM WAGES ACT 2019
(XXVIII of 2019)**

[13th December, 2019]

An
Act

to consolidate the laws regulating minimum rates of wages for workers of various categories.

It is necessary to consolidate various laws which fix and provide for regulation of minimum rates of wages for unskilled and different categories of skilled workers employed in an industry, industrial and commercial establishments and for matters connected therewith and ancillary thereto;

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent, application and commencement.— (1) This Act may be cited as the Punjab Minimum Wages Act 2019.

- (2) It shall extend to whole of the Punjab.
- (3) It shall apply to all industrial and commercial establishments in the Punjab.
- (4) It shall come into force at once.

2. Definition.— (1) In this Act, unless there is anything repugnant in the subject or context:

- (a) "Act" means the Punjab Minimum Wages Act 2019;
- (b) "adolescent" means a person who has completed fourteenth year of age but has not completed eighteenth year of his age;
- (c) "adult" means a person who has completed eighteenth year of age;
- (d) "Authority" means the Authority constituted under the Payment of Wages Act, 1936 (*IV of 1936*);
- (e) "Board" means the Minimum Wages Board established under section 3 of the Act;
- (f) "Chairman" means Chairman of the Board;
- (g) "commercial establishment" means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment employs worker, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker's office or

¹This Act was passed by Provincial Assembly of the Punjab on 20 November 2019; assented to by the Governor of the Punjab on 10 December 2019; and, was published in the Punjab Gazette (Extraordinary), dated: 13 December 2019, pp.2561-2568

stock-exchange, a shop, a club, a hotel, a restaurant or an eating house, a cinema or theater, private educational institutions, private health institutions and hospitals, clinical laboratories, private security agencies, other establishment or class thereof which run on commercial and profit basis, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act and includes:

- (a) a society registered under the Societies Registration Act, 1860 (*XXI of 1860*);
 - (b) a voluntary social welfare organization; and
 - (c) a charitable institution or a trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession, or any work in connection with or incidental or ancillary thereto;
- (h) “construction industry” means an industry engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbor, dock, pier, canal, inland waterway, road, tunnel, bridge, dam, viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the foundations of, any such work or structure;
- (i) “employer” means a person owning or having charge of the business of an industrial or commercial establishment and includes an agent or manager or any other person acting on behalf of such person in the general management or control of such establishment;
- (j) “Government” means Government of the Punjab;
- (k) “Industrial Establishment” means:
- (a) a workshop or other establishment in which the work of making, altering, repairing, ornamenting, finishing or packing or otherwise treating an article or substance with a view to its use, sale, transport, delivery or disposal is carried out, or where any such service is rendered to a customer or client and any other establishment which Government may, by notification in the official Gazette, declare to be an industrial establishment;
 - (b) a factory;
 - (c) an establishment of a contractor, who directly or indirectly, employs persons to do any skilled or unskilled, manual or clerical labour for hire or reward in connection with execution of a contract, to which he is a party, and includes premises in which, or the site at which, any process connected with execution is carried on;

Explanation.- Contractor includes a sub-contractor, headman, middleman or agent; and

- (d) an establishment or a person, who directly or indirectly, employs workers in connection with any construction work or industry and road transport service;
- (l) "Industry" means any business, trade, manufacturing, calling, service, employment or occupation of producing goods or services for sale;
- (m) "member" means a member of the Board;
- (n) "minimum wages" means rates of wages notified under the Act;
- (o) "prescribed" means prescribed by rules;
- (p) "Road Transport Service" means a service carrying passengers or goods or both by road in vehicles for hire or reward;
- (q) "rules" mean rules made under this Act;
- (r) "unskilled worker" means a worker, whether adult or adolescent employed in an industrial or commercial establishment to do unskilled labour;
- (s) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include:
 - (a) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund;
 - (b) any travelling allowance or the value of any travelling concession;
 - (c) any sum paid to such person to defray special expenses incurred by him in respect of his employment;
 - (d) any sum paid as statutory bonus or otherwise;
 - (e) any gratuity payable on discharge;
 - (f) any sum paid as share in the profit as per provisions of the Companies Profits (Workers Participation) Act, 1968 (*XII of 1968*); or
 - (g) any sum paid as reward or award and any facility granted or any sum in lieu thereof paid on special occasion or performance; and
- (t) "worker" means any person including an apprentice employed in any industry, industrial or commercial establishment to do any unskilled, skilled, manual, clerical, technical, intellectual or any other work for hire or reward but does not include the persons employed in coal mines in respect of whom minimum wages may be fixed under the Coal Mines (Fixation of Rates of Wages) Ordinance, 1960 (*XXXIX of 1960*).

(2) Expressions used in this Act but not defined herein shall have the same meanings, as assigned to them in the Factories Act, 1934 (*XXV of 1934*) and Punjab Shops and Establishments Ordinance, 1969 (*VIII of 1969*).

3. Establishment of Minimum Wages Board.— (1) As soon as may be after the commencement of this Act, the Government shall establish a Minimum Wages Board consisting of the following members to be appointed by it, namely:

- (a) Chairman of the Board;
- (b) Director General Labour Welfare, Punjab;
- (c) Mines Labour Welfare Commissioner, Punjab;
- (d) Representative of Finance Department not below the rank of Deputy Secretary;
- (e) Representative of Industries, Commerce and Investment Department not below the rank of Deputy Secretary;
- (f) one independent member;
- (g) three members to represent the employers including one woman; and
- (h) three members to represent the workers including one woman.

(2) For the purpose of performing the functions of the Board specified in Section 5, it shall co-opt the following two additional members as and when required:

- (i) one member to represent the employers connected with the industry concerned; and
- (ii) one member to represent the workers engaged in such industry.

(3) The Chairman and the independent member shall be appointed from persons with adequate knowledge of labour issues and economic conditions in the Province, who are not connected with any industry or associated with any employers' or workers' organization.

(4) The members to represent the employers of the Province and the members to represent the workers of the Province under subsection (1) shall be appointed after considering nominations, if any, of such organizations as Government considers most representative organizations of such employers and workers respectively.

(5) The members to represent the employers connected with and the workers engaged in the industry concerned under subsection (2), shall be appointed after considering nominations, if any, of such organizations as Government considers most representative organizations of such employers and workers respectively.

(6) The term of office of the Chairman and the members, the manner of filling casual vacancies therein, the appointment of its committees, if any, the procedure and conducting of meetings of the Board and its committees and all matters connected therewith, including the fees and allowances to be paid for attending such meetings, and other expenses, including expenses for the services of experts and advisors obtained by the Board, shall be such as may be prescribed.

4. Recommendation of minimum wages for unskilled adult and adolescent workers.– (1) The Board shall, upon a reference made to it by the Government, recommend to the Government, after such enquiry as the Board thinks fit, the minimum rates of wages for unskilled adult and adolescent workers employed in industrial and commercial establishments in the Province.

(2) In its recommendations under subsection (1), the Board shall indicate, whether the minimum rates of wages should be adopted uniformly throughout the Province or with such local variations for such localities as are specified therein.

5. Recommendation of minimum rates of wages for workers with respect to particular industry or Establishment.– (1) Where in respect of any particular industry industrial or commercial establishment for which no adequate machinery exists for effective regulation of wages, the Government is of the opinion that, having regard to the wages of the workers employed in the industrial and commercial establishments engaged in such industry, industrial or commercial establishment, it is expedient to fix the minimum rates of wages of such workers, it may direct the Board to recommend, after such enquiry as the Board may deem fit, the minimum rates of wages either for all such workers or for such of them as are specified in the direction.

(2) In pursuance of a direction under subsection (1), the Board may, recommend minimum rates of wages for all classes of workers, in any category or grade and, in such recommendation, may specify:

(a) the minimum rates of wages for-

(i) time work; and

(ii) piece work;

(b) the minimum rates for workers employed on piece work so as to guarantee minimum wages on a time basis for such workers.

(3) The time rates recommended by the Board may be on hourly, daily, weekly or monthly basis.

6. Power to declare minimum rates of wages.– (1) Upon receipt of a recommendation of the Board under sections 4 and 5, the Government may:

(a) by notification in the official Gazette, declare that the minimum rates of wages recommended by the Board for various categories of workers shall, subject to such exceptions as may be specified in the notification, be the minimum rates of wage, for such workers; and

(b) if it considers that the recommendation is not in any respect, equitable to the employers or the workers, within thirty days of such receipt, refer it back to the Board for reconsideration with such comments thereon and giving such information relating thereto as the Government may deem fit to make or give.

(2) Where a recommendation is referred back to the Board under clause (b) of subsection (1), the Board shall reconsider it after taking into account the

comments made and information given by the Government and if necessary, shall hold further enquiry and shall submit to the Government:

- (a) a revised recommendation; and
- (b) if it considers that no revision or change in the recommendation is called for, make report to that effect stating reasons therefor.

(3) Upon receipt of the recommendation of the Board under subsection (2), the Government may by notification in the official Gazette declare that the minimum rates of wages recommended under that subsection by the Board for various workers shall subject to such modifications and exceptions as may be specified in the notification, be the minimum rates of wages for such workers.

(4) Unless any date is specified for the purpose in the notification under subsection (1) or subsection (3), the declaration thereunder shall take effect on the date of publication of such notification.

(5) Where after the publication of a notification under subsection (1) or subsection (3) or after the minimum rates of wages declared thereunder have taken effect, it comes to the notice of the Government that there is a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the workers, it may refer the matter to the Board and any such reference shall be deemed to be a reference under subsection (2).

(6) The minimum rates of wages declared under this section shall be final and shall not in any manner be questioned by any person in any Court or before any competent authority.

7. Periodical review of minimum rates of wages.– (1) The Board may review its recommendations, if any change in the economic conditions and cost of living and other relevant factors so demand, and recommend to the Government any amendment, modification or revision of the minimum rates of wages declared under section 6:

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances of a case so require:

Provided further that notwithstanding provisions of subsection (1), such recommendations shall be reviewed not later than three years in any case.

(2) Review and recommendation under this section shall be deemed to be an enquiry and recommendation under section 4 or as the case may be under Section 5, and, so far as may be, the provisions of this Act shall, to such review and recommendation, apply accordingly.

8. Powers of Board to collect information.– (1) The Board, or the Chairman may, as the case may be, for the purpose of an enquiry under the Act or the rules made thereunder, direct any employer to furnish such records, documents or information and do such other acts as the Board, or the Chairman may, as the case may be, require, and every such employer shall comply with such direction.

(2) The Chairman and such members, officers and servants thereof as are authorized in this behalf by the Chairman, may, for the discharge of any function under this Act or the rules, made thereunder:

- (a) enter, at all reasonable times, any industrial or commercial establishment;
- (b) inspect any book, register and other documents relating to such industrial or commercial establishment; and
- (c) record statements of persons connected with the working of such industrial or commercial establishment:

Provided that no one shall be required under this clause to answer any question tending to criminate himself.

(3) Any employer, who contravenes the provisions of subsection (1), and any person who willfully obstructs anyone in the exercise of any power under subsection (2), or fails to produce on demand thereunder any book, register or other documents, shall be punishable with fine which may extend to twenty thousand rupees.

9. Powers of the Board to collect evidence.— The Board shall, while holding an enquiry under this Act or the rules, be deemed to be a Civil Court and shall have the same powers as are vested in such Courts under the Code of Civil Procedure, 1908 (*Act V of 1908*), in respect of the following matters, namely:

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects; and
- (c) issuing commissions for the examination of witnesses.

10. Officers etc., deemed to be public servants.— The Chairman, the members, the officers and servants thereof, shall all be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code 1860 (*XLV of 1860*).

11. Prohibition to pay wages at a rate below the minimum rates of wages.—

(1) Subject to such deductions as may be authorized under this Act or under any other law for the time being in force, no employer shall pay any worker including unskilled worker, the wages at a rate lower than the rate declared under this Act to be the minimum rate of wages for such worker.

- (2) Nothing in subsection (1) shall be deemed to:
- (a) require or authorize an employer to reduce the rate of wages of any worker; or
 - (b) affect, in any way, the right of a worker to continue to receive wages at a rate higher than the minimum rate declared under this Act if, under any agreement, contract or award, or as a customary differential, or otherwise, he is entitled to receive wages at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such worker to enjoy; and

- (c) affect the provisions of the Payment of Wages Act, 1936 (*IV of 1936*).

(3) Any employer who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty five thousand rupees but shall not be less than five thousand rupees or with both, in addition to payment of sum not less than the difference in wages actually paid to the worker and the amount which would have been paid to him had there been no such contravention.

12. Claims arising out of wages paid lower than the minimum wages and penalty for malicious or vexatious claims.— (1) The Authority shall hear and decided all claims arising out of payment of wages lower than the minimum wages to a worker including unskilled worker in that area, whose minimum rates of wages have been declared under the provisions of this Act.

(2) Where contrary to the provisions of this Act, wages of any worker including unskilled worker have been paid lower than the minimum wages, such worker himself or through any other person or any legal practitioner or any office bearer of a registered trade union duly authorized in writing to act on his behalf, or any Inspector under this Act after prior approval of Director Labour Welfare to whom he is subordinate, may within six months from the day on which such payment was to be made, apply to the Authority having jurisdiction, for an order directing the payment to him of such wage differential:

Provided that any such application may be admitted after the said period of six months but not later than one year from the date on which the payment was to be made, if the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under subsection (2) is entertained, the Authority shall hear the applicant and the employer or other person responsible for the payment of wages alleged to have been less paid or give them an opportunity of being heard and after such further inquiry, if any, as may be necessary may, without prejudice to any other penalty to which such employer or other person may be liable under section 11 or any other law for the time being in force direct the employer or such other person to make payment to the applicant of the wage differential which have been withheld, delayed or not paid, together with such penalty, not exceeding ten thousand rupees, as the authority may fix:

Provided that no direction for the payment of a penalty shall be made in the case of delayed or less payment of wages, if the Authority is satisfied that the delay was due to:

- (a) A bona fide error or bona fide dispute as to the amount payable to the worker;
- (b) The occurrence of any emergency or the existence of such exceptional circumstances that the person responsible for the payment of the wages was unable to make prompt payment; and
- (c) The fault of the worker.

(4) If the Authority hearing any application under this section is satisfied that no amount to be paid as wages is due from the employer or other person responsible for the payment of wages to the applicant, it shall reject the application; and if the application, in the opinion of the Authority, is malicious or vexatious, the authority when rejecting it, may direct the applicant to pay a penalty not exceeding one thousand rupees to the employer or other person responsible for the payment of wages.

- (5) Any amount directed to be paid under this section may be recovered:
- (a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and
 - (b) if the authority is not a Magistrate, by the authority as an arrear of land-revenue, or in the prescribed manner, by the authority by distress and sale of the moveable property belonging to the person by whom the amount is to be recovered, or by attachment and sale of the immoveable property belonging to such person.

13. Appeal.– (1) An appeal against a direction or order passed under subsection (3) or subsection (4) of Section 12 may be referred to the Labour Court established under the Punjab Industrial Relation Act, 2010 (*XIX of 2010*) within thirty days of the date on which the direction was made or order was passed:

- (a) by the employer or other person responsible for the payment of wages, if the amount directed to be paid as wages exceeds twenty thousand rupees:

provided that no appeal under this clause shall lie unless the memorandum of appeal is accompanied by a certificate of the authority to the effect that the appellant has deposited with the authority the amount payable under the direction appealed against;
- (b) by a worker, if the total amount of wages claimed to have been withheld from him exceeds rupees five thousand; and
- (c) by the person directed under subsection (4) of section 12 to pay a penalty.

(2) If there is no appeal, the direction or order of the Authority made under subsection (3) or subsection (4) of Section 12 and where there is an appeal as provided in subsection (1), the decision in appeal, shall be final and shall not in any manner be questioned by any person in any court or before any authority.

14. Powers of the Authority.– Every Authority appointed under subsection (1) of Section 12 shall, for the purposes of determining any matter referred to in subsection (3) or subsection (4) of Section 12:

- (a) have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (*V of 1908*), for the purposes of enforcing the attendance of witnesses, compelling the production of documents, and the taking of evidence; and

- (b) be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (*V of 1898*).

15. Inspector.— (1) The Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits and class of industrial or commercial establishments as it may assign to them in this respect.

(2) The Inspector appointed under subsection (1) shall be deemed to be a public servant within the meaning of Pakistan Penal Code 1860 (*XLV of 1860*) and shall be officially subordinate to such Authority as the Government may specify in this behalf.

16. Powers of Inspector.— Subject to any rules made by the Government in this behalf, an Inspector may, within the local limits for which he is appointed:

- (a) enter, with such assistants, if any, being persons in the service of the state or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be, used as an industrial or commercial establishment;
- (b) make such examination of the premises and of any prescribed registers, and take on the spot or otherwise such evidence of any persons 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:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

17. Indemnity.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is done or intended to be done in good faith under the Act.

18. Cognizance of offences.— (1) No prosecution under this Act shall be instituted except by or with the previous sanction of Inspector.

(2) No Court inferior to that of a Magistrate First Class shall take cognizance of an offence punishable under the Act or the rules made thereunder.

19. Penalty.— Whoever:

- (i) willfully obstructs an Inspector in the exercise of any powers under this Act and the rules made thereunder, or fails to produce on demand by an Inspector any register or other document in his custody, or conceals or prevents any worker in an industrial or commercial establishment from appearing before or being examined by an Inspector, shall be punishable with a fine which may extend to twenty thousand rupees but shall not be less than five thousand rupees;

- (ii) contravenes any other section of this Act, for which a specific penalty has not been prescribed, shall be punishable with a fine which may extend to twenty thousand rupees but shall not be less than five thousand rupees; and
- (iii) after having been convicted previously under this Act shall on subsequent offence under this Act, be punishable with simple imprisonment for a term which may extend to six months but shall not be less than seven days or with a fine which may extend to fifty thousand rupees but not less than twenty thousand rupees or with both.

20. Removal of difficulties.— If any difficulty arises, in giving effect to any provisions of this Act, the Government may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty within a period of two years from the commencement of the Act.

21. Protection against discrimination.— No discrimination shall be made on the basis of religion, sex, political affiliation, sect, colour, caste, creed, ethnic background in considering and disposing of issue relating to the enforcement of this Act.

22. Power to make rules.— (1) Subject to the provisions of the Act, the Government may make rules to carry out the purposes of the Act.

(2) Rules made under this section may provide that any contravention thereof shall be punishable with fine not exceeding ten thousand rupees.

23. Repeal and Savings.— (1) The Minimum Wages Ordinance, 1961 (*XXXIX of 1961*), the West Pakistan Minimum Wages for Unskilled Workers Ordinance, 1969 (*XX of 1969*), the Employees Cost of Living Allowance (Relief) Act, 1973 (*I of 1974*), the Punjab Employees Special Allowance (Payment) Act, 1988 (*II of 1989*) are hereby repealed.

(2) Notwithstanding the repeal of Acts and Ordinances under subsection (1), hereinafter referred to as the repealed Acts and Ordinances:

- (a) anything done, action taken, rules made, and notification or order issued under the repealed Acts and Ordinances, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, appointed, constituted, given, commenced or taken, under this Act, and shall have effect accordingly; and
- (b) any reference to the repealed Acts and Ordinances, shall be construed as reference to the corresponding provisions of this Act.