

## **MANIPUR SHOPS AND ESTABLISHMENTS ACT, 1972**

### **4 of 1973**

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### **MANIPUR SHOPS AND ESTABLISHMENTS ACT, 1972**

**4 of 1973**

[ ]

An Act to provide for better regulation of conditions of service in shops and establishments and for purposes pertaining thereto Be it enacted by the Legislative Assembly of Manipur in the twenty-third year of the Republic of India as follows :

#### CHAPTER 1

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;

(5) "day" means the 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 as 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 an 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, theatre 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 (Central Act No. 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 given a holiday under the provisions of this Act ;

(13) "Inspector" means an Inspector appointed under this Act ;

(14) "official Gazette" means the Manipur Gazette ;

(15) "opened" means opened for the service of any customer of for any business connected with a shop or an establishment ;

(16) "period of work" means the time during which an employee 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 S. 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 the Act.

(2) On such declaration under sub-S. (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 applicable to certain shops, establishments and persons :-**

(1) Nothing in this Act shall apply to

(a) offices of the Union or the State Government or local authorities and of the Reserve Bank of India, the State 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) establishments 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 or 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 articles 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 ;

(1) shops or establishments dealing in petroleum products ;

(m) excise shops ;

(n) persons whose work is inherently intermittent, such as a traveller, a canvasser, 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-S. (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 the 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 2**

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 the 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

### **CHAPTER 3**

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-S. (1).

(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 shops :-**

(1) No employee in a shop shall be required or allowed to work in such shop for more than nine hours in a day and for more than

forty-eight hours in a week or after the hours prescribed under

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

#### CHAPTER 4

#### Establishments

### **12. Holidays in 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.

Explanation. The period of "seven hours" referred to in sub-S. (1) does not include the interval for rest.

### **14. Hours of work and intervals for rest in establishments for public entertainment or amusement :-**

(1) No employee in an establishment of 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 employee, of continuous work.

(3) The periods of work and interval for rest of each employee in an establishment of 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-S. (1) does not include the intervals for rest.

**15. Maximum point of time for spread over in an establishment for public entertainment or amusement :-**

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

CHAPTER 5

Wages and Leaves

**16. Wage period :-**

Every employer shall fix a period in respect of which wages shall be payable to the employee :

**17. Payment of wages :-**

(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 S. ] i or S. 13 or S. 14, as the case may be, he shall be entitled, in respect of the over-time 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 the 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-S. (1) 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. Deduction from wages :-**

No deduction 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

## **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-S. (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-S. (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 6**

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 be public servant** :-

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

## **23. Powers and jurisdiction of an Inspector** :-

(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.

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 7

Removal and re-employment

**27. Discharge of employees :-**

(2) A discharge done against the provisions of sub-S. (1) shall be an offence under this Act, and the Court shall, without prejudice to any 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 employees :-**

(1) No employee in a shop or an establishment shall terminate his service unless he has given to the employer a notice in writing of at least one month.

(2) Where an employee in a shop or an establishment contravenes the provision of sub-S. (1), the employer may forfeit any unpaid 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 S. 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 person :

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 8**

Miscellaneous

**30. Annual statement of the employer :-**

(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-S. (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 or 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 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 entitled 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 6½ per cent of the total wages of every such employee :

**37. Power to make rules :-**

(1) 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.

(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 is 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. Workmens Compensation Act to apply to employees :-**

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

**39. Non-application of Weekly Holidays 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 class.

**40. Persons employed in factories to be not governed 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 1948).'

**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 (including 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.