

West Bengal Act LVI of 1974¹

THE WEST BENGAL WORKMEN'S HOUSE-RENT ALLOWANCE ACT, 1974.

AMENDED

West Ben. Act L of 1980.

[18th July, 1975.]

An Act to provide for the payment of house-rent allowance to workmen employed in industry in West Bengal.

WHEREAS it is expedient to provide for the payment of house-rent allowance to workmen employed in industry in West Bengal;

It is hereby enacted in the Twenty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Workmen's House-rent Allowance Act, 1974.

(2) It extends to the whole of West Bengal.

(3) It shall come into ²force on such date as the State Government may, by notification, appoint.

(4) It shall apply to every industry in which fifty or more workmen are employed:

Provided that the State Government may, after giving not less than sixty days' notice of its intention so to do, by notification, apply the provisions of this Act to any industry employing such number of workmen less than fifty as may be specified in the notification:

³Provided further that this Act, if it once applies to any industry, shall continue to apply to that industry even if the number of workmen employed in that industry falls below fifty or, as the case may be, below such number as may be specified in the notification under the first proviso.

³*Explanation.*—For computing the number of workmen employed in any industry for the purposes of this sub-section, the number of workmen employed in all the units and the branches of the industry in and outside West Bengal, shall be taken into consideration, and if there is any dispute or difference in this regard, the decision of the State Government thereon shall be final.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV, of the 29th April, 1974, page 973; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 4th May, 1974.

²This Act came into force on the 1st October, 1975, vide notification No. 1381L/2/74, dated the 29th August, 1975, published in the *Calcutta Gazette, Extraordinary*, Part I, of the 29th September, 1975, page 2106.

³This further proviso and *Explanation* were added by s. 2 of the West Bengal Workmen's House-rent Allowance (Amendment) Act, 1980 (West Ben. Act L of 1980).

Short title,
extent,
commence-
ment and
application.

(Sections 2, 3.)

Definitions.

2. In this Act, unless the context otherwise requires,—

* * * * *

- (b) "controlling authority" means the authority appointed by the State Government under section 3;
- (c) "employer" means in relation to any industry—
- (i) belonging to, or under the control of, the State Government, a person or authority appointed by the State Government, for the supervision and control of workmen, or where no person or authority has been so appointed, the head of the department concerned, or
 - (ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of workmen, or where no person has been so appointed, the chief executive officer of the local authority, or
 - (iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the industry and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;
- (d) "industry" has the same meaning as assigned to it in clause (j) of section 2 of the Industrial Disputes Act, 1947, but does not include a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951; 14 of 1947,
69 of 1951.
- (e) "month" has the same meaning as assigned to it in clause (27) of the Bengal General Clauses Act, 1899; Ben. Act of
1899.
- (f) "notification" means a notification published in the *Official Gazette*;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "wages" has the same meaning as assigned to it in clause (rr) of section 2 of the Industrial Disputes Act, 1947;
- (i) "workman" has the same meaning as assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947.

Controlling authority.

3. The State Government may, by notification, appoint any officer not below the rank of Labour Officer, to be the controlling authority who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

¹Clause (a) was omitted by s. 3 of the West Bengal Workmen's House-rent Allowance (Amendment) Act, 1980 (West Ben. Act of 1980).

LVI of 1974.]

(Sections 4, 5.)

4. (1) Every employer shall be bound to pay to every workman house-rent allowance which shall be five *per cent.* of the wages payable to the workman for his service in the industry during a month, or rupees fifteen, whichever is higher:

Payment of house-rent allowance.

Provided that in the case of a workman employed purely on temporary basis or casual basis or as a *budli*, who renders service for less than six days in a month house-rent allowance shall be paid pro-rata.

(2) The house-rent allowance payable to a workman under sub-section (1) shall be paid in such manner and within such time as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) a workman who is entitled to draw under the terms of his service house-rent allowance at a higher rate than that provided in sub-section (1) shall continue to draw the same at such higher rate.

(4) Where the workman in an industry is given house accommodation by the employer and a deduction is made therefor from his wages then,—

(a) if the amount deducted for such house accommodation is higher than the house-rent allowance admissible under sub-section (1), the deduction shall be reduced by the amount mentioned in that sub-section and no house-rent allowance shall be payable to the workman; and

(b) if the amount deducted is less than the house-rent allowance admissible under sub-section (1), the said allowance shall be reduced by the amount deducted and the balance paid to the workman.

5. (1) If the house-rent allowance payable under this Act is not paid by the employer within the prescribed time, the workman or any other person authorised by him in writing in this behalf, or in the case of death of the workman, his legal representatives may, without prejudice to any other mode of recovery, make in such form and in such manner as may be prescribed, an application to the controlling authority having jurisdiction over the area in which the industry is situated, for the recovery of the house-rent allowance due to him:

Recovery of house-rent allowance.

Provided that such application shall be made within one year from the date on which the house-rent allowance became due:

Provided further that such application may be entertained after the expiry of the said period of one year if the controlling authority is satisfied that the workman had sufficient cause for not making the application in time.

¹Sub-section (1) was substituted for the original sub-section by s. 4 of the West Bengal

(Sections 6,7.)

(2) The controlling authority to whom an application under sub-section (1) is made may, after giving the applicant and the employer concerned an opportunity of being heard and after making such further inquiry, as may be considered necessary, determine, in such manner as may be prescribed, the amount of house-rent allowance due to the applicant and may, by an order, direct, without prejudice to any other action which may under this Act or any other law lie against the employer, the payment to the applicant of the amount of house-rent allowance so determined.

(3) Any amount directed to be paid by an order under sub-section (2) may be recovered by any Magistrate to whom the controlling authority making the order makes application in this behalf as if it were a fine imposed by such Magistrate.

(4) An appeal shall lie in the prescribed manner and within the prescribed time from an order of the controlling authority dismissing any application or giving any direction under sub-section (2), to the State Government or to such authority not below the rank of Assistant Labour Commissioner, as the State Government may, by notification, appoint in this behalf.

Reference of
dispute
under the
Act.

6. Where any dispute arises between an employer and any workman with respect to the house-rent allowance payable under this Act or with respect to the application of this Act to an industry, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947.

14 of 1947.

Inspectors.

7. (1) The State Government may, by notification, appoint such person as it thinks fit to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise jurisdiction.

(2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with,—

- (a) require an employer to furnish such information as he may consider necessary;
- (b) at any reasonable time and with such assistance, if any, as he thinks fit, enter the place of any industry or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of workmen or the payment of wages in the industry.

LVI of 1974.]

(Sections 8-11.)

- (c) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the industry or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been a workman in the industry;
- (d) make copies of, or take extracts from, any book, register or other document maintained in relation to the industry;
- (e) exercise such other powers as may be prescribed.

(3) Any person required to produce any accounts, book, register or other document or to give information by an Inspector under sub-section (1) shall be legally bound to do so.

8. The State Government may, if it thinks fit so to do in the public interest, by notification, exempt any class of industry from the provisions of this Act for such period and subject to such conditions, if any, as may be specified in the notification.

Power to exempt.

9. Every employer shall prepare and maintain such registers, records, and other documents in such form and in such manner as may be prescribed.

Maintenance of registers, records, etc.

10. (1) Whoever, for the purposes of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalties.

(2) Any person who contravenes, or makes default in complying with, any of the provisions of this Act shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

11. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by or under the authority of the State Government.

Cognizance of offences.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act

[West Ben. Act LVI of 1974.]

(Sections 12, 13.)

Protection of
action taken
in good faith.

12. No suit or other legal proceeding shall lie against the controlling authority, an Inspector or any other person in respect of anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Power to
make rules.

13. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) manner and time of payment of house-rent allowance referred to in sub-section (2) of section 4;
 - (b) form and manner of making application for, and manner of determining the amount of, house-rent allowance due, referred to in sub-sections (1) and (2) of section 5;
 - (c) manner in which and the time within which an appeal shall be filed under sub-section (4) of section 5;
 - (d) other powers of Inspectors referred to in clause (c) of sub-section (2) of section 7; and
 - (e) form in which registers, records and other documents are to be prepared and manner in which they are to be maintained under section 9.
-