

U.P. INDUSTRIAL ESTABLISHMENTS (NATIONAL HOLIDAYS) ACT, 1961¹

(U.P. Act No. XVIII of 1961)

[7th August, 1961]

(As passed by the Uttar Pradesh Legislature)

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An Act to provide for the grant of national holidays to persons employed in industrial establishments in Uttar Pradesh

It is hereby enacted in the Twelfth Year of the Republic of India as follows :

1. Short title, extent and commencement.--(1) This Act may be called the Uttar Pradesh Industrial Establishments (National Holidays) Act, 1961.

(2) It extends to the whole of Uttar Pradesh.

(3) It shall come into force on such date² as the State Government may, by notification in the Gazette, appoint in this behalf.

2. Definitions.--In this Act, unless there is anything repugnant in the subject or context--

- (a) "apprentice" means a person employed in an industrial establishment for the purpose of training therein whether on hire, wages or otherwise;
- (b) "day" means a period of twenty-four hours beginning at midnight;
- (c) "employee" means any person (including an apprentice) employed in any industrial establishments to do any skilled or unskilled, manual, supervisory, technical or clerical works for hire or reward whether the terms of employment be express or implied, but does not include any such person--
 - (i) who is employed mainly in a managerial or administrative capacity; or
 - (ii) whose duties are primarily of a travelling nature;

1. Received the assent of the Governor on 7th August, 1961, and published in the U.P. Gazette, Extra., dated 7.8.1961.
2. Enforced w.e.f. 11th August, 1961, vide Noti. No. 1564 (1) (LL)/XXXVI-(B)-266 (LL)-57, dated 11.8.1961.

- (d) "employer" when used in relation to an industrial establishment means a person, by whatever name he may be called, who has the immediate control over the affairs of the industrial establishment and shall include—
- (i) where an industrial establishment is owned, operated or managed by a department of the State Government, the authority specified in that behalf, and where no such authority is specified, the head of such department; and
 - (ii) where an industrial establishment is owned, operated or managed by or on behalf of a local authority, the chief executive authority of such establishment;
- (e) "State Government" means the Government of Uttar Pradesh;
- (f) "industrial establishment" means—
- (i) a factory as defined in clause (m) of Section 2 of the Factories Act, 1948, or any place which is deemed to be a factory under sub-section (2) of Section 85 of that Act; and
 - (ii) such other class of establishment as the State Government may, by notification in the Gazette, declare to be an industrial establishment for the purposes of this Act;
- (g) "Inspector" means a person appointed as an Inspector under sub-section (1) of Section 4;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "national holiday" means the twenty-sixth day of January, the fifteenth day of August and the second day of October every year;
- (j) "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 work done 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; and
 - (iii) and travelling concession, but does not include —
 - (a) any bonus,
 - (b) any contribution paid or payable by the employee 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.

3. Grant of national holidays.—Every employee shall be entitled to, and be granted, holiday with wages on every national holiday; anything contained in any other law, contract, document, usage or practice to the contrary notwithstanding :

Provided that where an employee is, for any exigencies of business of the industrial establishment, required to work, and works on a national holiday, he shall be paid by the employer, twice the wages for a day, or at the option of the employee, wages for that day, and also a substituted holiday with wages falling within the next calendar month, not being a weekly holiday.

Explanation.—Where an employee is paid wages by the day, or at piece rates, his wages for a day payable to him under this section, shall be the daily average of his wages, to be calculated in the manner prescribed.

4. Appointment of Inspectors.—(1) The State Government may, by notification in the Gazette, appoint any person or class of person, as it may deem fit, to be Inspectors for the purposes of this Act.

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

5. Powers of Inspectors.—Subject to any rules made by the State Government in this behalf, an Inspector may, by himself, or with such assistants as he deems necessary,—

- (a) enter an inspect, at all reasonable times, any place, which is, or which he has reason to believe to be, an industrial establishment;
- (b) examine any register, record and notices of the industrial establishment and take evidence of such 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.

6. Penalties.—Any person contravening any of the provisions of this Act or the rules made thereunder, shall, on conviction by a court of competent jurisdiction, be punishable with fine which, for the first offence, may extend to five hundred rupees, and for every subsequent offence, to one thousand rupees.

7. Exemption.—(1) Nothing contained in this Act shall apply to any industrial establishment under the control of the Central Government, Reserve Bank of India, Railway Administration, operating any railway as defined in clause (20) of Article 366 of the Constitution of India, or a cantonment authority.

(2) The State Government may, if for special reasons it so thinks fit, by notification in the Gazette, direct that, subject to such conditions and for such periods as it may specify, the provisions of Act shall not apply to such class of industrial establishments as employ not more than such number of employees as may be specified in the notification.

8. Provisions of this Act to be in addition to existing benefit.—(1) The provisions of this Act shall be in addition to, and not in derogation of the requirements of, any other law on the subject.

(2) Nothing contained in this Act shall affect any rights or privilege, which an employee is entitled to, on the date on which this Act comes into force under any other law, contract, custom or usage.

9. Power to make rules.—(1) The State Government may, subject to their previous publication by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session, for a total period of fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.
