

KERALA CASUAL, TEMPORARY AND BADALI WORKERS(WAGES) ACT,1989

1990 -"KEÅALA- GAZETTE 'EXTRÅORBI PUBLISHED ey 'AUTHORITY .22nd Januai-y 1990 • gaTrivan.drum', [No. 57 2ad . Magha 1911 OF-KÉRALA - (Leä\$afipn-C)I Oepie'ment No. C3f891Låw::, bâtéð, .Trioamdr•umt, '22nd January; 1990i 2nd Magha, 1911. • The' follo{ving 'Act' öÉ. t.iø•• ReFaIÄ State Legiðlatu.re is hereby publishbd. (or gen&BA--• information: . The • Bill RS passed by the • Lagislati+e • Assembly received the assent of the President on the 14th day o/ .t• . •By the Governor, SAROjAM, Speoiiai. Secretary . (Law). . AND BY THE S. Q. P. GOVERNMEt PRESS, . '1990..•• •• naw 1 TOF •1990 THE KERALA CASUAL, .WOiU<LRS, (WAGES) ATCT, .1989.", An Act. to Provide for the fixation of .pgyable casüalj-.tiptotity and bgdli. workersin cntain estgblshments •and cmPloymrn4s and for: mattcts coniected'thereuith. it is expediþnt to ihc -fixation eof the wages payable to casual, temporary and badfi• workérs in Certain •eståblisbtt ments pid employments and for. matten connected . BE ii cnacted:in the Fortieth• Year Ufhé Rbb%bli\$ 6f Mdia es fd)lowi:— I.. Short title, h•gent, commencement and This OftAcÜrna be the Kaala Casual* 'Tcmþorary "and .Badli Woilkers (Wages) 1989. (2) It éxtendk to thc•whole.of {het (3) It shall come. into force on. by notificatiÖn'in the Gazette, appöin•t,. (4) : It' apply to— (a) . every factory, .plantation and (b) cvery cstab)ishmeni 'to any ofthe Shops and CommerciåliEsfabliishmenié .ACT,1960 (34.0f1960), aßkjies, Which, is• specified by the Govenment.by •nédficaåon inahet Gåzctte and . Sfhi.ch is sltyate in such tarca'. area as may be (c) such other establishment as tie Govenment may, by notification in the Gazette, speci\$' in {his : ; Provided thåi no ridtificationunda' c)åüsé (b) -sbau bé issGCd by the Government, not IS than two *honths' .åöttige.ofåtheir intcütion so do has been givex and any-objection or. sutgestiön. received in fespõse to the notice has been 'Considered by. the, Gdvemment. .. (5) It shall not apply to any establiEcnt; factöry, plantation, motor transport indert&ig or iOt?T the control of the. Central Governfiént. . 2. this:Acis\$ (a) 1 'bkdli Worier" who .is iQåthe plaéq of" a pemanent worker who absent;, • 3 (b) "'casual worker" a •worker whose employment is of a egguÄnatUre ; (c). temploy.&" means,. 'tin to any establishment,• factory, • + plantation, Åmptor •transport undertaking or other, undertakings— (i) to, or under the control of any State Govcrhtnmt, a person or authþrity appointed by, that Govanment for the supervision and control of workes, •where no person or authority has been so appointed, tho head of the Ministry or the *Departmerit concerned; e(n) ..l)elönging to, or the cöntrol •of, any •local authority, tho pèrsonsapointed by such authority for the \$üp\$vision and control of Workers, .or, where no• person' has bQn Sö appointed; the chief executive omce Of the, local authority; (iii) intariy Otha case; tK9person who of the authority which has the ultiåato contTo•l Ove* the affairs of the establishment, factory, plantation undertaiing, tand where the said affairs are whether called managa•, , 5 •entrusted• to any other person, .i : •managing direct0F or by any other name; -sueh pet\$ñ; i (dV• e 'fact0i+*' has: the' meanin assi9led +0 itin clause (Li) of •section 2 .öf. the Factories :öft, 1949 (Cent.å Act 63 of 1948); (e) • i 'Inspegtör" means an inspector appointed under section 6; (O •:crnotor transport undertaking" 'has the meaning assigned to that •exprésslön• ih clause .(g) of section 2 of the. Motor Transport Workers Act, 1961. (Ckntrol Act 27. of 1961); - (g) . tipa•manent L.méans -.worker 'Who is employed a permanentu b4Sis ; (h) Kas the nieaning to it in clause (O of section 2 •of the Plåntations Labour Act, 1951 (Central Act 69 of 1951) ; (l) nice •sgate Of Kerala; : "tempbrary• Gorkerli.f means a Worke who has been engaged fo; work which IS nature likely to be-finished within a limited •peraoy, , . (k) 4 ewayesS' fias She hicaning aSsiguöd to that term in clause (vi) of-sc?tidn• 2 qfthe gf Wages.Aft\$ 1936 (Central Act 4 of 1936) ; meåhs any cperson who is employed (or hire or feward to do any workjs%llled or ünskitled, manual or clrtcal, in any establishment or empidyment to which this Act applies and includ9 an out worker to whom any articles •materials are given out 'by. another paspn to be Hade up, cleaned, •washed*l altereä; -Ornamentcaj• pFepared» adopted or otherwise . oroeessed. .30". Wages payable, lo anything Contained ilfany law• for •the time being in force, qr ip a.ny judBlients or order of ahy court or 6ther:authority; iA' any contract or othe agreementß no epployer shau afto. any casual; pmpot•ary or badli workq employed by him in factory; p!antationj mofo tråfiQort . undertaking or other Und&taking, {eage,ewhether paya>le in cash or in knð, at rates less than the minimum of the wages payable by him to a worker for pe.rforming same work •work.of a •similar nattE9. •4. Power appoint autlþritU\$ hearing and" deciding claims and. The Government 'may,' by notification. in the Gazette, appoint st.ich officers not below' the *ank ofa Dish-ict Labour Offca,as they. think fit, to be the. authorities

•for the purpose of hearing and deciding (a) • complainants with regard to the contravention of s&tfn (b) • claims arising out of non-payment of; Wages the rates, to, in the said section and may, by the same or a subordinate official notified under the said limits within which each such • its jurisdiction • (2) Every complaint claim, under (1) • be made in such manner as may be prescribed. (3) _ If any question arises as to the nature of a civil claim, it shall be referred to the authority (4) Where a complainant claims that he is entitled to be appointed under sub-section it may, after giving the worker an opportunity of being heard, and, after such inquiry as it may consider necessary, direct, — (i) in the case of a claim arising out of wages rates referred to in section 195 and Chapter XXVI of the 1973 (Central Act 5 of 1908), for the taking of evidence and enforcing the provisions of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the 1973 (Central Act 5 of 1908). (5) Any employer or worker aggrieved by any order made by an authority appointed under sub-section on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to the Government may, by notification in the Gazette specify in this behalf, that authority may, after hearing the appeal, confirm, modify or set aside the order appealed against and no further appeal shall lie against the order made by such authority. The authority referred to in sub-section (6), if it is satisfied that the complainant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter. The provisions of sub-section (1) of section 33C of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), shall apply for the recovery of money due from out of the decision of an authority appointed under section 195. Duty of employer to maintain and from the maintenance of this Act, every employer shall maintain such registers and other documents in relation to the casual, temporary and badli workers employed by him as may be prescribed. The Government may, by notification in the Gazette, appoint such persons as they may think fit to be Inspectors for the purpose of making investigation as to whether the provisions of this Act or the rules are complied by employers, and may define the local limits within which each Inspector may make such investigation. (P.) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the General Clauses Act (Central Act 45 of 1860). (3) The limits of his jurisdiction, — (a) — enter, at any time, with such assistance as he thinks fit, any building, premises, vehicle or vessel; (b) require any employer to produce any register, muster-roll or other document relating to the employment of workers, and to take any evidence of any person as to the compliance with the provisions of this Act or the rules made thereunder; (c) have access to any premises connected with or any place in which the employer has a reasonable cause to believe to be, or to have been, a place of employment; (d) — enter, at any time, with such assistance as he thinks fit, any establishment, factory, motor transport undertaking or other undertaking, (4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requirement. (5) Every employer shall afford facilities for any entry, inspection, examination or investigation under this Act: (7) — If any employer contravenes the provisions of section 3, he shall be punishable with fine which may extend to five thousand rupees. (2) If any person being required to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to one thousand rupees. (3) — If any employer or other person obstructs any Inspector in the discharge of his duties under this Act, he shall be punishable with fine which may extend to two thousand rupees. (C) — If any employer refuses or wilfully neglects to afford any reasonable facilities for making any entry, inspection, examination or investigation under this Act, he shall be punishable with fine which may extend to two thousand rupees. (5) Any employer, being required by this Act so to do, refuses to give any evidence or prevents his agent, servant or any other person in charge of the establishment, factory, plantation, motor transport undertaking or other undertaking, as the case may be, from giving evidence, he shall be punishable with fine which may extend to one thousand rupees. (G) — If any person default in compliance with the provisions of any order made under this Act, he shall be punishable with fine which may extend to one thousand rupees.

vided •such contravention by this.' Acti .be. punishable With fi.ne. which may extend fp five•. hundred rupees.. , 8. •O enccs by offend uö,de? 'this Act has beeti•• by. a company, cvery .person whb; qt. ffe;Gtne com- • mitted' s in charge of, and Was responsible t!iÜéompaiiY.for the conduct . of the b siness of the company, as-well as be dbamed to guilty -the offcnöc and shall be liable td be Piocgeded against and punishe& . royid.ed that •nothiné contaitica in thii Sub'section' shall *cndeí any sucll liablc .any punishment; if he pt•oves that. dfcnoc,was c9m.mitted without his 'knowledge or that he had. exereéiscd.all due diligence, Ito Weventx , thc: commission of éuch offcnec. 7 (2) Notwimtanding anything contained in sub-section (i where any offence under, .this Act has been committed by a éompany and it is proved that thc offence' has been committed with the consent or connivance • or is . attrititible •to any neglect an the part of, any director, manager, secretary or u other, omccr of the company, •Such director, manager, secretary or other officer shall bc,déemcd to be guilty of that bffenpe and shall be liable to be procccdcd again?t. And puished *accordingly, the purpos\$1 of this section,— ftcOn*anyj' means. any body corpdrate,, and inaudes' a firm or other; association of individual* ana (b) "director?", in 'relation to a means a partner in lhe firm. 9'. Cognüance and trial ofdencae No court inferior to that ofa Judicial Mâgs&ate of •theist class •shall try any offence punishable under this Act. ; (2) "No *court shall táke CÖgni.2mc.e• of an offence punishable under this 'Aééexcept upon adompldnt. made'with the sanction of the Government for an IQGcer• in this behalf. 'No court shall take cågnizance of an offence pun.ishable under this •«Act udc;eomplaint .thercOf is made,,withii thfce months from the• date on ' .•which sanction is granted •under t>is .section*" Burzen anything con*tained in any law fo{the gimebeihgin force; iA any proceeding under• th.is Act, the burden of that 'a work pßformed by a casual, .temporary or badli worker is not the sune wdtk or Wörk of a similar nature •as that performed by a permanent wo'ruer sbhil•bcsofi the. dmployer. hake i The', 'Gövernun*nt may, by notification . the. ICazQté,' jnakelrules_ for •carrying out the px:ovisionä ef this Act. "I(2Y 'In prejudice to the gen&älity of the fore• goihg such' rules may provide for all or, any gf the following matters, . namely:— I(â) ' themånner intwhiéhæompla\nt or élaina referred 'to in sub-Ection • of eeéiion•æ4 shalll'be made; ' iegistërs an•d oth&rräbcu.rnene which.ån employer is required under ...:gection 5 'to:maintain in relatin to the casual, temporary and badli . .workers employed b? him;' (c) • , any otGer matter which is vequired .to bc: or may be, prescribed, (3) Every rule made under th.is •Aét önall be lâiä; as goon as may be after it is made','before the Legislative Assembly while is in sésion, för a total p&iod of fourteen days which rnay• be •comprised' in one sessioh. or in two qucccsive sessions, and, if, before the expiry o! *the sesion in which it so iAid or the. session immediately following, the r.ægislativc AssanbTy makes any modification in the rule or decides that the rule should ndt be rule shall thereafter, Have •effect only in such modified form or bé of np effecb, as c.ase may be" 80 however, that any such• modificati01i annulment shall. 'be,without prejudice to the validity, of anything previously dono und% that rule. .