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THE PUNJAB OCCUPATIONAL SAFETY AND HEALTH ACT, 2019

(IV of 2019)

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TEXT

[1]THE PUNJAB OCCUPATIONAL SAFETY AND HEALTH ACT, 2019

(IV of 2019)

[25th January, 2019]

An
Act

to provide for occupational safety and health at workplace.

It is necessary to make and consolidate the law for the occupational safety and health of the persons at workplace and to protect them against risks arising out of the occupational hazards; to promote safe and healthy working environment catering to the physiological and psychological needs of the employees at workplace and to provide for matters connected therewith or ancillary thereto.

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

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Occupational Safety and Health Act 2019.

(2) It extends to whole of the Punjab.

(3) It shall come into force at once.

(4) The Government may, by order, exempt specified workplaces from the operation of the Act, either wholly or partially, and for such period as may be specified.

2. Definitions.– In this Act:

(a) "Act" means the Punjab Occupational Safety and Health Act 2019;

(b) "accident" means an incident that happens unexpectedly and unintentionally and thereby causes damage or harm;

(c) Committee" means a Committee constituted under the Act;

(d) "contractor" means any person or a body, whether incorporated or not, who contracts with a principal to carry out the whole or part of any work undertaken by the principal in the course of or for the purpose of the principal's trade or business and includes sub-contractor;

(e) "Council" means the Punjab Council of Occupational Safety and Health constituted under the Act;

(f) "Chief Inspector" means the Chief Inspector appointed under the Act;

(g) "employee" means any person employed or engaged, whether directly or indirectly for wages or any other form of any other consideration or a volunteer to do any skilled or unskilled, professional, technical, clerical, manual or other work, in connection with the affairs of an establishment under any contract of service or apprenticeship, whether written or oral, express or implied and includes such a person when laid off or

[1]This Act was passed by the Provincial Assembly of the Punjab on 23 January 2019; assented to by the Governor of the Punjab on 25 January 2019; and, was published in the Punjab Gazette (Extraordinary), dated: 25 January 2019, pp.1787 – 1796.

terminated; retrenched; dismissed and or removed from employment under this Act and includes any person or class of persons which the Government may specify by notification in official gazette, but does not include:

(i) a person employed in the Armed Forces; and

(ii) a person employed in sensitive installations as may be prescribed by the Government.

(h) “employer” means a person or agent that employs, contracts or engages in any manner whatsoever one or more people for wages or salary;

(i) “establishment” includes any business, trade, profession, service, office, firm, factory, society, undertaking, company, educational institution, hospital, clinic, laboratory, shop, workshop, warehouse, enterprise or organization of whatsoever nature including transportation which employs or engages an employee directly or through a contractor or sub-contractor for the purpose of carrying on any business activity, industry or excavation and includes all its departments, branches and premises whether situated at the same place or at different places;

(j) “factory” means any premises or the precincts thereof, where one or more employees are working or were working on any day of the preceding twelve months and in any part of which a manufacturing process is to be carried out or is ordinarily carried out with or without the aid of power but does not include a mine;

(k) “Government” means Government of the Punjab;

(l) “harm” means illness, disease, injury or a combination of these and includes physical or mental harm caused by any work-related incident;

(m) “hazard” means an activity, arrangements, circumstances, event, occurrence, phenomenon, process, situation or substance, whether arising or used within or outside a place of work, that is an actual or potential cause or source of harm;

(n) “Inspector” means an Inspector appointed under the provisions of the Act;

(o) “machinery” means an engine, motor or other appliances providing energy derived from compressed air, the combustion of fuel, electricity, gas, gaseous products, steam, water, wind or any other source; and includes:

(i) any plant by or to which the motion of any machinery is transmitted; and

(ii) a lifting machine, a lifting vehicle, a machine whose motive power is wholly or partly generated manually and a tractor.

(p) “premises” means any place and includes:

(i) a land, building or part of any building;

(ii) a vehicle, watercraft or aircraft;

(iii) an installation on land including the foreshore and other land intermittently covered by water and offshore installation and any other installation whether floating or resting on the seabed or the subsoil thereof or resting on other land covered with water or the subsoil therefore; and

(iv) a tent or moveable structure.

(q) “prescribed” means prescribed by the rules or regulations made under the Act;

(r) “risk” means the probability that injury or damage shall occur;

(s) “regulations” means the regulations framed under the Act and the rules;

(t) “rules” means the rules made under the Act;

(u) “self-employed person” means an individual who works for gain or reward otherwise than under a contract of employment, whether or not that person employs other persons; and

(v) “workplace” means any premises where work is carried out, by one or more persons and includes premises used for the storage of tools, machinery, equipment or substances:

Explanation: A person is in a place of work wherever he may perform work, including a place that the person moves through.

3. Duties of employer.– (1) Every employer shall:

(a) take all possible and reasonably practicable measures to ensure safety and health of the employees at the workplace;

(b) ensure systematic and effective identification of the existing and new hazards at the workplace on a regular basis;

(c) arrange for training of safety and health representatives every year to attend health and safety training as approved by the Government and shall bear all expenses thereof;

(d) get, at his own expense, the employees vaccinated and inoculated against occupational related deceases at such intervals as may be prescribed;

(e) ensure provision and application of processes, systems of work and tasks to be safe and without risks of harm to health;

(f) ensure provision and maintenance of tools, machinery, equipment and appliances which are safe and without risks of harm;

(g) make arrangements to control and prevent physical, chemical, biological, radiological, ergonomics and psycho-social or any other hazards to the employees and other persons at the workplace;

(h) provide such information, instructions, training and supervision, as is necessary or required under the Act and the rules;

(i) keep the workplace in safe, clean orderly and harm-free condition, and provide and maintain safe means of access to and egress from the workplace;

(j) inform the employees in an understandable manner and in accessible written form, before any work commences, the hazards associated with their work, risks involved and the preventative and protective measures that need to be taken;

(k) provide where necessary to the employees, at his own expense, if hazards cannot otherwise be eliminated or controlled, adequate protective clothing and protective equipment as may be approved by the Government, to prevent every risks of harm and of adverse effects on health;

(l) maintain in the general register particulars of all accidents including dangerous occurrences, commuting accidents and suspected cases of occupational diseases at the workplace and submit the extracts thereof to the Government;

(m) provide where necessary measures including adequate first aid arrangements to deal with emergencies, dangerous occurrences, accidents and industrial disasters; and

(n) take all practical measures for the prevention of fires or explosions and for the provision of safety measures in the event of fire or explosions as well.

(2) The employer shall record particulars of an accident or harm which occurs at a workplace and shall take all reasonably practicable steps to ensure that the event is so investigated as to determine the cause of accident or harm.

(3) Wherever two or more undertakings engage in activities simultaneously at one workplace, the employers of each undertaking shall collaborate in applying the provisions of the Act.

4. Duties of employees.– Every employee at the workplace shall ensure:

(a) reasonable care for his own safety and that of other persons who may be affected by his acts or omissions at the workplace without willfully doing anything to endanger himself or other persons;

(b) proper use of any protective clothing and protective equipment;

(c) no willful interference with or misuse of any means, appliances, equipment or any other thing;

(d) his escape from the place of danger and report forthwith to the immediate supervisor of any situation; and

(e) reporting the matter to the Council in the prescribed manner:

Provided that where the threat cannot be controlled in view of the Council, it may direct the employees who could be affected, to cease work until remedial action is taken to the satisfaction of the Council:

Provided further that where work ceases, the employer may allow the employees to undertake temporary alternative work on the same terms and

conditions and continuance of his employment shall not be affected until the dispute is resolved by the Council.

5. Duties of self-employed and employers to persons other than their employees.– Every self-employed person and every employer so far as reasonably practicable, shall ensure safety and health of the persons other than his employees and take necessary steps for awareness of the potential affectees.

6. Duties of persons in control of certain premises to persons other than their employees.–Every person not being a worker but using a premises, shall, so far as is reasonably practicable ensure that the premises, all means of access thereto or egress therefrom available for use by persons using the premises and any plant or substance in the premises is or are used in a safe manner and without risks to health.

7. Duties of manufacturers regarding articles and substances.– Every person who assembles or installs or erects any tool, machinery, equipment or stores a substance for use at a workplace, shall ensure that:

(a) the assembly, installation, erection or storage is done in a safe manner; and

(b) the person who shall use such tools, machinery, equipment or handle such substance is provided with all information as regards handling, commissioning, use and maintenance of the same.

8. **Safety and Health**.– (1) The Government may in consultation with the Council, by notification in the official Gazette, provide for safety and health of persons in any establishment or a class of establishments in the prescribed manner.

(2) Without prejudice to the generality of the foregoing provision, the rules made under subsection (1) may include but not be limited to the following matters:

(a) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress therefrom;

(b) lighting, ventilation, odour, temperature, noise, dust, fume, artificial humidification and cleanliness of workplaces;

(c) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their removal and transfer;

(d) prevention of harmful physical or mental stress due to conditions of work;

(e) handling, stacking and storage of loads and materials, manually or mechanically;

(f) guarding and fencing of the machinery and work at or near machinery in motion;

(g) instructions, training and supervision in relation to employment on dangerous machine and fencing or casing of machinery, wet floors, open wiring, safety escapes, emergency exits, safe

electric wiring and fitting etc;

(h) manufacture, packing, labelling, transport, storage and use of dangerous substances and agents, disposal of their wastes and residues and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;

(i) control of the atmosphere and other ambient factors of workplaces;

(j) prevention and control of hazards due to high and low barometric pressures;

(k) prevention of fires and explosions and measures to be taken in case of fire or explosion;

(l) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;

(m) sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water and any other welfare facilities connected with occupational safety and health;

(n) use, handling and storage of excessive weights;

(o) use and handling of loading and earth moving machinery;

(p) use, handling and storage of cranes, hoist, lifts and other lifting operations;

(q) installation and use of scaffolding and work at height;

(r) first-aid treatment;

(s) establishment of emergency plans; and

(t) supervision of the health of employees.

9. Written statement of policy.– Every employer shall, except in such cases as may be prescribed, declare a statement in writing, duly approved by Chief Inspector, prepared in consultation with employees and their representatives of a general policy, with respect to the safety and health of all persons at the workplace and the policy shall be reviewed and revised when:

(a) alteration to the procedures for managing risks to safety is made; and

(b) changes to the premises where persons work, to the systems or methods of work or to the plant or substances used for work are made that may affect safety, health or welfare.

10. Consultation.– At every workplace the employer shall:

(a) provide for the election of safety and health representatives from among the employees in establishments with more than 5 employees and such representatives shall represent the employees in all matters relating to the safety, health and welfare at work in the manner as may be prescribed; and

(b) appoint a competent person to function as safety and health

officer at the workplace in the prescribed manner.

11. Precautions against contagious, occupational or infectious disease at workplaces.– (1) Each employee shall be provided with a hygiene card in which, during the month of January and July every year, entries shall be recorded after examination by a registered medical practitioner, appointed by the employer, to the effect that the employee is not suffering from any contagious, occupational or infectious disease. The fee of such an examination shall be fixed by the Government and will be borne by the occupier or manager of the workplace.

(2) If the employee is found to be suffering from any contagious, occupational or infectious disease, on an examination under sub-section (1), he shall not be permitted to work till he is declared fit by the medical practitioner appointed under subsection (1).

12. Registration of workplaces and approval of sites, buildings and other constructions to be used as workplaces.– An employer or a self-employed person shall not build, fit out, alter or use any site or building as a workplace, unless such plan, site or building is approved in such manner as may be prescribed.

13. Notification and investigation of accidents, dangerous occurrences and occupational illness.– (1) Every employer shall maintain a register of accidents and harm in the prescribed manner and shall record in the register the prescribed particulars relating to:

(a) every accident that harmed or as the case may be might have harmed any employee at work; or any person in a place of work controlled by the employer; and

(b) every occurrence of harm to an employee or self-employed person at work or as a result of any hazard to which employee was exposed while at work in the employment of the employer.

(2) Every self-employed person shall maintain a register of accidents and harm in the prescribed form and must record in the register the prescribed particulars relating to:

(a) every accident that harmed or as the case may be might have harmed the self-employed person at work;

(b) every accident resulting from the work of the self-employed person that harmed or as the case may be might have harmed any person; and

(c) every occurrence of harm to the self-employed person:

(i) while at work; or

(ii) as a result of any hazard to which the self-employed person was exposed while at work.

(3) Every employer or self-employed person shall maintain a register and record of any accident that occurs in a workplace which-

(a) causes loss of life;

(b) disables any person from reporting to normal work for more than seven days; and

(c) makes any person unconscious as a result of any action or process related to work.

(4) The employer and self-employed person shall report every accident in the prescribed manner to the Inspector within twenty four hours of the occurrence of the accident.

(5) Where an accident results in disablement or death of person at the workplace, a notice in writing of such disablement or death shall be sent to the employer or the self-employed person in control of the workplace within twenty hour hours of the communication of the disability or death.

(6) Where at any workplace the possibility of the employees being subjected to special risks or hazards to safety and health at work, the Chief Inspector may require such employees to undergo pre-employment and periodic medical examinations suited for the circumstance and at periods so determined which the employer and the employees shall comply.

(7) The medical examination shall be performed at a hospital authorized by Government and the cost thereof shall be paid by the employer.

14. Establishment of Occupational Safety and Health Council.– (1) After the commencement of the Act, the Government shall, by notification in the official Gazette, establish an Occupational Safety and Health Council to exercise such powers and perform such functions assigned to it under the provisions of the Act.

(2) The Council shall consist of the following:

(a) Chief Inspector Labour;

(b) Director General Labour Welfare;

(c) three persons from organizations representing employers;

(d) three persons shall be from organizations representing employees;

(e) three or more persons shall be from the Labour Department whose responsibility is related to occupational safety and health; and

(f) three or more persons, including at least one woman, shall be from organizations or professional bodies the activities of whose members are related to occupational safety and health and who are able to contribute to the work of the Council.

(3) The Council shall meet at least once in every six months in a calendar year.

(4) Nine members of the Council shall form quorum for a meeting of the Council of whom at least;

(a) five shall be official members including the Chairman and the Secretary of the Council;

(b) one shall be representative of employees;

(c) one shall be representative of employers;

(d) one shall be a professional; and

(e) one shall be a member of civil society.

(5) Subject to the provisions of the Act, the Council may regulate its own procedure with regard to its meetings.

(6) The Council may constitute sub-committees as it may deem fit, to exercise such powers and perform such duties, subject to such conditions, as may be prescribed.

15. Functions and Powers of the Council.– Without prejudice to the responsibility of each employer for the safety and health of employees in his establishment and with due regard to the necessity for employees to participate in matters of occupational safety and health under the Act, the Council shall:

(a) carry out inspections of establishments under the Act, either periodically or randomly but not less than twice in a calendar year;

(b) establish an effective complaint and reporting procedure which allows for the compilation of data regarding violations of the provisions of the Act and the rules made thereunder;

(c) establish an effective complaint and reporting procedure which ensures that individual grievances of employees suffering from occupational safety and health related injuries or illnesses are effectively and efficiently addressed;

(d) conduct, undertake and assist in investigations, study programs and research in the field of occupational safety and health for adoption of effective enforcement procedures;

(e) undertake or collaborate in the collection, preparation, dissemination and publishing of information relating to occupational safety and health;

(f) run awareness and promotional campaigns to foster and create awareness about occupational safety and health;

(g) periodically conduct training programs in occupational safety and health and related subjects to inspectors, employers, employees, occupiers or any other person in need of knowledge and training, whether in collaboration with any other institution in Pakistan or abroad and award certifications upon successful completion of such training;

(h) provide advisory services to any establishment or person on the correct use of equipment, hazardous substances and physical, chemical or biological agents or products and avoidance of any other hazards;

(i) co-ordinate inter-departmental and ministerial projects, programs and activities on promoting the practice of occupational safety and health;

(j) take actions to facilitate cooperation between the Government, employers, workers and any other persons or organizations engaged in occupational activities; and

(k) perform such other ancillary functions as may be necessary for

the discharge of all or any of its functions.

16. Appointment and qualification of Chief Inspector and Inspector.– (1) The Government shall, by notification in the Official Gazette appoint the Chief Inspector and such number of Inspectors for the purposes of the Act with such qualification, experience, functions and training as may be prescribed.

(2) For the purposes of this section, the Chief Inspector, shall, in addition to the powers conferred on him under the Act, exercise the powers of an Inspector throughout the Province.

17. Assistance by other agencies.– For the enforcement of the provisions of the Act, the Council may seek assistance from any other body, authority or agency responsible for the performance of statutory functions or obligations subject to such procedures as may be prescribed.

18. Discloser of information.– (1) Except for an inquiry under the Act or any court proceedings relating to the commission of an offence under the Act or any rules made thereunder or persons disclosing information for the purpose of their functions under the Act, no person shall disclose any matter including any manufacturing of commercial secrets or working process which has come to the knowledge of that person or which that person has acquired while performing duties under the Act.

(2) Any person making inquiries or investigation under the Act on any complaint or complaints made, shall not divulge the name of persons making the complaints except in case of any judicial proceedings before a Court where he is required to make such disclosure.

19. Offences and Penalties.– (1) Save as otherwise expressly provided in the Act, any person who violates the provisions of sections 3 to 7 shall be punished with fine which may extend to rupees one hundred thousand.

(2) The penalties provided in this section shall be in addition to the claims for compensation, if any, instituted by the person:

Provided that if the fine imposed in a case, is subject to an appeal, no such payment shall be made before the period allowed for presenting the appeal has lapsed or if an appeal has been presented, before decision of that appeal.

(3) Whoever, unless duly authorized or in case of necessity, removes any machinery, equipment, fixtures, substances, fencing, gangway, ladder, lifesaving means or appliances, lights, marks, stage or other things required to be provided by or under the rules made under the Act or having in case of necessity, removed any such machinery, equipment's fixtures, substances, fencing, gangway, gear, ladder, lifesaving means or appliances, lights, marks, stage or other things and omits to restore it at the end of the period for which its removal was authorized or necessary, shall be punished with fine which may extend to rupees two hundred thousand.

(4) Whoever contravenes any requirement imposed by an Inspector under the Act shall be punished with fine which may extend to rupees ten thousand.

(5) Whoever willfully obstructs an Inspector in exercise or performance of his powers or duties shall be punished with fine which may extend to rupees twenty thousand.

(6) Whoever conceals, prevents or attempts to prevent any person from appearing before or being examined by an Inspector shall, upon conviction, be punished with a fine that may extend to rupees fifty thousand.

(7) The Court, when deciding upon the quantum of sentence and fine shall consider the size of the business of the employer being convicted, the gravity of the violation, repute of the employer and the history of previous violations.

(8) The penalties imposed under the Act shall be recovered as arrears of land revenue by the District Collector where the violation occurs or where the employer has its principal office.

20. Cognizance of offences.– An offence under the Act shall be cognizable by the police on a complaint in writing made by the Chief Inspector, Inspector or any aggrieved person.

21. Trial of offences.– (1) No court inferior to that of the Magistrate First Class, within the territorial jurisdiction of which the establishment or premises exist where the alleged offence has been committed is situated, shall try an offence under the Act.

(2) For trial of all offences under the Act, the provisions of Code of Criminal Procedure, 1898 *(V of 1898)*, shall apply.

22. Appeal.– An appeal against the decision of the trial court shall lie to the High Court.

23. Indemnity.– No suit, prosecution or other proceedings shall lie against any person employed in the public service authorized under the Act, for anything done or purported to be done in good faith under the Act.

24. Display at establishment.– (1) The entrance to a workplace or any other place where the employees legitimately gather shall bear essential information including notice of the postal addresses and the telephone numbers of the health and safety representative and the Committee and such information shall be communicated to the Chief Inspector.

(2) In addition to the notice required to be displayed in every establishment, a notice containing abstracts of the Act and the rules made thereunder shall also be displayed in English and Urdu or regional languages.

25. Limitation for records.– The General Register and every other register or record kept in pursuance of the Act shall be preserved and shall be kept available for inspection by an Inspector for at least five years or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or the record.

26. Contracting out.– Any contract or agreement, whether made before or after the commencement of the Act, whereby an employee relinquishes any right conferred by the Act shall be null and void in so far as it purports to deprive him of such right.

27. Collection of Statistics.– The authorities and officers entrusted with powers and duties under the Act and the rules made thereunder, for the proper and effective

exercise of their powers and discharge of their duties, call for statistics and information and ensure their correctness and the information so collected shall not be disclosed in respect of individual undertaking or establishments.

28. Transition.– (1) Within one year from the commencement of the Act, all employers and employees shall take such actions as are necessary to comply with the provisions of the Act and till such time no prosecution under the Act shall be conducted without the approval of the Government.

(2) All associations of employers and trade unions shall alter their constitutions, working and procedure to bring them in conformity with the provision of the Act.

29. Power to make rules.– The Government may, by notification in the official Gazette, makes rules for the purposes of the Act.

30. Provisions of this Act to be addition to and not in derogation of certain laws.– Notwithstanding anything contained to the contrary in any other law for the time being in force, the provisions of the Act shall be in addition to and not in derogation of such laws.

31. Limitation.– The provisions of section 5 of the Limitation Act, 1908 *(IX of 1908)*, shall be applicable to any proceedings under the Act.

32. Removal of difficulties.– If any difficulty arises in giving effect to any provisions of the Act, the Government may, by notification in the official Gazette, make orders not inconsistent with the provisions of the Act.