

Registered with the Registrar
of Newspapers for India under
No. 10410



Registered No.
SSP/PY/44/2015-17
WPP No. TN/PMG(CCR)/
WPP-88/2015-17
Dated : 29-11-2017
Price : ₹ 8-00

புதுச்சேரி மாநில அரசிதழ்
La Gazette de L'État de Poudouchéry
The Gazette of Puducherry

PART - II

சிறப்பு வெளியீடு	EXTRAORDINAIRE	EXTRAORDINARY
அதிகாரம் பெற்ற வெளியீடு	Publiée par Autorité	Published by Authority
விலை : ₹ 8-00	Prix : ₹ 8-00	Price : ₹ 8-00

எண் } புதுச்சேரி	புதன்கிழமை	2017 ௨௯	நவம்பர் மீ	29 ௨
No. } 65 Poudouchéry	Mercredi	29	Novembre	2017
No. } Puducherry	Wednesday	29th	November	2017

(8 Agrahayana 1939)

GOVERNMENT OF PUDUCHERRY
LAW DEPARTMENT

No. 110/Leg./2017-LD.

Puducherry, the 27th November 2017.

The following Act of the Legislative Assembly, Puducherry received the assent of the President of India on the 12th day of November, 2017 and is hereby published for general information.

N. MURUGAVEL,
Under Secretary to Government (Law).

[1185]

THE PUDUCHERRY LOADING AND UNLOADING
(REGULATION OF EMPLOYMENT AND WELFARE)
ACT, 2017

(Act No. 10 of 2017)

(12-11-2017)

AN

ACT

to regulate the employment and wages of loading and unloading workers and to restrict unfair practices connected with loading and unloading and transporting of goods and articles and for matters connected therewith.

BE it enacted by the Legislative Assembly of Puducherry in the Sixty-eighth year of the Republic of India as follows:—

CHAPTER-I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Puducherry Loading and Unloading (Regulation of Employment and Welfare) Act, 2017.

(2) It extends to the whole of the Union territory of Puducherry.

(3) It shall come into force at once.

Definitions.

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

(a) “adult” means a person who has completed eighteen years of age;

(b) “appellate authority” means the Appellate Authority appointed under section 13;

(c) “contractor” in relation to loading and unloading workers, means a person who undertakes to execute any work for an establishment or an

individual by engaging such workers on hire or otherwise, or who supplies such worker either in groups, or as individuals, and includes a sub-contractor, an agent;

(d) "domestic purpose" means,-

(i) shifting, including the transportation of furniture, personal effects and other household articles for domestic use; or

(ii) work in connection with the shifting of the articles of a dwelling house of a person including work at religious or social or public functions; or

(iii) cutting, removal, shifting and transportation of trees and wood for personal use; or

(iv) construction, repairing and maintenance of house including the shifting and transportation of construction materials, equipments, machinery for personal use; or

(v) dismantling, demolition and shifting of old building materials or equipments other than those covered by the non-domestic purpose and including its transportation; or

(vi) shifting and transportation of animals for personal use; or

(vii) shifting and transportation of materials including agricultural products, raw materials, agricultural inputs, equipment or agricultural machinery relating to agricultural operations.

Explanation:- For the purpose of this sub-clause, "agricultural operation" does not include any activity carried on in a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951; or

(viii) such otherwork or activity or process which the Government may, by notification in the Official Gazette, specify to be domestic purpose;

(e) "employer" in relation to any loading and unloading workers engaged in an establishment by or through contractor, means the principal employer and in relation to any other loading and unloading worker, the person who has ultimate control over the affairs of the establishment, and includes any other person to whom the affairs of such establishment are entrusted;

(f) "establishment" means any place or premises, including the precincts thereof, in which or in any part of which the loading and unloading employment is being or is ordinarily carried on;

(g) "Government" means the Administrator of the Union territory of Puducherry appointed under Article 239 of the Constitution;

(h) "Inspector" means an Inspector appointed under sub-section (1) of section 22;

(i) "loading and unloading work" means loading and unloading or carrying on head or person or in a trolley any articles or goods in or from or to a vehicle or any place and includes any other work carried out for the transportation or movement of such articles or goods in or from or to a vehicle or any place and includes any other work carried out for the transportation or movement of such articles or goods from one place to another;

(j) "minor" means a person who has not attained the age of eighteen years;

(k) "mischief" means the mischief as defined in section 425 of the Indian Penal Code, 1860;

(l) "non-domestic purposes" means,-

(i) industrial, agricultural or commercial purposes; other than those covered by domestic purposes; or

(ii) construction, maintenance and dismantling of all types of buildings other than those covered by domestic purposes, dams, bridges, tunnels, sub-ways and roads including all infrastructural projects; or

(iii) shifting and transportation of construction materials, equipments or machinery for purposes other than personal use; or

(iv) cutting, removal, shifting and transportation of trees and wood for industrial and commercial purposes; or

(v) shifting, including the transportation of any goods or articles which are used for industrial, agricultural or commercial purposes; or

(vi) installation, erection and dismantling of any electrical, electromagnetic or other sophisticated machinery of any nature and includes the laying of cables; or

(vii) installation, erection and dismantling of office equipments including the shifting and transportation of stationery and furniture items; or

(viii) shifting and transportation of any animals for industrial or commercial purposes; or

(ix) shifting and transportation of any materials which are mechanically loaded or unloaded with equipments or machinery like cranes, tippers or earth removers; or

(x) such other work or activity or process which the Government may, by notification in the Official Gazette, specify to be non-domestic purpose;

(m) "notified wages" means all remuneration payable in cash or in kind including digital payments mode if any, which the Government may fix under section 20;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "principal employer" means an employer who engages loading and unloading workers by himself or through a contractor;

(p) "Registering Officer" means the Registering Officer appointed under sub-section (1) of section 22;

(q) "Trade Union" means the trade union registered under the Trade Unions Act, 1926;

Central
Act 16
of 1926.

(r) "unfair practices" means any of the practices as set out in the Schedule to this Act;

(s) "wages" means all remunerations, expressed in terms of money or capable of being so expressed which would if, the terms of contract of employment, express or implied were fulfilled, be payable to a loading and unloading worker in respect of work done;

(t) "worker" means a person who is engaged or to be engaged directly or through any agency, or otherwise offering his services for the purposes of doing any loading and unloading work and includes any person not employed by any employer or a contractor, but, working with the permission of or under agreement with the employer or contractor but does not include the members of an employer's family or the worker or employee covered by the Factories Act, 1948 or the Plantations Labour Act, 1951 or the Puducherry Shops and Establishments Act, 1964 in force in this Union territory;

Central
Act 63
of 1948.
Central
Act 69
of 1951.
Act 9
of 1964.

Application
of the Act.

3. The provisions of this Act shall apply to any loading and unloading work or activity or process which is connected with, or related to, or ancillary to;

(a) domestic purpose, and

(b) non-domestic purpose, as specified in this Act.

CHAPTER-II**RIGHT TO FREEDOM OF EMPLOYMENT AND
PROTECTION TO PROPERTY**

- | | |
|--|--|
| 4. An employer shall have the right to carryout loading and unloading work for domestic purpose by himself or by employing the workers of his own choice. | Right to employ workers of one's own choice. |
| 5. An employer shall have the right to carryout loading and unloading work for non-domestic purposes either by himself or by employing the workers of his own choice. | Employment of workers for non-domestic purposes. |
| 6. No worker shall individually or jointly commit any unfair practice in connection with, or relating to, or ancillary to the purposes covered by or under this Act. | Prohibition of unfair Practices. |
| 7. No worker shall make any unauthorised entry into the property of an employer or other person and create any obstruction or hindrance to the work or activity or process to be carried out or commit any mischief or destruction or damage to the land or property of the employer or any other person whether or not such Act constitutes an offence under any other law for the time being in force. | Prohibition of entry into property. |

CHAPTER-III**HOURS AND LIMITATIONS OF EMPLOYMENT AND
WAGES**

- | | |
|--|----------------|
| 8. Save as otherwise expressly provided in this Act, no worker shall be required to work for more than eight hours in any day and no adolescent or minor worker shall be required to do the work of loading and unloading: | Hours of work. |
|--|----------------|

Provided that nothing contained in this section shall be deemed to prohibit an agreement between the employer and the workers for working less than eight hours, as the case may be, on any particular day or days

or on all days of employment or to affect any custom or practice prevailing in the locality under which the loading and unloading worker is required to work for less than eight hours, as the case may be.

Limitation
of
Employment.

9. (1) No loading and unloading worker shall be required to carry load of any article or load weighing more than fifty-five kilograms, at a time.

(2) Notwithstanding anything contained in any law for the time being in force, no person who is above the age of sixty years shall be deemed to be a worker for the purposes of this Act.

Daily
intervals for
rest.

10. The period of work on each day shall be so fixed that no period shall exceed four hours of continuous work and no worker shall work for more than four hours continuously before he had an interval for rest for at least half an hour.

Obligation
of employer
to pay
wages.

11. Every employer or contractor shall pay wages to a loading and unloading worker employed or engaged by him on the due date, as may be prescribed:

Provided that the wages payable to any worker shall not be lower than the minimum wages prescribed under the Minimum Wages Act, 1948.

Central
Act 11
of 1948.

Enforcement
of payment
of wages.

12. (1) If, any employer pays less than the notified wages due to a loading and unloading worker or refuses to pay such wages, the loading and unloading worker or an official of the union of which he is a member may make an application to the Assistant Inspector of Labour for a direction under sub-section (2) hereunder within 6 months from such less payment or refusal:

Provided that the application may be entertained after the expiry of the said period of six months, if, sufficient cause is shown by the applicant.

(2) On receipt of an application under sub-section (1), the Assistant Inspector of Labour shall, after giving the applicant and the employer an opportunity of being heard and after such inquiry, if any, which he may consider necessary, direct:-

(a) in the case of a claim arising out of the payment of less than the notified wages, the payment to the loading and unloading worker of the amount by which the wages payable to him exceeds the amount actually paid by the employer;

(b) in the case of a claim arising out of non-payment of notified wages payable to the loading and unloading worker for payment of the notified wages;

(3) If, as a result of a direction under sub-section (2), any amount of the wages becomes payable to a loading and unloading worker, the Assistant Inspector of Labour shall, if the amount is not paid in accordance with his direction, make a report within 30 days from the date of receipt of application to the Labour Officer (Enforcement), Puducherry for Puducherry, Mahe and Yanam regions and the Labour Officer, Karaikal for Karaikal region specifying the full particulars regarding the amount of the wages due to the loading and unloading worker and on receipt of such report, the said authorities shall hear and decide all claims arising out of deductions from wages or delay in payment of wages of the persons employed, within 60 days from the date of receipt of such report:

Provided the aforesaid time limit of 30 days and 60 days may be extended to such period not exceeding the duration of original period for reasons to be recorded in writing.

13. An appeal shall lie against any order passed under sub-section (2) and sub-section (3) of section 12, to the Deputy Labour Commissioner, who is the Appeal.

Appellate Authority, within a period of thirty days from the date of the order appealed against and the decision of the Appellate Authority on such appeal shall be final:

Provided that the Appellate Authority may admit an appeal presented after the expiration of the said period of thirty days if, it is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

CHAPTER-IV

REGISTRATION OF LOADING AND UNLOADING WORKERS, EMPLOYERS AND MAINTENANCE OF RECORDS

Registration of loading and unloading worker.

14. Every loading and unloading worker shall register his name with the Puducherry Unorganised Labourers Welfare Society or any other authority notified by the Government in such manner as may be prescribed.

Registration of employers.

15. Every employer or contractor who employ or engage in or for an establishment any loading and unloading worker for the non-domestic purposes regularly, shall register their names with the Labour Officer (Enforcement), Puducherry for Puducherry, Mahe and Yanam regions and Labour Officer, Karaikal, for Karaikal region by paying such fees and in such manner as may be prescribed.

Maintenance of registers and records of employers.

16. (1) Every employer or contractor who employs or engages workers for non-domestic purposes regularly shall maintain such registers and records in such form as may be prescribed by the Government.

(2) The registers and records referred to in sub-section (1) shall contain such particulars as may be prescribed.

(3) The employer or contractor shall produce the registers and records referred to in sub-section (1) for inspection when so required before such authority or officer as may be prescribed.

CHAPTER-V**EMPLOYEES' COMPENSATION, INSURANCE,
PROVIDENT FUNDS, ETC.**

17. The provisions of the Employee's Compensation Act, 1923 and the rules made thereunder shall apply to the workers employed in any establishment, firm, shops, catering establishments, godowns, markets, rice and dhal mills, theaters, *etc.*, and for that purpose, they shall be deemed to be an 'employee' within the meaning of that Act.
18. The provisions of the Employees' State Insurance Act, 1948 and the rules made thereunder shall apply to the loading and unloading workers engaged in non-domestic purpose regularly in any establishment, shops, markets, *etc.*, and for that purpose, they shall be deemed to be employees within the meaning of that Act.
19. The loading and unloading workers engaged in any establishment shall be deemed to be an employee within the meaning of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provided that the provisions of that Act applies to such establishment.

Application of Employee's Compensation Act, 1923 to loading and unloading workers.

Application of Employees' State Insurance Act, 1948.

Application of Employees Provident Funds and Miscellaneous Provisions Act, 1952.

CHAPTER-VI**NOTIFIED WAGES**

20. (1) The Government may regulate the wages payable to the workers under this Act in the manner prescribed by notifying in the Official Gazette and the rate of wages so notified may be different for different areas:

Notified wages.

Provided that if, the notified wages in respect of any goods or article including machinery have not been prescribed by the Government, the Government or the officers specifically authorised by the Government in

that behalf may, after necessary inquiry and subject to the general guidelines as may be prescribed, fix the wages on the spot in respect of any loading and unloading work and the wages so fixed shall be deemed to be the notified wages.

(2) No worker employed or engaged in the loading and unloading work connected with or related to the purposes specified in this Act shall demand wages in excess of the notified wages by threat or compulsion or any other mode which may constitute an offence under any law for the time being in force.

(3) No employer shall engage any worker for loading or unloading work connected with or related to the purposes specified in this Act for the wages less than the notified wages.

Acknowledgment for the receipt of amount.

21. Every worker who had received an amount for the loading and unloading work connected with or related to the purpose of this Act shall give a signed receipt to the employer or the person who has engaged or employed him as the case may be, soon after its receipt and the receipts so given shall be conclusive evidence that he has accepted the amount mentioned therein towards wages.

CHAPTER-VII

APPOINTMENT AND POWERS OF REGISTERING OFFICER AND LABOUR INSPECTORS

Appointment and powers of Registering Officer and Labour Inspectors.

22. (1) (a) The Assistant Inspectors of Labour, Office of the Labour Officer (Enforcement) for Puducherry region, Assistant Inspectors of Labour, Office of the Labour Officer, Karaikal for Karaikal region, Assistant Inspector of Labour, Mahe and Yanam in their respective regions, Labour Officer (Enforcement), Puducherry for Puducherry, Yanam and Mahe regions and the Labour Officer, Karaikal for Karaikal region shall act as Inspectors for the purpose of this Act.

(b) The Labour Officer, Puducherry Unorganised Labourers Welfare Society, Puducherry shall be the Registering Officer for registration of loading and unloading workers and the Labour Officer (Enforcement), Puducherry for Puducherry, Mahe and Yanam regions and Labour Officer, Karaikal, for Karaikal region shall be the Registering Officers for registration of employers.

(2) An Inspector appointed under sub-section (1) may for the purpose of ascertaining whether any of the provisions of this Act has been violated or not and to prevent the commission of an offence,-

(a) either *suo moto* or on a written complaint made in this behalf by an employer or any person aggrieved, enter any establishment or any premises connected therewith or any place at any reasonable time and with such assistance as he thinks necessary for the inspection, examination or enquiry with regard to such violations or apprehended violations;

(b) require an employer or any worker or any person to furnish such information as he may consider necessary;

(c) make copies of or to take extracts from, any book, register or other documents maintained in relation to the work carried out;

(d) exercise such other powers as may be prescribed.

(3) Every Inspector or the Registering Officers appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Central
Act 45
of 1860.

(4) Any person required to produce any document or thing or to give any information to an Inspector under this section shall be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code, 1860.

Central
Act 45
of 1860.

CHAPTER-VIII**PENALTIES AND PROCEDURE**

- Penalty for committing unfair practices. 23. Whoever commits any unfair practices other than item 13 of the Schedule shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one thousand rupees and which may extend to five thousand rupees or with both.
- Penalty for obstruction and damage. 24. Whoever commits any unauthorised entry into the property of an employer or any other person and creates any obstruction or hindrance to the work or activity or process to be carried out or commits any mischief or destruction or damage to the land or property of the employer or any person, shall be punishable with imprisonment which may extend to two years or with fine which shall not be less than one thousand rupees and which may extend to ten thousand rupees or with both.
- Penalty for obstruction of duties. 25. Whoever obstructs any Inspector or any other officer appointed under this Act in the discharge of his duties or refuses or willfully neglects to afford him reasonable facilities for making any entry, inspection, examinations or enquiry authorised by or under this Act, shall be punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one thousand rupees and which may extend to ten thousand rupees or with both.
- General provisions for punishment of other offences. 26. Any person who contravenes any of the provisions of this Act or of any rule or order made thereunder shall, if, no other penalty is provided for such contravention by this Act, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both.
- Compounding of offences. 27. (1) The Government may by notification in the Official Gazette, appoint officers of the Labour Department of and above the rank of Labour Officer as Appropriate Authority for compounding the offences

committed under this Act, before their cognisance by the Court, on payment of a sum which may not be less than the minimum of the fine stipulated for such offence but, may extend to the maximum of the fine stipulated for such offence and may also include the cost of damage suffered by the complainant, by way of composition of the offence which such person is suspected to have committed:

Provided that no such compounding shall be permitted in the case of second and subsequent offences.

(2) On payment of such sum to the Appropriate Authority under sub-section (1), the offender, if, in custody shall be released and no further proceeding shall be taken for such offence.

Central Act 2 of 1974. 28. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences punishable under sections 23, 24 and 25 of this Act shall be deemed to be cognisable offence within the meaning of that Code. Certain offences to be cognizable.

Central Act 2 of 1974. (2) No Court shall take cognisance of the offences referred to in sub-section (1) except upon a Police Report as provided in the Code of Criminal Procedure, 1973.

29. The Government may by notification exempt either permanently or for any specified period any establishment or class of establishments or person or class of persons from all or any other provisions of this Act, subject to such conditions as the Government deems fit. Exemptions.

CHAPTER-IX

MISCELLANEOUS

30. Notwithstanding anything contained in any other law for the time being in force, the violation of any of the provisions of this Act shall not constitute a dispute as defined in any other law and any such violation shall be dealt with in accordance with the provisions of this Act and rules made thereunder. Violation of the provisions of this Act not to attract other enactments.

Bar of jurisdiction of Civil Courts.

31. No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of anything done, any action taken or order or direction issued by the Government or any other authority or officer in pursuance of any power conferred by or in relation to its functions under this Act.

Delegation of power.

32. The Government may, by notification in the Official Gazette, direct that any power exercisable by them under this Act or the rules made thereunder (other than the powers conferred by this section 33, 34 and 36) shall in relation to such matters and subject to such conditions, if any, as may be specified in the notification, shall be exercised also by such officer or authority subordinate to the Government, as may be specified in the notification.

Power to amend the Schedule.

33. (1) The Government may, if, it is of the opinion that it is expedient or necessary so to do in the interest of public, by notification in the Official Gazette, add to or alter or amend the Schedule and on any such notification being issued, the Schedule shall be deemed to have been amended accordingly.

(2) Every such notification, shall, as soon as may be after it is issued, be laid before the Legislative Assembly.

Power to remove difficulties.

34. (1) If, any difficulty arises in giving effect to the provisions of this Act, or the rules made thereunder, the Government may, by order, do anything, not inconsistent with the provisions of this Act which appears to them to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be passed after two years from the date of commencement of this Act.

(2) Every order made under this section, shall, as soon as may be after it is made, be laid before the Legislative Assembly.

35. No suit, prosecution or other legal proceeding shall lie against the Government servant or any authority or officer in respect of anything which is done or intended to be done in good faith in pursuance of this Act or any rule or order made under this Act.

Protection of action taken in good faith.

36. (1) The Government may, by notification in the Official Gazette, make rules for the purpose of implementing the provisions of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may,-

(a) prescribe the obligations of employers and workers;

(b) regulate the employment which are not specifically prescribed in this Act;

(c) prescribe the method of summoning witnesses, production of documents relevant to the subject matter of the investigation or inquiry before the Inspector or any other officer authorised by the Government;

(d) prescribe the powers of Assistant Inspector of Labour and other officers appointed for the purpose of this Act;

(e) prescribe the modalities for preferring complaint, and matters consequential thereto;

(f) prescribe general guidelines for fixing notified wages;

(g) prescribe the procedure connected with compounding of offences;

(h) provide for any other matter which may be required for the effective implementation of the provisions of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of

fourteen days which may be comprised in one session in which it is so laid or the session immediately following and if, the Legislative Assembly makes any modification in the rule or decides 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.

THE SCHEDULE

[See section 2(r)]

UNFAIR PRACTICES

Prohibition of Unfair Practices in the Loading and Unloading Activities

(1) Intentionally putting an employer in fear of any injury to him or any other person or damage to his goods or property for getting any work done or demanding amounts in excess of the notified wages for the loading and unloading work connected with or ancillary to the purpose specified in this Act.

(2) Intimidating an employer by threat or violence to compel him to engage any person or group of persons for loading and unloading work or for paying amounts in excess of the notified wages prescribed for the work performed.

(3) Demanding the right to undertake the loading and unloading work connected with or related to domestic purposes after the employer has refused to engage any worker or group of workers.

(4) Demanding, claiming or receiving any amount without executing any work or for the work done by others.

(5) Individually or jointly making any obstruction or hindrance to the loading or unloading work and the transportation of goods and articles to be carried out in connection with or relating to or ancillary to the purposes specified in this Act.

(6) Obstructing the movement of vehicles or persons carrying goods or articles and delaying the work connected with or related to the purposes specified in this Act.

(7) Intentionally causing damage to the articles or vehicles or machinery or goods while carrying out the loading and unloading work.

(8) Indulging in acts of threat, violence, force, using abusive languages and the like in connection with the work related to the purposes specified in this Act.

(9) Indulging in work under the influence of alcohol or other intoxicants.

(10) Receiving amounts in excess of the notified wages prescribed for the work or receiving any amount in any other form or manner.

(11) Receiving any amount without issuing proper receipt or demand.

(12) Demanding or claiming any loading and unloading work in an area where the worker has no preference to do the work.

(13) Unauthorised entry into the property of an employer or any person or premises of an establishment for demanding or claiming the loading and unloading work connected with or related to the purposes specified in this Act.

(14) Refusal of work by an act of victimisation;

(15) By falsely implicating an employee in a criminal case on false evidence or on concocted evidence;

(16) Refusal to pay wages for patently false reasons;

(17) To show favoritism or partiality to one set of workers, regardless of merits.

- (18) Act of mischief.
 - (19) To indulge in an Act of force or violence.
 - (20) Paying less than the notified wages.
 - (21) Employ women or child labour in loading and unloading operations.
 - (22) Compel to do the work of loading or unloading more than the prescribed load limit or without permitting the worker to avail the break prescribed under the Act.
-