

**THE MAHARASHTRA WORKMEN'S MINIMUM HOUSE RENT
ALLOWANCE ACT,1983.**

(MAHARASHTRA ACT NO.XXIII OF 1988)

Areas (Received the assent of the President on 5th October, 1988)

An Act to provide for payment of minimum house-rent allowance to workmen employed in industries in Maharashtra.

Whereas it is expedient to provide for payment of minimum house rent allowance to workmen employed in industries in Maharashtra and to provide for matters connected therewith, it is hereby enacted in the Thirty fourth Year of the Republic of India as follows;

1. Short title, extent, commencement and application.-(1) This Act may be called the **Maharashtra Workmen's Minimum House rent Allowance Act, 1983.**

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different areas in the State for different industries or classes of industries.

(4) It shall apply in the area in which it is in force to every factory or establishment in an industry, in respect of which a notification is issued under Sub-section (3), where, in relation to any industrial dispute concerning such industry, the State Government is the appropriate authority under sub-clause (ii) of Clause (a) of Section 2 of the Industrial Disputes Act, 1947 (XIV of 1947), or to which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947), apply, and in which factory or establishment fifty or such higher number of workmen as may be specified by the State Government by notification in the Official Gazette, are employed.

(5) Notwithstanding anything contained in sub-sections (3) and (4), the State Government may, after giving not less than two months' notice of its intention to do so, by notification in the Official Gazette, and after considering any objections and suggestions which may be received, by like notification, apply from a specified date the provisions of this Act to any factory or establishment in any industry or industries specified in the notification, wherein less than fifty workmen but not less than such number of workmen as may be specified in the notification, are employed.

(6) Once the provisions of this Act apply or are applied to any factory or establishment in any industry under this section, they shall continue to apply to such factory or establishment, notwithstanding that the number of workmen employed therein falls below fifty or such higher or lesser number of workmen as may be specified under the notification issued under sub-section (4) or (5), as the case may be.

Explanation.- For computing the number of workmen employed in any industry for the purposes of this section, the number of workmen employed in all the branches and units of the factories and establishments in the industry in the State of Maharashtra shall be taken into consideration, and if there is any doubt or dispute, the matter shall be referred to, and decided by, the State Government or any officer authorized by it in this behalf, and its or his decision, as the case may be, shall be final.

2. Definitions.- In this Act, unless the context otherwise requires,-

(a) "Controlling Authority" means the Authority appointed by the State Government under section 3;

(b) "employer" in relation to any factory or establishment in any industry, means the person or authority, who has the ultimate control over the affairs of the industry, and includes the Manager, Managing Director or any other person (by whatever name called) who is responsible to the owner for the supervision and control of the workmen employed therein;

- (a) “establishment” means an establishment as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXX-IX of 1948);
- (d) “factory” means a factory as defined in the Factories Act, 1948 (LXIII of 1948);
- (e) “industry” means an industry as defined in the Industrial Disputes Act, 1947 (XIV of 1947).
- (f) “month” means a month as defined in the Bombay General Clauses Act, 1904 (I of 1904);
- (g) “prescribed” means prescribed by rules made under this Act;
- (h) “wages” means basic wages and dearness allowance;
- (i) “workman” means a workman as defined in the Industrial Disputes Act, 1947 (XIV of 1947) or an employee as defined in the Bombay; Industrial Relations Act, 1946 (Bom.XI of 1947) as the case may require;
- (j) words and expressions used in this Act, but not defined herein, shall have the meanings assigned to them in the Industrial Disputes Act, 1947 (XIV of 1947) or the Bombay Industrial Relations Act, 1946, (Bom. XI of 1947) as the case may require.

3. Appointment of Controlling Authority.- The State Government may, be notification in the Official Gazette, appoint an officer, not below the rank of Assistant Commissioner of Labour, to be the Controlling Authority for the administration of this Act and for carrying out the purposes of this Act, and different Controlling Authorities may be appointed for different areas or for different industries, or in the same areas for different industries or for the same industry in different areas.

4. Responsibility for payment of house-rent allowance.- (1) Every employer shall pay to every workman employed by him a house rent allowance which shall not be less than five per cent of the wages payable to the workman for his services during a month or twenty rupees, whichever is higher.

Provided that in case a workman renders service for less than a month, the house rent allowance shall be payable to him pro-rata:

Provided further that the service during a month shall include the days on which-

- (a) the workman has been laid off under an agreement or as permitted by the Standing Orders made under the Industrial Employment (Standing Orders) Act, 1946, (XX of 1946) or the Industrial Disputes Act, 1947 (XIV of 1947), or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947) or under any other law for the time being in force;
- (b) he was unable to work due to lock-out or cessation of work for which the employer pays wages;
- (c) he has been absent due to his temporary disablement, because of accident arising out of and in the course of his employment;
- (d) he has been on any authorized leave including weekly or other declared holiday, sick leave or permissible casual or optional leave;
- (e) he has been on any kind of leave with wages;
- (f) in the case of a female workman, she has been on maternity leave, so however, that the total period of such leave, including sick leave, weekly offs etc., does not exceed twelve weeks.

(2) The house rent allowance payable to a workman under sub-section (1) shall be paid to him, in cash, along with his wages for the month.

(3) Notwithstanding anything contained in sub-section (1), a workman who is entitled to draw under the terms of his service or under any agreement, settlement or award, a 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 a workman is provided residential accommodation by the employer and a deduction is made therefore from his wages, then -

- (a) if the amount deducted for such 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 such 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 shall be paid to the workman.

5. House-rent allowance when not payable.- Where a workman is provided with residential accommodation by the employer and no deduction is made therefore from his wages, the employer shall not be required to pay house-rent allowance to such workman as required by section 4.

6. Recovery of house-rent allowance as fine.- (1) If the house rent allowance payable under this Act is not paid by the employer within the prescribed period, the workman or any person authorized by him in writing in this behalf, or, in case of his death, his heir or legal representative, may, without prejudice to any other mode of recovery, make an application, in such form and in such manner as may be prescribed, to the Controlling Authority having jurisdiction, for recovery of the amount of the house-rent allowance due to him from the employer;

Provided that such application shall be made within a period one year from the date of the house rent allowance became due.

Provided further that such application may be entertained, after 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.

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

(3) An appeal shall lie, in the prescribed manner and within the prescribed period, from an order of the Controlling Authority dismissing any application made under sub-section (1) or giving any direction under sub-section (2), to such Appellate Authority, not below the rank of Deputy Commissioner of Labour, as the State Government may, by notification in the Official Gazette, appoint in this behalf, and different Appellate Authorities may be appointed for the same or different industries or for the same or different areas.

(4) Any order made by the Controlling Authority under this section, subject to an appeal to the Appellate Authority, and any order made by the Appellate Authority on any such appeal, shall be final.

(5) Any amount of the house-rent allowance found due and directed to be paid by any order made under this section, which has become final may be recovered by any Judicial Magistrate to whom the Controlling Authority makes an application in this behalf, as if it were a fine imposed by such Magistrate and shall be paid to the applicant concerned or his heir or legal representative, as the case may be.

7. Reference of a dispute under this Act.- Where any dispute arises between an employer and any workman or workmen with respect to the house-rent allowance payable under this Act or with respect to the application of this Act to any factory or establishment in any industry or to any workmen employed therein, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (XIV of 1947) or the Bombay Industrial Relations Act, 1946 (Bom. XI of 1947) as the case may require, and the provisions of the relevant Act, shall mutates mutandis, apply for investigation and settlement of such dispute.

8. Maintenance of registers, accounts and records.- Every employer to whom the provisions of this Act apply shall maintain such registers, account books and records giving such particulars of workmen employed by him, the wages and house-rent paid to them, the receipts given by them and such other particulars and in such manner and form as may be prescribed.

9. Appointment of Inspectors.- (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act, and define the local limits within which they shall exercise their functions under the supervision of the Controlling Authority concerned.

(2) For the purpose of ascertaining whether any provisions of this Act are being complied with or not, an Inspector may, within the local limits for which he is appointed,-

- (a) enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place of a factory or establishment in an industry for the purpose of examining any registers, account books and other records required to be kept under this Act or the rules made thereunder and require any one found in charge thereof to produce before him for examination any registers, account books and other records relating to the employment of the workmen and the payment of wages and house-rent allowance to them;
- (b) examine, with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person in charge of the factory or establishment or the records or any person whom the Inspector has reason to believe to be or to have been a workman in that factory or establishment;
- (c) seize or take copies of such registers, account books or other records or portions thereof as he may consider relevant in respect of any offence under this Act, which he has reason to believe has been committed by any employer or other person;
- (d) require the employer or his agent or servant or any workman to furnish such further information as he thinks fit;
- (e) exercise such other powers and discharge such other functions as may be prescribed.

(3) any person required to produce any registers, account books or other records or to give any information, which is in his power to produce or give, to an Inspector as required by him under sub-section (2), shall be legally bound to do so.

10. Penalties for offences.- (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 or false entry in any register, account book or other record, shall, on conviction be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) Any person who contravenes, or makes default in compliance with, any other provision of this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

11. Cognizance of offences.- (1) No Court shall take cognizance of an offence punishable under this Act, except on a complaint made by the Controlling Authority or an Inspector or by any Officer of the State Government authorized by it in this behalf.

(2) No Court inferior to that of a Metropolitan Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

12. Protection of action taken under the Act.- No suit, prosecution or other legal proceeding shall lie against the Controlling Authority, any Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

13. Power to exempt in special cases.- (1) notwithstanding anything contained in this Act, the State Government may, by order published in the Official Gazette, and subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the order, direct that the provisions of this Act shall not apply to any specified factory or establishment or to any specified class of factories or establishments in any industry, if it is satisfied that it is just and proper so to do in the public interest or for any special reasons having regard to the more favourable conditions of employment in such factory or factories or establishment or establishments or to the financial position and other relevant circumstances of such factory or factories or establishments, as the case may be.

(2) Any order made under this section may be made so as to be retrospective to any date not earlier than the date on which the Act became applicable to that factory or factories or establishment or establishments, as the case may be.

14. Power to make rules.- (1) The power to make all rules under this Act shall be exercisable by the State Government by notification in the Official Gazette, subject to the condition of previous publication.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act. Such rules may provide for payment of fees for any of the purposes of this Act, for which no provision is made in this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, without prejudice to the validity of anything previously done or omitted to be done under that rule.

15. Protection of rights under other laws or agreements.- Nothing contained in this Act shall adversely affect any rights of the workmen or their representatives to demand or to get or to raise an industrial dispute under any agreement or any other law for the time being in force, for better service conditions, relating to housing accommodation or house-rent allowance, in addition to those provided under this Act.

THE MAHARASHTRA WORKMEN'S MINIMUM HOUSE RENT ALLOWANCE RULES, 1990

No.HRA.3088/9498/Lab-2- In exercise of the powers conferred by sub-sections (1) and (3) of section 6, section 8 and sub-sections (1) and (2) of section 14 of the Maharashtra Workmen's Minimum House Rent Allowance Act, 1983 (Mah. XXIII of 1988) (hereinafter referred to as "the said Act") and of all other powers enabling it in this behalf, Government of Maharashtra makes the following rules the same having been previously published as required by section 14(1) of the said Act.

1. Short title and commencement.- (1) These rules may be called the **Maharashtra Workmen's Minimum House Rent Allowance Rules, 1990.**

(2) They shall come into force on and from the 1st day of January 1991.

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Maharashtra Workmen's House Rent Allowance Act, 1983 (Mah. XXIII of 1988);

(b) "Appellate Authority" means such authority as may be appointed by the State Government in this behalf under sub-section (3) of section 6.;

(c) "Form" means a form appended to these rules;

(d) "Inspector" means any person appointed as Inspector under sub-section (1) of section 9; and

(e) "Section" means a section of the Act.

(2) All words and expression used in these rules, unless otherwise defined, shall have the same meaning as assigned to them in the Act.

3. Manner and time of payment of house rent allowance.- The house rent allowance payable to a workman under section 6 for any month shall be paid within ten days of the month next following.

4. Maintenance of register of house rent allowance.- Every employer shall maintain a register of house rent allowance in Form "A".

Provided that, it will be sufficient compliance with the provision of this rule if the employer maintains record of payment of house rent allowance in any other register relating to payment of wages which he is required to maintain under any other law for the time being in force and the fact of maintenance of such register is intimated to the Controlling Authority concerned.

5. Application for recovery of house rent allowance.- (1) The application under sub-section (1) of section 6 for recovery of unpaid house rent allowance shall be in "Form B", and each workman shall submit a separate application;

Provided that where a large number of workmen are involved, a single application may be made by a person authorized by different workmen or their legal representatives.

(2) The application in "Form B" shall be served on the Controlling Authority concerned in triplicate either by personal service with receipt thereof or by registered post with acknowledgement due.

6. Procedure for dealing with application for recovery of house rent allowance.- (1) On receipt of an application under rule 5 the Controlling Authority shall, by issuing a notice in "Form C" and call upon the applicant as well as the employer concerned to appear before him on a date specified in the notice, not being less than 14 days after the date of service of the notice, either personally or through his authorized representative together with all relevant documents and witnesses if any;

Provided that, the date fixed for hearing may be extended by the Controlling Authority either suo-motu or on an application made by either of the parties.

(2) Any person desiring to act on behalf of an employer of a workman, his authorized representative or legal representative, as the case may be, shall, present to the

Controlling Authority a letter of Authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act, together with a Written Statement, explaining his interest in the matter and praying for permission so to act on behalf of such person, and the Controlling Authority, shall record thereon an order either according to his approval or specifying in the case of refusal to grant the permission prayed for, the reasons for the refusal.

(3) After completion of hearing on the date fixed under sub-rule (1), or after such further evidence, examination of documents or witnesses and hearing, as may be deemed necessary, the Controlling Authority shall record his finding as to whether any amount is payable to the applicant under the Act and a copy of the finding shall be given to each of the parties.

(4) If the employer concerned fails to appear on the specified date of hearing without sufficient ground, the Controlling Authority may proceed to hear the application ex-parte and if the applicant fails to appear on the specified date of hearing without sufficient ground, the Controlling Authority may dismiss the application;

Provided that, an order under this sub-rule may, on good cause being shown within thirty days of the said order, be reviewed and the application be reheard after giving 14 days' notice to the opposite party of the date fixed for rehearing of the application.

7. Direction for payment of house-rent allowance.- If a finding is recorded under sub-rule (3) of rule 6 that the applicant is entitled to payment of house rent allowance under the Act, the Controlling Authority shall issue a notice to the employer concerned in "Form D" specifying the amount payable and directing payment thereof to the applicant under intimation to the Controlling Authority within thirty days from the date of receipt of the notice and a copy of the notice shall be endorsed to the applicant, workman, his authorized representative or his legal representative, as the case may be.

8. Appeal from the order of Controlling Authority.- (1) The appeal under sub-section (3) of section 6 shall be in the form of a memorandum setting forth concisely the facts of the case, grounds of objection to the order or direction against which the appeal is preferred and the relief sought for, and every such memorandum of appeal shall be accompanied by a certified copy of the order or direction of the Controlling Authority which is the subject matter of the appeal.

(2) A copy of the memorandum of appeal under sub-rule (1) shall be served by the appellant on all the opposite parties including the Controlling Authority, either by personal service after obtaining receipt or by registered post with acknowledgement due.

(3) Within fourteen days of the receipt of a copy of the memorandum of appeal.

(a) the Controlling Authority shall forward all the records of the case against which the appeal has been preferred, to the Appellate Authority; and

(b) the opposite party shall submit his Written Statement containing comments on each paragraph of the memorandum of appeal and additional pleas, if any, to the Appellate Authority and the opposite party shall serve a copy of his Written Statement on the appellant either by personal service after obtaining receipt or by registered post with acknowledgement due.

(4) The Appellate Authority shall record its decision after giving the parties to the appeal a reasonable opportunity of being heard and shall forward a copy of the decision to the parties concerned and the Controlling Authority and the records of the Controlling Authority received under sub-rule (3) shall be returned to him by the Appellate Authority while forwarding a copy of the decision to him under this rule;

Provided that, if the appeal is disposed of a ex-parte or struck out or dismissed for default, the Appellate Authority may, within 30 days from the date of the order, restore it,

to file if sufficient cause be shown for non-appearance on the date of the hearing of the appeal of the respondent or of the appellant, as the case may be.

(5) On receipt of the decision of the Appellate Authority, the Controlling Authority shall, if required under that decision, modified his direction under rule 7 and issue a notice in Form 'E' specifying the amount payable and directing payment thereof to the applicant, under intimation to the Appellate Authority within fifteen days from receipt of the notice by the employer and a copy of the notice shall be endorsed to the applicant workman, his authorized person or legal representative, as the case may be, and to the Appellate Authority.

9. Maintenance of records of cases by the Controlling Authority.- (1) The controlling Authority shall record the particulars of each case in Form 'F' and at the time of passing order shall sign and date the particulars so recorded.

(2) The Controlling Authority shall, while passing order in each case, also record the substance of the evidence adduced in the case as an appendix to the order.

(3) Any record, other than a record of and order or direction which is required by these rules to be signed by the Controlling Authority, may be signed on his behalf and under his direction by any subordinate officer appointed in writing for this purpose by the Controlling Authority.

10. Inspection and copies of decisions, records and documents.- (1) A workman, or a Trade Union or an employer shall be entitled to have inspection of any document filed with the Controlling Authority.

(2) An application for inspection of a document with the Controlling Authority shall be accompanied with a fee of two rupees.

(3) A workman, Trade Union or an employer desiring to have a copy of any document with the Controlling Authority shall make an application accompanied with a fee of two rupees.

(4) Certified copies of documents shall be given to the applicant on payment of one rupee for document containing 100 words or fraction thereof.

11. Register of application for copies.- Application for copies shall be numbered consecutively and entered in a register maintained for the purpose is Form 'H'.

12. Register of Workmen.- Every employer shall maintain a Register of Workmen in "Form I" showing therein the names of all his workmen and the days of the months on which such workmen were in service or for which such workmen earned wages;

Provided that, it will be sufficient compliance with the provision of this rule if the information under this rule is maintained in any other register that the employer is required to maintain under any other law for the time being in force and the fact of maintenance of such register is intimated to the controlling Authority.

13. Visit Book.- (1) Every employer shall maintain a visit book in which an Inspector visiting the industry may record his remarks regarding any defect that may come to his notice at the time of his visit, regarding any documents required to be maintained or produced under the provisions of the Act or these rules. If the Inspector has no remarks to pass he may simply sign the visit book mentioning the date and time of his visit.

(2) The visit book shall be a bound book the pages of which shall be consecutively numbered;

Provided that no separate visit book shall be necessary in the case of an employer who is required to maintain a visit book under the provisions of the Maharashtra Minimum Wages Rules, 1963 or Maharashtra Shops and Establishments Rules, 1961.
