

BALUCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT

Dated Quetta, the 05th May, 2021.

NOTIFICATION.

No.PAB/Legis:V(09)/2021. The Balochistan Minimum Wages Bill, 2021(Bill No.09 of 2021), having been passed by the Provincial Assembly of Balochistan on 26th April, 2021 and assented to by the Governor Balochistan, on 04th May, 2021 is hereby published as an Act of the Balochistan Provincial Assembly.

The Balochistan Minimum Wages Act, 2021 Act No. X of 2021.

**AN
ACT**

to provide for the regulation of minimum rates of wages and various allowances for different categories of workers employed in certain industrial and commercial undertakings and establishments, so as to ensure decent living conditions for workers.

Preamble.

Whereas in pursuance of 18th Constitutional Amendment it is expedient to enact the law necessitating *periodical review of minimum wages and to provide for the regulation of minimum rates of wages for workers employed in all industries and occupations in keeping with the economic conditions prevailing in the Province of Balochistan*

It is hereby enacted as follows: -

Short title, extent and commencement.

1. (1) This Act may be called the Balochistan Minimum Wages Act, 2021.
- (2) It extends to whole of Balochistan.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context, -
 - (a) **“Act”** means the Balochistan Minimum Wages Act, 2021;
 - (b) **Adolescent or young person** means any person as defined in Employment of Children Act, 1991 (Act v of 1991);

- (c) **“Adult”** means a person who has completed eighteenth year of age;
- (d) **“Board”** means the Baluchistan Minimum Wages Board established under section 3;
- (e) **“Commercial concern”** means a business undertaking run by its proprietor to earn profits through lawful business transactions and includes a shop, a firm or a company or a sole trade established for commercial purposes;
- (f) **“Employer”** in relation to an industrial undertaking or a commercial concerns means any person who employs either directly or through another person, whether on behalf of himself or any other person, any person for whom a minimum rate of wages may be declared under this Act;
- (g) **“Government”** means Government of Balochistan;
- (h) **“Industrial undertaking”** means and includes industrial establishment as defined in the Balochistan Payment of Wages Act, 2019 and any other concern that is involved in manufacturing, construction, demolition or repair work;
- (i) **“Job appraisal scheme”** means the scheme evolved and introduced by the industry concerned with the approval of the Government for objective appraisal for determination of wage differentials without regard to sex, to ensure the enforcement of the principle of equal remuneration for male and female workers for work of equal value;
- (j) **“Minimum Wage”** means a wage necessary for ensuring decent living conditions based on the cost of living, products and services etc.). ‘Minimum wage’ is the wage below which no worker should be paid;
- (k) **“Wages”** means all remuneration capable of being expressed in terms of money, which would, if the terms of contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include–
- (i) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund;
 - (ii) any travelling allowance or the value of any travelling concession; *and*
 - (iii) any sum paid to such person to defray special expenses incurred by him in respect of his employment; *and*

- (l) **“Worker”** means any person including an apprentice employed in any industry or occupation engaged to do any skilled or un-skilled, intellectual, technical, clerical, manual or other work, including domestic work, for hire or reward but does not include persons employed in coal mines in respect of whom minimum wages may be fixed under the Coal Mines (Fixation of Rates of Wages) Ordinance, 1960 (XXIX of 1960).

**Establishment of
Minimum Wages Boards.**

3. (1) As soon as may be after commencement of this Act, the Government shall by notification in the official Gazette establish a Minimum Wages Board for Balochistan consisting of the following eight members to be appointed by it, namely: -

- (a) Director General Labour Welfare, Balochistan/
Chairman of the Board;
- (b) one independent member;
- (c) three members to represent the employers of Balochistan, including at least one woman; *and*
- (d) three members to represent the workers of Balochistan, including at least one woman:

Provided that for the purpose of discharging the functions of a Board specified in section 5 the following two more members appointed by the Government shall be added, namely: -

- (i) One member to represent the employers connected with the industry or business concerned; *and*
- (ii) One member to represent the workers engaged in such business or industry.

(2) The Chairman of the Board and the independent member shall be appointed from persons with adequate knowledge of industrial, labour and economic conditions of the Province who are not connected with any industry or associated with any employers' or workers' organization.

(3) The member to represent the employers of Balochistan and the member to represent the workers of Balochistan under sub-section (1) shall be appointed after considering nominations, if any, of such organizations as the Government considers being representative organizations of such employers and workers respectively.

(4) The members referred to in the proviso to clause (d) of sub-section (1) to represent the employers connected with and the workers engaged in the industry or business concerned shall be appointed after considering nominations, if any, of such organizations as

the Government considers to be representative organizations of such employers and workers respectively.

(5) The term of office of the members of the Board, the manner of filling casual vacancies therein, the appointment of its committees, if any, the procedure and conduct of the meetings of the Board and its committees and all matters connected therewith, including the fees and allowances to be paid for attending such meetings to the non-official members, and other expenses, including expenses for the services of experts and advisers obtained by the Board, shall be such as may be prescribed by rules made under section 17.

Recommendation of minimum rates of wages of unskilled, semi-skilled and skilled workers and those having specialised expertise in any field and juvenile workers.

4. (1) A Board shall, upon a reference made to it by the Government, recommend to such Government, after such enquiry as the Board thinks fit, the minimum rate of wages for all workers (adult, adolescent and young persons) in the categories of unskilled, semi-skilled and skilled and those having expertise in any field employed in industrial undertakings and commercial concerns in the Province.

(2) In its recommendations under sub-section (1), the Board shall indicate, whether the minimum rates of wages should be adopted uniformly throughout the Province or with such local variations for such localities as are specified therein.

Recommendation of minimum rates of wages for workers with respect to particular industries.

5. (1) Where in respect of any particular industry in the Province for which no adequate machinery exists for effective regulation of wages, the Government is of the opinion that, having regard to the wages of the workers employed in the undertakings engaged in such industry, it is expedient to fix the minimum rates of wages of such workers, it may direct the Board to recommend, after such enquiry as the Board thinks fit, the minimum rates of wages either for all such workers or for such of them as are specified in the direction.

(2) In pursuance of a direction under sub-section (1), the Board may recommend minimum rates of wages for all classes of workers in any grade and in such recommendation, may specify—

(a) the minimum rates of wages for—

- (i) time work;
- (ii) piece work;
- (iv) overtime work; *and*
- (v) work on the weekly day of rest and for paid holidays; *and*

(b) the minimum time rates for workers employed on piecework so as to guarantee minimum wages on a time basis for such workers.

(3) The time rates recommended by the Board may be on hourly, daily, weekly or monthly basis.

(4) The rates recommended under this section for overtime work and work on paid holidays shall not be less than the minimum rates fixed for such work under any other law for the time being in force.

Power to declare minimum rates of wages.

6. (1) Upon receipt of a recommendation of the Board under section 4 or section 5, the Government may, –

- (a) by notification in the official Gazette, declare that the minimum rates of wages recommended by the Board for the various workers shall, subject to such exceptions as may be specified in the notification, be the minimum rates of wages for such workers; or
- (b) if it considers that the recommendation is not, in any respect, equitable to the employers or the workers, within thirty days of such receipt, refer it back to the Board for reconsideration with such comments thereon and giving such information relating thereto as the Government may think fit to make or give.

(2) Where a recommendation is referred back to the Board under clause (b) of subsection (1), the Board shall reconsider it after taking into account the comments made and information given by the Government and, if necessary, shall hold further enquiry and submit to such Government: -

- (a) a revised recommendation; or
- (b) if it considers that no revision or change in the recommendation is called for, make report to that effect stating reasons therefore.

(3) Upon receipt of the recommendation of the Board under sub-section (2), the Government may, by notification in the official Gazette, declare that the minimum rates of wages recommended under that sub-section by the Board for various workers shall, subject to such modifications and exceptions as may be specified in the notification, be the minimum rates of wages for such workers.

(4) Unless any date is specified for the purpose in the notification under sub-section (1) or sub-section (3), the declaration there-under shall take effect on the date of publication of such notification.

(5) Where after the publication of a notification under sub-section (1) or sub-section (3) or after the minimum rates of wages declared there-under have taken effect, it comes to the notice of the Government that there is a mistake in the minimum rates of wages so declared, or that any such rate is inequitable to the employers or the workers, it may refer the matter to the Board and any such reference shall be deemed to be a reference under sub-section (2).

(6) The minimum rates of wages declared under this section shall be final and shall not in any manner be questioned by any person in any court or before any authority.

Periodical review of minimum rates of wages.

7. (1) The Board shall review its recommendations if any change in the economic conditions and cost of living and other relevant factors so demand, and recommend to the Government any amendment, modification or revision of the minimum rates of wages declared under section 6:

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made:

Provided further that the Board, on a reference received from the Government, shall periodically review the minimum rates of wages of workers under this Act that may usually be after three years' period from the date of earlier review.

(2) Review and recommendation under this section shall be deemed to be an enquiry and recommendation under section 4 or, as the case may be, under section 5 and, so far as may be, the provisions of this Act shall, to such review and recommendation, apply accordingly.

Prohibition to pay wages at a rate below the minimum rate of wages.

8. (1) Subject only to such deductions as may be authorized under this Act or under any other law for the time being in force, no employer shall pay to any worker wages at a rate lower than the rate declared under this Act to be the minimum rate of wages for such worker.

(2) Nothing in sub-section (1) shall be deemed-

- (a) to require or authorize an employer to reduce the rate of wages of any worker; or
- (b) to affect, in any way, the right of a worker to continue to receive wages at a rate higher than the minimum rate declared under this Act if, under any agreement, contract or award, or as a customary differential, or otherwise, he is entitled to receive wages at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such worker to enjoy; or
- (c) to affect the provisions of the Payment of Wages Act, 1936 (Act IV of 1936).

(3) Any employer who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty five thousand rupees or with both, and if the court trying such contravention by order so directs, shall also pay to the worker concerned such sum as may be specified in the order to represent the difference between the amount actually paid to such worker and the amount which would have been paid to him had there been no such contravention.

(4) Whoever having been convicted of any offence under this section again commits such offence shall be punishable on second or subsequent conviction with imprisonment for a term which may extend to six months and fine which may extend to fifty thousand rupees.

Appointment of Authority to hear and decide claims for non-payment or delay in payment of wages.

9. (1) The Government may, by notification in the official Gazette, appoint any person to be Authority for any area, specified in the notification, to hear and decide all claims arising out of non-payment, or delay in the payment of wages to workers in that area whose minimum rates of wages have been declared under the provisions of this Act.

(2) Where contrary to the provisions of this Act wages of any worker have been withheld or delayed, such worker himself or through any other person authorized by him in this behalf, may, within six months from the day on which such payment was to be made, apply to the Authority appointed under subsection (1) having jurisdiction, for an order directing the payment to him of such wages:

Provided that any such application may be admitted after the said period of six months but not later than one year from the date on which the payment was to be made, if the applicant satisfies the Authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or other person responsible for the payment of wages alleged to have been withheld or delayed or give them an opportunity of being heard and after such further inquiry, if any, as may be necessary may, without prejudice to any other penalty to which such employer or other person may be liable under section 9 or any other law for the time being in force direct the employer or such other person to make payment to the applicant of the wages which have been withheld or delayed, together with such penalty, to the extent of 2% of wages withheld but not less than five thousand rupees, whichever is less as the authority may fix:

Provided that no direction for the payment of a penalty shall be made in the case of delayed wages, if the Authority is satisfied that the delay was due to—

- (a) a bona fide error or bona fide dispute as to the amount payable to the employee; or
- (b) the occurrence of any emergency or the existence of such exceptional circumstances that the person responsible for the payment of the wages was unable to make prompt payment; *and*
- (c) the fault of the worker.

(4) If the Authority hearing any application under this section is satisfied that no amount to be paid as wages is due from the employer or other person responsible for the payment of wages to the applicant, it shall reject the application; and if the application, in the opinion of the Authority, is malicious or vexatious, the Authority when rejecting it, may direct the applicant to pay a penalty not exceeding one thousand rupees to the employer or other person responsible for the payment of wages as cost of malicious or vexatious application.

(5) Any amount directed to be paid under this section may be recovered by the authority mentioned in section 9 of this Act.

(6) An appeal against a direction made or order passed under subsection (3) or sub-section (4) may be referred to the Labour Court established under the Balochistan Industrial Relations Act 2010 (Act XIV of 2010) within thirty days of the date on which the direction was made or order was passed—

- (a) by the employer or other person responsible for the payment of wages, if the amount directed to be as wages and penalty exceeds ten thousand rupees;
- (b) by a worker, if the total amount of wages claimed to have been withheld from him exceeds rupees five hundred; or
- (c) by the person directed under sub-section (4) to pay a penalty.

(7) If there is no appeal, the direction or order of the Authority made under sub-section (3) or sub-section (4) and where there is an appeal as provided in sub-section. (6), the decision in appeal, shall be final and shall not in any manner be questioned by any person in any court or before any authority.

(8) An Authority appointed under sub-section (1) shall, for the purposes of determining any matter referred to in sub-section (3) or sub-section (4)—

- (a) have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses, compelling the production of documents, and taking of evidence; *and*
- (b) be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898).]

Cognizance of offences.

10. No court inferior to that of a Magistrate of the first class shall take cognizance of an offence punishable under this Act or the rules made thereunder, and cognizance shall not be so taken except upon a complaint in writing made by the Government or by any person authorized in this behalf by such Government

Protection of the proceedings of a Board.

11. No act or proceeding of a Board shall be invalid or questioned merely on the ground of existence of any vacancy therein or of any defect in the constitution or in the appointment or qualification of any member thereof.

Powers of Board, etc., to collect information.

12. (1) The Chairman of a Board may, for the purpose of an enquiry under this Act or the rules made thereunder, direct any employer to furnish such records, documents or information and do such other acts as the Chairman, as the case may be, may require, and every such employer shall comply with such direction.

(2) The Chairman of the Board, officers and servants thereof as are authorized in this behalf by the chairmen may, for the discharge of any functions under this Act or the rules made hereunder, –

- (a) enter, at all reasonable times, any factory or any industrial undertaking or business concern;
- (b) inspect any books, registers and other documents relating to such factory, undertaking or concern; *and*
- (c) record statements of persons connected with the working of such factory, undertaking or concern:

Provided that no one shall be required under this clause to answer any question tending to criminate him.

(3) Any employer who contravenes the provisions of sub-section (1), and any person who wilfully obstructs anyone in the exercise of any power under sub-section (2), or fails to produce on demand thereunder any books, registers or other documents, shall be punishable with fine which may extend to twenty thousand rupees.

Certain powers of Court to Board, etc.

13. (1) The Board shall, while holding an enquiry under this Act or the rules made thereunder, be deemed to be Civil Courts and shall have the same powers as are vested in such Courts under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely: -

- (a) enforcing the attendance of any person and examining him on oath,
- (b) compelling the production of documents and material objects; *and*
- (c) issuing commissions for the examination of witnesses.

Chairman, etc., deemed to be Civil Servants.

14. The Chairman of the Board and the members, officers and servants thereof, shall all be deemed to be civil servants within the meaning of the Civil Servants Act, 1974, Balochistan Act No. IX.

Bar to legal proceedings.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Rules relating to Board.

16. (1) The Government may within a year, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for–

- (a) the matters specified in sub-section (5) of section 3;

- (b) the giving of opportunities to persons likely to be affected by the minimum rates of wages to offer comments and make suggestions;
- (c) fixing normal hours of work for the purpose of determining time work;
- (d) giving adequate publicity to the minimum rates of wages declared under this Act;
- (e) the maintenance of wages books, wage slips, register and other records and prescribe their forms and particulars to be entered therein and the manner of authenticating such entries;
- (f) the preparation and submission of reports and returns;
- (g) the appointment of Inspectors or other officers and prescribe their powers and functions; *and*
- (h) Such other matters for which rules are considered necessary for effectively carrying out the provisions of this Act.

(3) Rules made under this section may provide that any contravention thereof shall be punishable with fine not exceeding fifteen thousand rupees but not less than seven thousand rupees

Protection against discrimination.

17. No discrimination shall be made on the basis of gender, religion, political affiliation, sect, colour, caste, creed, ethnic background, or age in considering and disposing of issues relating to the enforcement of this Act:

Provided that each industry and each business or commercial concern under this Act with the approval of the Government shall introduce a comprehensive objective job appraisal scheme to determine wage differentials and criteria of equal wage for work of equal value for workers who perform different jobs. Such scheme shall be subject to scurrility by the Board in consultation with economic and other experts:

Provided further that the scheme so introduced shall in particular take care of gender equality in matter regarding equal remuneration for male and female workers for work of equal value.

Repeal and Savings.

18. (1) The Minimum Wages Ordinance, 1961 (Ord. No. XXXIX of 1961) is hereby repealed to the extent of the Province of Balochistan.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rule made, and notification or order issued under the aforesaid Ordinance, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, appointed, constituted, given, commenced or taken, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Ordinance shall be construed as referring to the corresponding provisions of this Act.

(TAHIR SHAH KAKAR)
Secretary.

No.PAB/Legis:V(09)/2021

Dated Quetta, the 05th May, 2021.

A copy is forwarded to the Chief Controller, Government Printing Press, Balochistan, Quetta for favour of publication in Extra Ordinary issue of Balochistan Gazette. Before final printing a copy thereof be sent to this Secretariat for proof reading. Fifty copies of the said Act may please be provided to this Secretariat for record.

(ABDUL REHMAN)
Special Secretary (Legis:)

No.PAB/Legis:V(09)/2021.

Dated Quetta, the 05th May, 2021.

Copy forwarded for information to:-

1. The Principal Secretary to Governor, Balochistan, Quetta.
2. The Principal Secretary to Chief Minister, Balochistan, Quetta.
3. The Secretary, Government of Balochistan, Labour and Manpower Department, Quetta.
4. The Secretary, Government of Balochistan Law & Parliamentary Affairs Department.
5. The Director General, Public Relations, Balochistan, Quetta for favour of publication.
6. The System Analyst, Balochistan Provincial Assembly.

Special Secretary (Legis:)