

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P.III

G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 20TH MARCH, 2013.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 20th March, 2013.

No.PA/ Khyber Pakhtunkhwa/Bills/2013/7562.— The Khyber Pakhtunkhwa Industrial Statistics Bill, 2013 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 8th March, 2013 and assented to by the Governor of the Khyber Pakhtunkhwa on 15th March, 2013 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA INDUSTRIAL STATISTICS ACT, 2013

(KHYBER PAKHTUNKHWA ACT NO. XIV OF 2013)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 20th March, 2013).

AN ACT

to facilitate the collection of statistics of certain kinds relating to factories, industrial and commercial establishments.

WHEREAS it is expedient to facilitate the collection of statistics of certain kinds relating to factories, industrial and commercial establishments;

It is hereby enacted as follows;

1. Short title, extent and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa Industrial Statistics Act, 2013.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.--- (1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "commercial establishment" for the purpose of this Act, means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employs worker, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker's office or stock-exchange, a club, a hotel, a restaurant or an eating house, a cinema or theater, private educational institutions, private health centres, private clinical laboratories, private security agencies, other establishments or class thereof which run on commercial and profit basis, and such other establishment or class thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act:

Provided that relevant provisions of this Act shall also apply to the employees of societies registered under the Societies Registration Act, 1860 (Act No. XXI of 1860) and the Voluntary Social Welfare Originations.

- (b) "factory" means any premises, including the precincts thereof, where on ten or more workers are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily carried on with or without the aid of power but does not include a mine, subject to the operation of the Mines Act 1923 (IV of 1923);
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Industrial Establishment" means--
- (i) tramway or motor omnibus service;
 - (ii) dock, wharf or jetty;
 - (iii) inland steam-vessel;
 - (iv) mine, quarry, oil-field or gas-field;
 - (v) plantation;
 - (vi) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;
 - (vii) establishment of a contractor who, directly or indirectly, employs persons to do any skilled or unskilled, manual or clerical labour for hire or reward in connection with the execution of a contract to which, he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on;

Explanation.---"Contractor" includes a sub-contractor, headman, middle-man or agent;

- (viii) a factory;
- (ix) a railway as defined in clause (4) of section 3 of the Railways Act, 1890 (IX of 1890);

- (x) the establishment of a person who, directly or indirectly, employs worker in connection with any construction industry;
- (e) "prescribed" means prescribed by rules;
- (f) "rules" means rules made under this Act; and
- (g) "Statistics Authority" means an Authority appointed under section 4 of this Act.

(2) Expression used in this Act but not defined herein shall have the same meanings as assigned to them in the relevant labour laws.

3. Collection of statistics.--- Government may, by notification in the Official Gazette, direct that statistics shall be collected in any industrial or commercial establishment, relating to any of the following matters, namely-

- (a) any matter relating to factories; and
- (b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely-
 - (i) prices of commodities;
 - (ii) attendance;
 - (iii) living conditions, including housing, water supply and sanitation;
 - (iv) indebtedness;
 - (v) rents of dwelling houses;
 - (vi) wages and other earnings;
 - (vii) provident and other funds provided for labour;
 - (viii) benefits and amenities provided for labour;
 - (ix) hours of work;
 - (x) employment and unemployment;
 - (xi) industrial and labour disputes;

and thereupon the provisions of this Act shall apply to the collection of those statistics.

4. Appointment of Statistics Authority.--- Government may appoint an officer to be Statistics Authority for the purposes of collection of any statistics under this Act.

5. Delegation of powers and functions.---The Statistics Authority may, with the previous approval of Government, direct that all or any of the powers and functions to be exercised and performed by the Statistics Authority under this Act, shall be exercised and performed by any other officer or authority, subject to such conditions, if any, as may be specified in the direction.

6. Power of Statistics Authority to call for returns and information.--- The Statistics Authority may, serve or cause to be served by post, on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed, such information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

7. Right of access to record or document.--- The Statistics Authority or any person authorized by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Act.

8. Restriction on the publication of returns and information.--- (1) No individual return, and no part of an individual return, made, and no information with respect to any particular undertaking given, for the purposes of this Act, shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or information was made or given, or his authorized agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

(2) Except for the purposes of a prosecution under this Act or under the Pakistan Penal Code, 1860 (Act No. XLV of 1860), no person not engaged in connection with the collection of statistics under this Act shall be permitted to see any individual return or information referred to in sub-section (1).

9. Penalties.--- If any person required to furnish any information or any return-

- (a) refuses or without lawful excuse neglects to furnish such information or return as required under this Act, or
- (b) furnishes or causes to be furnished any information or return which he knows to be false, or
- (c) refuses to answer or gives a false answer to any question necessary for obtaining any information required to be furnished under this Act, or
- (d) if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 7-

he shall for each offence be punishable with fine which may extend to twenty thousand rupees but shall not be less than five thousand rupees and in subsequent offence with a further fine which may extend to eight hundred rupees for each day after the first during which the offence continues, and in respect of false information returns or answers, the offence shall be deemed to continue until true information or true return or answer has been given or made.

10. Penalty for improper disclosure of information or returns.--- If any person engaged in connection with collection of statistics under this Act, wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Pakistan Penal Code, 1860 (Act No. XLV of 1860), he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to five thousand rupees, or with both.

11. Cognizance of offences.--- (1) No prosecution under section 9 shall be instituted except by or with the sanction of the Statistics Authority and no prosecution under section 10 shall be instituted except by or with the sanction of Government.

(2) No Court other than the Labour Court established under the Khyber Pakhtunkhwa Industrial Relations Act, 2010 (Khyber Pakhtunkhwa Act No. XVI of 2010) shall try offence under this Act.

12. Power to make rules.--- (1) Government may, subject to the condition of previous publication 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, rules may be made under this section for regulating the exercise of the right of access to documents and the right of entry conferred by the Act.

13. Removal of difficulties.--- If any difficulty arises, in giving effect to any provisions of this Act, Government may, by notification in the Official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary, for the purpose of removing the difficulty.

14. Repeal.--- The Industrial Statistics Act, 1942 (Act No.XIX of 1942) is hereby repealed in its application to the province of the Khyber Pakhtunkhwa.

15. Savings.--- (1) Notwithstanding the repeal of this Act, anything done, orders passed, action taken, obligation, liability, penalty or punishment incurred, enquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or power conferred, rule made or notification issued, under any of the provisions of the said Act, continue in force and may be deemed to have been done, passed, taken, incurred, commenced, appointed, authorized, conferred, made, or issued under the provisions of this Act-

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

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar