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PART I

Acts, Ordinances, President's Orders and Regulations

GILGIT-BALTISTAN ASSEMBLY SECRETARIAT

Gilgit, the 9th December, 2019

GILGIT BALTISTAN MINIMUM WAGES BILL, 2019

ACT NO. XII OF 2019

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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.

No. ALA-1(1)/2019-GBA.—Preamble: WHEREAS it is expedient to provide for regulation of minimum rates of wages and various allowances for different categories of workers employed in certain industrial and commercial undertakings and establishments and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:

1. **Short title, extent and commencement:—**

(1) This Act may be called the Gilgit-Baltistan Minimum Wages Act, 2019.

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[2078(2019)/Ex. Gaz.]

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(2) It extends to the whole of Gilgit Baltistan.

(3) It shall apply to all industrial establishment and commercial establishment shops in Gilgit-Baltistan.

(4) It shall come into force at once.

2. **Definitions.—** In this Bill, unless there is anything repugnant in the subject or context—

(1) **"adult"** has the same meaning as in clause (b) of section 2 of the Factories Act,1934 (XXV of 1934) ;

(2) **"Board"** means a Minimum Wages Board established under section 3;

(3) **"Employer"** 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, and includes:—

(a) in relation to a factory, a managing agent or other person who has ultimate control over the affairs of the factory; and

(b) in other cases, any person responsible to the owner for supervision and control of such worker or for payment of his wages;

(4) **"Factory"** means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), and includes any place deemed to be a factory under sub-section (3) of section 5 thereof;

(5) **"Industry"** with its grammatical variations and cognate expressions, means an industry as defined in **2[Clause (xiv) of section 2 of the Gilgit-Baltistan Industrial Relations Act** and includes a plantation as *defined* in clause (iii) of section 2 of the Payment of Wages Act, 1936 (IV of 1936) ;

(6) **"Juvenile Worker"** means a worker who is not adult;

(7) **"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—

(a) 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;

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(b) any traveling allowance or the value of any traveling concession;

(c) any sum paid to such person to defray special expenses incurred by him in respect of his employment;

(d) any sum paid as annual bonus; or

(e) any gratuity payable on discharge.

(8) **"Worker"** means any person including an apprentice employed in any industry 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:—

(i) persons employed by the Government of Gilgit Baltistan;

(ii) persons employed in agriculture.

(9) **"Authority"** means Labour Magistrate Gilgit-Baltistan.

(10) **"Appellate Authority"** means Secretary Labour Gilgit-Baltistan.

(11) **"Court"** means Chief Court Gilgit Baltistan.

(12) **"Chief Inspector"** means Director Labour.

(13) **"Deputy Chief Inspector"** means Deputy Director /Assistant Director Labour.

(14) **"Inspector"** means an official of the Directorate of Labour duly notified, as an Inspector for the purpose of this Act by the Chief Inspector.

(15) **"Government"** means the Government of Gilgit-Baltistan.

3. **Establishment of Minimum Wages Boards.—**

(1) As soon as may be after commencement of this Act, the Government shall establish a Minimum Wages Board for the Gilgit-Baltistan consisting of the following eight members to be appointed by it, namely:—

i. the Chairman of the Board, means Secretary Labour;

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ii. the Vice Chairman of the Board, means Director Labours;

iii. one independent member;

iv. one member to represent the employers of the Gilgit-Baltistan;

v. one member to represent the workers of the Gilgit-Baltistan;

vi. One representative from Law Department;

vii. One representative from Finance Department;

viii. One representative from S&GAD:

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

i. one member to represent the employers; and

ii. one member to represent the trade unions.

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

(3) The member to represent the employers of the Gilgit-Baltistan and the member to represent the workers of the Gilgit-Baltistan under sub-section (1) 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.

(4) The members referred to in the proviso to sub-section (1) to represent the employers connected with and the workers engaged in the industry 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,

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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, 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 26.

4. **Recommendation of Minimum Wages for unskilled and juvenile workers.**

(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 rates of wages for adult unskilled workers and juvenile workers employed in industrial undertakings in the Gilgit-Baltistan.

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

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

(1) Where in respect of any particular industry in the Gilgit-Baltistan 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 ;

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(iii) overtime work; and

(iv) work on the weekly day of rest and for paid holidays;

(b) the minimum time rates for workers employed on piece work 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.

6. **Power to declare minimum rates of wages.—**

(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 sub-section (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

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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 thereunder 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 thereunder 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.

7. **Periodical review of minimum rates of wages.—**

(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 under section 6:

Provided that no recommendation shall be reviewed earlier than one year from the date on which it was made, unless the special circumstances of a case so require, and later than three years from such date.

(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.

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

(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 any worker wages at a rate lower than the rate declared under this Act to be the minimum rate of wages for such worker

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(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 (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 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) (a) 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.

(b) 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 sub-section (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 four months but not later than six months 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.

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(c) 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 8 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, not exceeding one thousand rupees, 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:—

(i) A *bona fide* error or *bona fide* dispute as to the amount payable to the employee; or

(ii) The occurrence of any emergency or the existence of such exceptional circumstances that the person responsible for the payment of wages was unable to make prompt payment; and

(iii) The fault of the worker.

(d) 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 ten thousand rupees to the employer or other person responsible for the payment of wages.

(5) Any amount directed to be paid under this section may be recovered:—

(i) if the Authority is a Magistrate, by the Authority, as if it were a fine imposed by him as a Magistrate. And

(ii) if that Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

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(6) An appeal against a direction made or order passed under sub-section (3) or sub-section (4) may be preferred to the Appellate Authority within thirty days of the date on which the direction was made or order was passed:—

(i) by the employer or other person responsible for the payment of wages, if the amount directed to be paid as wages or as wages and penalty exceeds one hundred rupees

(ii) by a worker, if the total amount of wages claimed to have been withheld from him exceeds rupees ten thousand; or

(iii) 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. Manner be questioned by any person in any court or before any authority.

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

(i) 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

(ii) 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)

9. **Cognizance of offences.**—No court inferior to that of a Labour Magistrate 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

10. **Protection of the proceedings of a Board.**— 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.

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11. **Power of Boards, etc, to collect information.—** [(1) Any Board or 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 Board or the Chairman, as the case may be, may require, and every such employer shall comply with such direction.]

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

(a) enter, at all reasonable times, any factory ;

(b) inspect any books, registers and other documents relating to such factory ; and

(c) record statements of persons connected with the working of such factory:

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

(3) Any employer who contravenes the provisions of sub-section (1), and any person who willfully 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 five hundred rupees

12. **Certain powers of Court to Boards.—** The Boards 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.

13. **Chairman, etc. deemed to be public servants.—** The Chairman of the Boards and the members, officers and servants thereof, shall all be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

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14. **Bar to legal proceedings.**—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.

15. **Rules relating to Boards.—**

(1) Subject to the provisions of section 26, the Government of Gilgit Baltistan may, 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, registers 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) 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 there of shall be punishable with fine not exceeding five hundred rupees.

16. **Appointment of Inspectors.** The Government may appoint Inspectors from the officials of the Directorate of Labour for the purpose of securing compliance with the provisions of this Act and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Pakistan Penal Code.

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17. **Interference in Duty.**—(1) Whoever interferes in duty of Chief Inspector, Deputy Chief Inspector or Labour Inspector, under this act or rules made thereunder or while performing duties/functions in fulfillment of the mandate given to the department, is committing a non-bailable offence.

(2) On conviction the offender is liable to a fine which may extend to fifty thousand rupees or imprisonment which may extend to six month but not less than 4 months or both.

18. **Limitations of Prosecutions.**—No court shall take cognizance of any offence punishable under this Act or any rule made thereunder.

19. **Lodging of complaints.**— All complaints about minimum wages offences are to be lodged in the prescribed manners.

20. **Competent Court.**—All complaints and suits about the minimum wages offences are to be instituted in the Court of Labor Magistrate.

21. **Summary Trial.**—All cases relating to this act shall be trialed through summary trials in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).

22. **Courts Competent to take Cognizance.**—All offence cases punishable under this Act and rules made thereunder shall be adjudicated and trials shall be conducted exclusively by a Labour Magistrate.

23. **Magisterial Powers to Officers.**—Government may empower Labour Department Officer not below the rank of a Deputy Chief Inspector to perform functions and powers of a Labour Magistrate under this Act.

24. **Duties of other Government Departments and Functionaries.**— Other Government Departments and Functionaries of Government including Police, Administration and Revenue Departments shall assist the Labour Department in implementation and enforcement of this Act or rules made thereunder and any policies, orders, notifications and measures meant for achieving mandate of the Labour Department.

25. **Obligation of other Government Departments and Functionaries.**—(1) It is the obligation of all Government Departments and Functionaries of Government as mentioned in Section 24 to provide any assistance when asked for by a Labour Department.

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(2) The Police Department, Administration and other law enforcing agencies as the case may be, of the concerned district is bound to abide by and comply the orders of Labour Magistrate in the proceedings and disposal of minimum wages offence cases and in implementation of this Act.

(3) In case of non-compliance or non-cooperation, the Deputy Chief Inspector shall report the matter to the high-ups of the concerned officials for initiation of disciplinary proceedings against such defaulting officers.

26. **Power to make Rules.**—The Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

FIDA MUHAMMAD NASHAD,
Speaker
Gilgit-Baltistan Assembly.

RAJA JALAL MAQPOON,
Governer
Gilgit-Baltistan.

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