

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 11, 1977.

No. 2331/SL/77. The following Act of the Assembly received the assent of the President on the 18th day of July, 1977, is hereby published for general information:-.

(Act IV of 1977)

An Act to provide for payment of a cost of living allowance to employees in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide of payment of a cost of living allowance to employees and for matters ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Employees Cost of Living (Relief) Act, 1977.
 - (2) It shall come into force at once.
 - (3) It extends to the whole of Azad Jammu and Kashmir.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context,-
 - (a) 'Cost of living allowance means an amount payable under the provisions of this Act;
 - (b) 'employee' means any person employed, whether directly or through any other person, for wages, to do any skilled or unskilled, intellectual, technical, clerical, manual or other work in or in connection with the affairs or, an undertaking, under any contract or service or apprenticeship, whether written or oral, express or implied, and includes such a person when laid off, but does not include a person for whom a provision has been, or may be made by the Government for grant of an allowance intended to provide relief due to a rise in the cost of living ;

- (c) 'Employer' in relation to an undertaking, means any person who employee, either directly or through any other person, whether on behalf of himself or any other person, any employee, and includes.-
- (i) a body of person, whether incorporated or not;
 - (ii) a person who has ultimate control, over the affairs of an undertaking, including the owner or the undertaking, or where the affairs of an undertaking are entrusted to any other person (whether called a managing agent, director, manager, agent, superintendent, secretary, representative of the owner or by any other name), such other person or in any other case, any person responsible to the owner for supervision and control of an employee or for payment of his wages; and
 - (iii) an heir, successor, administrator or assign, as the case may be, of such person or association of persons ;
- (d) 'undertaking' means-
- (i) an establishment to which the Azad Jammu and Kashmir Shops and Establishment Act, 1975 (Act XXIII of 1975) for the time being applies, and, notwithstanding anything contained in, section 5 thereof, includes clubs, hostels and messes not a maintained for profit or gain and establishment, for the treatment or care of the sick, infirm, and destitute or mentally unfit person;
 - (ii) a construction industry to which the Azad, Jammu and Kashmir industrial and Commercial Employment (Standing Orders) Act, 1975 (Act XV of 1975) for the time being applies;
 - (iii) a factory as defined in the Factories Act, 1934 (XXV of 1934).
 - (iv) a mine where any operation for the purposes of searching for or obtaining minerals has been or

is being carried on, and includes all works, machinery, tramways any sidings, whether above or below ground, in or adjacent to or belonging to a mine:

Provided that it shall not include any part of such premises on which a manufacturing process is being carried on unless such is a process of coke making or the dressing of minerals.

- (v) a road transport service as defined in the Azad Jammu and Kashmir, Road Transport Workers Act, 1975 (Act XI of 1975) and includes any class of establishment which the Government may, by notification in the official gazette, declare to be undertaking for the purposes of this Act;
- (e) 'wages' means remunerations for services, other than cost of living allowance, payable in cash to an employed without taking account, of deductions for any purpose, under a contract of service or apprenticeship written, oral, express or implied and includes any dearness allowance or other addition in respect of the cost of living payable or paid for the period preceding commencement of this Act and any payment by the employer in respect of any period of authorised leave, but does not include :-
 - (i) any payment for overtime; or
 - (ii) any sum paid to an employee to defray special expenses entailed by the nature of his employment ; or
 - (iii) any gratuity payable on discharge; or
 - (iv) any sum paid as bonus, house rent, conveyance allowance, traveling allowance or any other allowance.
- (f) 'Government' means the Azad Government of the State of Jammu and Kashmir.

3. **Cost of living allowance :-** (1) Every employee, (whose wages do not exceed seven hundred and thirty five rupees) shall, in respect of his employment whether on time-work or piece work basis, be paid by his employer a cost of living allowance :-

- (a) equal to thirty-five rupees per month, if his wages do not exceed seven hundred rupees; or
- (b) at such rate as together with his wages, makes a total of seven hundred and thirty-five rupees per month, if his wages or more than seven hundred rupees.

(2) In addition to the cost of living allowance admissible under sub-section (1), if any, every employee whose wages do not exceed one thousand and one hundred rupees shall, in respect of his employment, whether on time work or piece-work basis, be paid by his employer a cost of living allowance-

- (a) equal to fifty rupees per month or 10 per cent of his monthly wages, whichever is more, if his wages do not exceed one thousand rupees ; or
- (b) at such rate as, together with his wages, makes a total of one thousand and one hundred rupees per month, if his wages exceed one thousand rupees but are less than one thousand and one hundred rupees.

(3) In addition to the cost of living allowance admissible under sub-section (1) or, as the case may be, sub-section (2), any, every employee shall in respect of his employment whether on time-work or piece-work basis, be paid by his employer a cost of living allowance equal to twenty-five rupees per month.

Explanation.- In this section, 'Month' means a normal working period of twenty six days, calculated at the rate of forty-eight hours of work per week.

4. **Responsibility for payment of cost of living allowance.-** Every employer shall be responsible for the payment of the cost of living allowance required to be paid under this Act.

5. **Time for payment of cost of living allowance.-** The cost of living allowance shall be paid along with wages in accordance with any custom, usage, practice or law applicable to the

undertaking.

6. **Claims for recovery, or delay in payment, of cost of living allowance.-** Where contrary to the provisions of this Act, the cost of living allowance of any employee has been withheld or delayed such worker himself or through any other person authorised by him in this behalf may apply-

(a) in the case of an establishment to which the Azad Jammu and Kashmir, Shops and Establishments Act, 1975 (Act XXIII of 1975) for the time being applies, to the authority appointed under; sub-section (1) of section 13 thereof. having jurisdiction and the provisions of the said section and sections 11, 13, 21, 23, 30 and 32 of that Act, shall so far as may be and with the necessary modifications, apply for the purposes of recovery of the cost of living allowance; and

(b) in any other case to the authority appointed under Sub-section (1) of section 15 of the payment of wages Act, 1936 having jurisdiction and the provisions of the said section and sections 6, 16, 17, 18, 19, 22, 23 and 26 of the said Act, shall so far as may be and with the necessary modifications, apply for the purposes of recovery of the cost of living allowance.

7. **Cost of living allowance not to form part of wages.-** Notwithstanding any thing contained in this Act or any other law for the time, being in force, the cost of living allowance shall not form part of wages of a worker for the purposes of any other law, including the purposes of contribution to provident fund, gratuity, bonus social security scheme and calculating work for over-time work.

8. **Saving of Certain rights and privileges.-** Nothing in this Act shall affect any right or privilege to which an employee was entitled under any law for the time being in force or under any award, decision, agreement, settlement, contract, custom or usage in force immediately before the commencement of this Act:

Provided that, if, before the commencement of this Act, any employer has paid or agreed to pay, whether by way of settlement or otherwise to any employee, in respect of a any period any sum of money whether as an allowance not forming

part of his wages or as increase in wages or otherwise, which is intended to provide relief due to arise in the cost of living, such employer shall not be required to pay to such employee any amount in excess of the difference, if any, between the amount so paid by him and the cost of living allowance payable to such employee.

Explanation.- For the purposes of this proviso, any increase in wages accruing by virtue of the usual annual increment or promotion to a higher grade, or an allowance not specifically given to provide a relief due to a rise in the cost of living, shall not be deemed to be an increase intended to provide relief due to a rise in the cost of living.

9. **Payment.-** An employer who contravenes any provision of this Act shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.
10. **Cognizance of offences.-** No Court shall take cognizance of any offence under this Act save on a complaint made by an aggrieved employee or by an officer of a registered trade union of which such employee is a member, or any person authorised in this behalf by the Government.

Sd/-

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