

EMPLOYEES' COST OF LIVING (RELIEF) ACT, 1973 (I OF 1974)

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TEXT

THE EMPLOYEES' COST OF LIVING (RELIEF) ACT, 1973 (I OF 1974)¹

[31st December, 1973]

An Act

to provide for payment of a cost of living allowance to employees.

Whereas it is expedient to provide for 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 Employees' Cost of Living (Relief) Act, 1973.

- (2) It shall come into force at once.
- (3) It extends to the whole of ²[the Punjab].

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

- (a) "**cost of living allowance**" means ³[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 of, an undertaking, under any contract of 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 ⁴[Government or Federal 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 employs, either directly or through any other person, whether on behalf of himself or any other person, any employee, and includes--
 - (i) a body of persons, whether incorporated or not;
 - (ii) a person who has ultimate control over the affairs of an undertaking including the owner of the undertaking, or where the affairs of any undertaking are entrusted to any other person (whether called a managing agent, director,

¹ (a) Gaz of Pak. Extra. Pt. 1, Jan. 7, 1974=1974, Pls 3. Repealed the employees' Cost of Living (Relief Ordinance, 1973 promulgated by the President on Sep. 17, 1973.

(b) For Report of Standing Committee, See Gaz of Pak. Extra.Pt.III, Nov. 27, 1973, P.1720;

(c) For Statement of Objection and Reasons, See Gaz of Pak. Extra.Pt.III, Nov. 27, 1973, P.733;

(d) This Act has been amended by the following and consequential Amendments incorporated in the text:-

- (i) Employees; Cost of Living (Relief)(Amendment) Act, 1974(XLVII of 1974);sep.7, 1974=1974 Pls 77.
- (ii) Employees; Cost of Living (Relief)(Amendment) Act, 1975(XLI of 1975);May 3, 1975
- (iii) Employees; Cost of Living (Relief)(Amendment) Act, 1977(XLVI of 1977);May.17, 1977
- (iv) Employees; Cost of Living (Relief)(Amendment) Ord., 1980(XXXII of 1980);June.26, 1980=1981PLS 76.
- (v) Employees; Cost of Living (Relief)(Amendment) Ord, 1981(XXV of 1981);June.28, 1981=1981 PLS 126.
- (vi) Federal Laws (Revision and declaration) Ordinance, 1981(XXVII of 1981) 8 July, 1981=1981 PLS 159.

² Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

³ Subs. for "the amount" by Act, XLVII of 1974, s.2(i).

⁴ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

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 assignee, as the case may be, of such person or association of persons;

¹[(ca) "Government" means Government of the Punjab;]

(d) "**undertaking**" means;

- (i) an establishment to which the ²[Punjab] Shops and Establishments Ordinance, 1969 (W.P. Ordinance NO. VIII of 1969), for the time being applies, and notwithstanding anything contained in section 5 thereof, includes clubs, hostels and messes not maintained for profit or *gain* and establishments for the treatment or care of the sick, infirm, and destitute or mentally unfit persons;
- (ii) a construction industry to which the ³[Punjab] Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (W.P. Ordinance No. VI of 1968) for the time being applies;
- (iii) a factory as defined in the Factories Act, 1934 (XXV of 1934);
- (iv) a mine as defined in the Mines Act, 1923 (IV of 1923);
- (v) a road transport service as defined in the Road Transport Workers Ordinance, 1961 (XXVIII of 1961);
- (vi) a newspaper establishment as defined in the Newspaper Employees (Conditions of Service) Act, 1973; (LVIII of 1973; and

includes any *class of* establishments which the ⁴[Government] may, by notification in the official Gazette, declare to be undertakings for the purposes of this Act;

- (e) "**wages**" means remuneration for services, ⁵[***] payable, in cash to an employee 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 the period preceding the first day of August, 1973, and any payment by the employer in respect of any period of authorized 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.

¹ Inserted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

² Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

³ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁴ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁵ Omitted words "other than the cost of living allowance" by Act XXVI of 1977.

3. Cost of living allowance.—¹(1) Every employee ²[whose wages do not exceed seven hundred and thirty-five rupees) shall, in respect of his employment on or after the first day of August, 1973, 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 are more than seven hundred rupees.

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.

³(2) In addition to the cost of living allowance admissible under sub-section (1), if any, every employee ⁴(whose wages do not exceed one thousand and one hundred rupees) shall, in respect of his employment, on or after the eighth day of June, 1974, 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 ⁵[but are less than one thousand and one hundred rupees].

⁶(3) In addition to the cost of living allowance admissible under sub-section (1) or, as the case may be, sub-section (2), if any, every employee shall in respect of his employment, on or after the seventh day of April, 1975, 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].

⁷(4) In addition to the cost of living allowance admissible under sub-section (1) and (2) or, as the case may be, sub-section (3), if any, every employee whose wages do not exceed one thousand and five hundred rupees shall, in respect of his employment on or after the first day of July, 1980 whether on time-work or piece-work basis, be paid by his employer a cost of living allowance equal to Rs. 40/- per month:

Provided that the said cost of living allowance shall be set off -

- (a) against the amount payable under an agreement or settlement reached, or an award given, under the ⁸[Punjab Industrial Relations Act 2010 (XIX of 2010)] which has been announced and become effective on or after the 1st day of January, 1980 or which is announced and becomes effective within a period of one year of the commencement⁹ of the Employees' Cost of Living (Relief) (Amendment) Ordinance, 1980; and

¹ Orig.s.3 renumbered as sub-section (1) of that section by Act, XLVII 1964, s.3(1).

² Words added, *ibid*, s.1(a).

³ Sub-Section(2) inserted, *ibid*, s.3(1)(P).

⁴ Words added by Act, LXI of 1975, s.3(a)(i).

⁵ Words added, *ibid*, s.3(a)(ii).

⁶ subs.3 added, *ibid*, s.3(b).

⁷subs. 4 added ord. XXXII of 1980, s.2.

⁸ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁹ 26 June, 1980.

- (b) against the amount payable under an award given under the Newspaper Employees' (Conditions of Service) Act, 1973 (LVII of 1973), which becomes effective from the fifteenth day of April, 1980).

¹(5) In addition to the "Cost of living allowance admissible under sub-sections (1), (2) and (3) or, as the case may be sub-section (4), if any, every employee whose wages do not exceed Rs. 1500 shall, in respect of his employment on or after the first day of July, 1981, whether on time-work or piece-work basis, be paid by his employer a cost of living allowance equal to Rs. 40 per month:

Provided that the said cost of living allowance shall be set off:

- (a) against the amount payable as a relief due to rise in the cost of living under an agreement or settlement reached, or an award given under the ²[Punjab Industrial Relations Act 2010 (XIX of 2010)] which has been announced and became effective on or after the first day of January, 1981, or which is announced and becomes effective within a period of one year of the commencement of the Employees' Cost of Living (Relief) (Amendment) Ordinance, 1981; and
- (b) against the amount payable under an agreement or settlement reached and enforced on the 1st day of July, 1981, under which employees get increases at regular intervals on the basis of a rise in the cost of living³;

⁴[*****]

Explanation: For the purpose of this sub-section ⁵[sub-section (6) & sub-section (7)] 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 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.]

⁶(6) In addition to the "cost of living allowance admissible under sub-sections (1), (2), (3) and (4), or, as the case may be sub-section (5), if any, every employee whose wages do not exceed Rs. 1500 shall, in respect of his employment on or after the first day of July 1985, whether on time-work or piece-work basis, be paid by his employer an increase in wages at the rate of 13.5 percent of his wages;

Provided that the said increase in wages shall be set off --

- (a) against the amount payable as a relief due to rise in the cost of living under an agreement or settlement reached, or an award given, under the ⁷[Punjab Industrial Relations Act 2010 (XIX of 2010)] which has been announced and became effective on or after the first day of January, 1984; and
- (b) against the amount payable under an agreement or settlement reached and in-force on the first day of July, 1985, under which employees get increase at regular intervals on the basis of a rise in the cost of living⁸.

¹ Sub-Section (5) added by Ordinance XXV of 1981.

² Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

³ Colon subs. by Act 1 of 1986, s. 9(l) (a).

⁴ Second proviso omitted, *ibid*, s. 9(1) (b).

⁵ Subs. for original, *ibid*, s. 9(i)(c).

⁶ Sub-Section (6) added by Employees' Cost of Living (Relief) (Amendment), 1985, s. 2(b) (XLV of 1985).

⁷ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁸ Colon subs. for full stop. Act 1 of 1986, s.9 (2) (b).

⁹[*****]

²(7) In addition to the cost of living allowance admissible under sub-section (1), (2), (3), (4), (5), or, as the case may be, sub-section (6), if any, every employee whose wages do not exceed one thousand five hundred rupees shall, in respect of his employment on or after the first day of July, 1986, whether on time-work or piece-work basis, be paid by his employer an increase in wages at the rate of 18 per cent of his wages;

Provided that the said increase in wages shall be set off--

(a) against the amount payable as a relief due to rise in the cost of living under an agreement or settlement reached, or an award given, under the ³[Punjab Industrial Relations Act 2010 (XIX of 2010)] which has been amended and became effective on or after the first day of January, 1984;

(b) against the amount payable under an agreement or settlement reached and in force on the first day of July, 1986, under which employees get increases at regular intervals on the basis of a rise in the cost of living; and

(c) against the amount payable as an increase in wages under sub-section (6).

⁴[**3A. Cost of living allowance in addition to that admissible under section 3.**— In addition to the cost of living allowance admissible under section 3, if any, every employee shall, in respect of his employment on or after the first day of December, 1990, whether on time-work or *piece-work basis*, be paid by his employer, a cost of living allowance at such rate and in such area or areas, as the ⁵[Government] may, from time to time, by notification in the official Gazette, specify.]

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 alongwith wages in accordance with any custom, usage practice or law applicable to the undertaking:

⁶[Provided that where an employee employed in an undertaking has not *been* paid the cost of living allowance payable under sub-section (1) of section 3 for any period commencing on or after the first day of August 1973 but preceding the commencement⁷ of the Employees' Cost of Living (Relief) Act, 1973 (1 of 1974), or, as the case may be, under sub section (2) of that section for any period commencing on or after the eighth day of June 1974, but preceding the commencement⁸ of the Employees' Cost of Living (Relief) (Amendment) Act, 1974⁹ [or under sub-section (3) of that section for any period commencing on or after the seventh day of April 1975, but preceding the commencement¹⁰ of the Employees' Cost of Living (Relief)

⁹ Second proviso omitted, *ibid*, s. 9(2) (b).

² Sub-sec (7) added, *ibid*, 2. 9(3).

³ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁴ New s. 3a substituted by employees cost of Living (relief)(Amendment) Act, 1992 (Act XXVII) of 1992, *Gaz. of Pakistan Extra*, Pt.1, Dec, 17, 1992., P. 651-652, replacing the old s. 3A inserted through Ord. XIX of 1991, s. 2. only two changes were made in the new s. 3 A: (1) new s. 3A came into force from first instead of 13 of Dec, 1990 and 2) words: not exceeding twenty five percent of wages.

⁵ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁶ Subs. for the original proviso by Act XLVII of 1974, s. 4.

⁷ *Viz.* Dec, 31, 1973.

⁸ *Viz.* Sept. 1974

⁹ Theses words added by Act LXI of 1975, s. 4(a).

¹⁰ *Viz.* May 3, 1973.

(Amendment) Ordinance, 1975], the employer shall pay it to him within 30 days of the commencement, –

- (a) in the case of the cost of living allowance payable under sub-section (1) of section 3, of the Employees' Cost of Living (Relief) Act, 1973 (I of 1974)¹;
- (b) in the case of the cost of living allowance payable under sub-section (2) of that section, of the Employees' Cost of Living (Relief) (Amendment) Act, 1974² [;and]]
- ³[(c) in the case of cost of living allowance payable under sub-section (3) of that section, of the Employees' Cost of Living (Relief) (Amendment) Ordinance, 1975.]

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 employees has been withheld or delayed, such worker himself or through any other person authorized by him in this behalf may apply—

- (a) in the case of an establishment to which the ⁴[Punjab] Shops and Establishments Ordinance, 1969 (W.P. Ordinance No. VIII of 1969) for the time being applies, to the authority appointed under sub-section (1) of section 12 thereof having jurisdiction and the provisions of the said section and sections 11, 13, 21, 23, 30 and 32 of that Ordinance 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, 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 ⁵[*] to form part of wages.—**

Notwithstanding anything contained in this Act or any other law for the time being in force, the cost of living allowance shall ⁶[****] form part of wage of a worker for the purposes of any other law, including the purposes of contribution to provident fund, gratuity, bonus, social security scheme⁷[, indexation of wages] and calculating wages for over-time work⁸;

⁹[Provided that, for the purposes of the Workman's Compensation Act, 1923 (VIII of 1923), except section 4 thereof, the Payment of Wages Act, 1936 (IV of 1936), the Companies Profits (Workers' Participation) Act, 1968 (XII of 1968), or the ¹⁰[Punjab Industrial Relations Act, 2010 (XIX of 2010)] the cost of living allowance shall not form part of the wages of a worker].

¹ The word "A" omitted by Act, XLI of 1975, s.4 (b).

² The word "A" added by Act, XLI of 1975, s.4(c).

³ CL(c) added s. 4(d).

⁴ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

⁵The word "not" omitted by Act XXVI of 1977, s.3 (A) & (B).

⁶ Proviso added, *ibid*, s. 3(c).

⁷ The comma words "indexation of wages" inserted by Act VI of 1987, s.9, *Gaz of Pak. Extra. Pt.1, June 30, 1987, P.17.*

⁸Section 8 subs. for the original section by Act XLVII of 1974, s.5.

⁹ Proviso added, *ibid*, s. 3 (c).

¹⁰ Substituted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)

11[8. Saving of certain rights and privileges.— Nothing in this Act shall affect any right or privilege to which an employee was entitled.—

- (a) in the case of the cost of living allowance payable under sub-section (1) of section 3, immediately before the ²[commencement of the Employees' Cost of Living (Relief) Ordinance, 1973, (XXII) of 1973], or
- (b) in the case of the cost of living allowance payable under sub-section (2) of section 3, immediately before the ³[commencement of the Employees' Cost of Living (Relief) (Amendment) Act, 1974,]⁴[or]
- (c) ⁵[in the case of the cost of living allowance payable under sub-section 3 of section 3, immediately before the ⁶commencement of the Employees' Cost of Living (Relief) (Amendment) Ordinance, 1975], under any law for the time being in force or under any award, decision, agreement, settlement, contract, custom, of usage in force immediately before such commencement:

Provided that, if at any time commencing on or after the first day of August 1973, but preceding the commencement of the said Ordinance or, as the case may be, commencing at or after the commencement of the said Ordinance; but preceding the commencement of the Employees' Cost of Living (Relief) (Amendment) Act, 1974, any employer has paid, or become liable to pay, whether by virtue of an award, decision, agreement, settlement, contract, custom or usage to any employee, in respect of any period, any sum of money, which is intended to provide relief due to a rise in cost of living, such employer shall not be required to pay to such employee in respect of such period any amount in excess of the difference if ,any, between the amount so paid by him or the amount which he has so become liable to pay, 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 unusual increment or promotion to a higher grade or an allowance not specifically given to provide 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. Penalty.— Any 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 by any person authorized in this behalf by the ⁷[***] Government.

11. [Repeal] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981(XXVII of 1981), s.3 Sch., II.

¹¹ Section 8 subs. for the original section by Act XLVII of 1974, s. 5.

² VIZ. Sep. 17, 1973.

³ VIZ. Sep. 7, 1974.

⁴ The word "or" added by Act, LXI of 1975, s.3(a).

⁵ CL(c) added ,ibid,s.5(b)

⁶ Viz. May 3, 1975.

⁷ Omitted by the Employees' Cost of Living (Relief) (Amendment) Act 2013 (XXVIII)