

Motor Transport Workers Act, 1961

[Act 27 of 1961 as amended upto Act 61 of 1986]

[20th May, 1961]

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*An Act to provide for the welfare of motor transport workers
and to regulate the conditions of their work*

Be it enacted by Parliament in the Twelfth Year of the Republic of India
as follows:

MOTOR TRANSPORT WORKERS ACT, 1961

(ACT. 27 OF 1961)¹

*An Act to provide for the welfare of motor transport workers
and to regulate the conditions of their work*

Be it enacted by Parliament in the Twelfth Year of Republic of India
as follows :—

CHAPTER-I

Preliminary

1. Short title, extent, commencement and application. —(1) This Act may be called the Motor Transport Workers Act, 1961.

(2) It extends to the whole of India ²[* * *].

(3) It shall come into force on such date, not being later than the 31st day of March 1962, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States :

³[Provided that it shall come into force in the State of Jammu and Kashmir on the Commencement of the Central Labour Laws (Extension to Jammu and Kashmir) Act (51 of 1970)].

(4) It applies to every motor transport undertaking employing five or more motor transport workers :

Provided that the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the *Official Gazette*, apply all or any of the provisions of this Act to any motor transport undertaking, employing less than five motor transport workers.

Government of West Bengal has made all the provisions of the said act applicable "to any Motor Transport Undertaking in West Bengal engaged in carrying passenger or goods or both by road for hire or reward or as a private carrier employing less than five motor transport worker with immediate effect" vide notification no. 33-L.W/LW/1A-7(A)/82 dated 11 January 1984.

2. Definitions.—In this act, unless the context otherwise requires,—

(a) "adolescent" means a person who has completed his ⁴[fourteenth] year but has not completed his eighteenth year ;

1. Received the assent of the President on 20th May 1961, and published in *Gazette of India, extraordinary*, dated 22nd May 1961. For Statement of Objects and Reasons, see *Gazette of India, extraordinary*, Part II, Sec 2, 1960 page 387.

2. Certain words omitted by Act 51 of 1970, Sec.2 and Sch.

3. Proviso added by *ibid*

4. Subs. for "fifteenth" by Act 61 of 1986, S. 26 (w.e.f. 23-12-1986)

- (b) "adult" means a person who has completed his eighteenth years ;
- (c) "child" means a person who has not completed his ⁵[fourteenth] year ;
- (d) "day" means a period of twenty-four hours beginning at midnight :

Provided that where a motor transport worker's duty commences before midnight but extends beyond midnight, the following day for him shall be deemed to be the period of twenty-four hours beginning when such duty ends, and the hours he was worked after midnight shall be counted in the previous day ;

- (e) "employer" means in relation to any motor transport undertaking, the person who, or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said, affairs are entrusted to any other person whether called a manager, managing director, managing agent or by any other name, such other person ;
- (f) "hours of work" means, the time during which a motor transport worker is at the disposal of the employer or of any other person entitled to claim his services and includes—
 - (i) the time spent in work done during the running time of the transport vehicle,
 - (ii) the time spent in subsidiary work, and
 - (iii) periods of mere attendance at terminals of less than fifteen minutes;

Explanation.—For the purposes of this clause—

(1) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work.

(2) "subsidiary work" means work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—

- (i) work in connection with accounts, the paying in of cash, the signing of registers, the handing in of service sheets, the checking of tickets and other similar work.
- (ii) the taking over and garaging of the transport vehicle.

5. Subs. for "fifteenth" by Act 61 of 1986, S. 26 (w.e.f. 23-2-1986)

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- (iii) travelling from the place where a person signs onto the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off,
- (iv) work in connection with the upkeep and repair of the transport vehicle, and
- (v) the loading and unloading of the transport vehicle;

(3) "period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule ;

- (g) "motor transport undertaking" means a motor transport undertaking engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier ;
- (h) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time keeper, watchman or attendant, but except in section 8 does not include—
 - (i) any such person who is employed in a factory as defined in the Factories Act, 1948 (63 of 1948),
 - (ii) any such person to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply ;
- (i) "prescribed" means prescribed by rules made under this Act ;
- (j) "qualified medical practitioner" means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (7 of 1916), or notified under section 3 of that Act or specified in the Schedules to the Indian Medical Council Act, 1956 (102 of 1956), and includes any person having a certificate granted under any Provincial or State Medical Council Act ;
- (k) "spread-over" means the period between the commencement of duty on any day and the termination of duty on that day ;
- (l) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1939 (4 of 1939) ;
- (m) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night ;

- (n) all other words and expressions, used but not defined in this Act and defined in the Motor Vehicles Act, 1939 (4 of 1939), shall have the meanings respectively assigned to them in that Act.

NOTES : A private carrier in a company used for transporting company's goods is a motor transport undertaking if it employs more than five transport workers: *Star Paper mills Vs. State of U.P.*, 1973 ALJ 320: (1974) 45 FJR 248.

There is no distinction between a casual or temporary employee and a permanent or regular employee in the definition of motor transport worker in Sec. 2(h): *Depot Manager Vs. Mamma Work*, (1970) 2 An. WR 365. See also 1970 ALJ 1400 for definition of motor transport worker.

CHAPTER-II

Registration of motor transport undertakings

3. Registration of motor transport undertakings—(1) Every employer of a motor transport undertaking to which this Act applies shall have the undertaking registered under this Act.

(2) An application for the registration of a motor transport undertaking shall be made by the employer to the prescribed authority in such form and within such time as may be prescribed.

(3) Where a motor transport undertaking is registered under this Act, there shall be issued to the employer a certificate of registration containing such particulars as may be prescribed.

CHAPTER-III

Inspecting staff

4. Chief Inspector and Inspectors.—(1) The State Government may, by notification in the *official Gazette*, appoint for the State a duly qualified person to be the Chief Inspector and as many duly qualified persons to be Inspectors subordinate to the Chief Inspector as it thinks fit.

(2) The Chief Inspector may declare the local limits within which Inspectors shall exercise their powers under this Act, and may himself exercise the powers of an Inspector within such local limits as may be assigned to him by the State Government.

(3) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code, 1860 (45 of 1860).

5. Powers of the Inspectors.—(1) Subject to such conditions and restrictions as the State Government may by general or special order impose, the Chief Inspector or an Inspector may—

- (a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed in the case of any motor transport undertaking, and for that purpose require the driver of a transport vehicle to cause the transport vehicle to stop and remain stationary so long as may reasonably be necessary;
- (b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which he has reason to believe is under use or occupation of any motor transport undertaking at any reasonable time for the purpose of carrying out the objects of this Act;
- (c) examine any motor transport worker employed in a motor transport undertaking or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;
- (d) seize or take copy of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;
- (e) exercise such other powers as may be prescribed :

Provided that no person shall be compelled under this subsection to answer any question or make any statement tending to incriminate himself.

(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898)¹, shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

6. Facilities to be afforded to Inspectors.— Every employer shall afford the chief inspector and an inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.

7. Certifying Surgeons.—(1) The State Government may appoint qualified medical practitioners to be Certifying Surgeons for the purposes of this Act within such local limits or for such motor transport undertakings or class of motor transport undertakings as it may assign to them respectively.

(2) The Certifying Surgeon shall perform such duties as may be prescribed in connection with—

- (a) the examination and certification of motor transport workers;
- (b) the exercise of such medical supervision as may be prescribed where adolescents are, or are to be, employed as motor transport workers in any work in any motor transport undertaking which is likely to cause injury to their health.

1. See New of Criminal procedure, 1973 (2 of 1974).

CHAPTER-IV

Welfare and health

8. Canteens.—(1) The State Government may make rules requiring that in every place where in one hundred motor transport workers or more are employed in a motor transport undertaking ordinarily call on duty during every day, one or more canteens shall be provided and maintained by the employer for the use of the motor transport workers.

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

- (a) the date by which the canteens shall be provided;
- (b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens;
- (c) the foodstuffs which may be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for a canteen and the representation of the motor transport workers in the management of the canteen.

(3) The State Government may, subject to such conditions as it may impose, delegate to the Chief Inspector the power to make rules with reference to clause(c) of sub-section (2).

9. Rest-rooms.—(1) In every place wherein motor transport workers employed in a motor transport undertaking are required to halt at night, there shall be provided and maintained by the employer for the use of those motor transport workers such number of rest-rooms or such suitable alternative accommodation, as may be prescribed.

(2) The rest-rooms or the alternative accommodation to be provided under sub-section. (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.

(3) The State Government may prescribe the standards in respect of construction, accommodation, furniture and other equipment of rest-rooms or the alternative accommodation to be provided under this section.

10. Uniforms.—(1) The State Government may, by notification in the *Official Gazette*, make rules requiring an employer of a motor transport undertaking to provide for the drivers, conductors and line checking staff employed in the undertaking such number and type of uniforms, raincoats or other like amenities for their protection from rain or cold as may be specified in the rules.

(2) There shall be paid to the drivers, conductors and line checking staff by the employer an allowance for washing of uniforms provided under sub-section (1) at such rates as may be prescribed :

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Provided that no such allowance shall be payable by an employer who has made at his own cost adequate arrangements for the washing of uniforms.

11. Medical facilities.—There shall be provided and maintained by the employer so as to be readily available such medical facilities for the motor transport workers at such operating centres and halting stations as may be prescribed by the State government.

12. First-aid facilities.—(1) There shall be provided and maintained by the employer so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents in every transport vehicle.

(2) Nothing except the prescribed contents shall be kept in a first-aid box.

(3) The first-aid box shall be kept in the charge of the driver or the conductor of the transport vehicle who shall be provided facilities for training in the use thereof.

CHAPTER-V

Hours and limitations of employment

13. Hours of work for adult motor transport workers.—No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week :

Provided that where any motor transport worker is engaged in the running of any motor transport service, on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or fortyeight hours in any week but in no case for more than ten hours in a day and fiftyfour hours in a week, as the case may be :

Provided further that in the case of a breakdown or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitations as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty-eight hours in any week.

14. Hours of work for adolescents employed as motor transport workers.—No adolescent shall be employed or required to work as a motor transport worker in any motor transport undertaking—

(a) for more than six hours a day including rest interval of half-an-hour ;

(b) between the hours of 10 p.m. and 6 a.m.

15. Daily intervals for rest.—(1) The hours of work in relation to adult motor transport workers on each day shall be so fixed that no period of work shall exceed five hours and that no such motor transport worker shall work for more than five hours before he has had an interval for rest for at least half-an-hour :

Provided that the provisions of this sub-section in so far as they relate to interval for rest shall not apply to a motor transport worker who is not required to work for more than six hours on that day.

(2) The hours of work on each day shall be so fixed that a motor transport worker is, except in any case referred to in the second proviso to section 13, allowed a period of rest of at least nine consecutive hours between the termination of duty on any one day and the commencement of duty on the next following day.

16. Spread-over.—(1) The hours of work of an adult motor transport worker shall, except in any case referred to in the second proviso to section 13, be so arranged that inclusive of interval for rest under section 15, they shall not spread over more than twelve hours in any day.

(2) The hours of work of an adolescent motor transport worker shall be so arranged that inclusive of interval for rest under section 14, they shall not spread over more than nine hours in any day.

17. Split duty.— Subject to the other provisions contained in this Act, the hours of work of a motor transport worker shall not be split into more than two spells on any day.

18. Notice of hours of work.—(1) There shall be displayed and correctly maintained by every employer a notice of hours of work in such form and manner as may be prescribed showing clearly for every day the hours during which motor transport workers may be required to work.

(2) Subject to the other provisions contained in this Act, no such motor transport worker shall be required or allow to work otherwise than in accordance with the notice of hours of work so displayed.

19. Weekly rest.—(1) The State government may, by notification in the *Official Gazette*, make rules providing for a day of rest in every period of seven days, which shall be allowed to all motor transport workers.

(2) Notwithstanding anything contained in sub-section (1) an employer may, in order to prevent any dislocation of a motor transport service, require a motor transport worker to work on any day of rest which is not a holiday so, however, that the motor transport worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(3) Nothing contained in sub-section (1) shall apply to any motor transport worker whose total period of employment including any day spent on leave is less than six days.

20. Compensatory day of rest.— Where, as a result of any exemption granted to an employer under the provisions of this Act from the operation of section 19, a motor transport worker is deprived of any of the days of rest to which he is entitled under that section, the motor transport worker shall be allowed within