

THE ANDHRA PRADESH MUTTAH, JATTU, HAMAL AND OTHER MANUAL
WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1976

Act No.61 of 1976

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SCHEDULE

THE ANDHRA PRADESH MUTTAH, JATTU, HAMAL AND OTHER MANUAL
WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1976

Act No.61 of 1976

(27th December, 1976)

AN ACT TO PROVIDE FOR REGULATING THE EMPLOYMENT OF UNPROTECTED MANUAL WORKERS SUCH AS MUTTAH, JATTU AND HAMAL ENGAGED IN MARKET AREAS, FACTORIES AND THE LIKE IN THE STATE OF ANDHRA PRADESH IN CONNECTION WITH LOADING, PACKING, CARRYING, WEIGHING, MEASURING, STITCHING, ETC., FOR ENSURING AN ADEQUATE SUPPLY AND FULL AND PROPER UTILISATION OF, SUCH WORKERS TO PREVENT AVOIDABLE UNEMPLOYMENT, FOR SECURING TO SUCH WORKERS BETTER TERMS AND CONDITIONS OF EMPLOYMENT AND FOR MATTERS CONNECTED THEREWITH.

BE it enacted by the Legislature of the State of Andhra Pradesh in the Twenty-seventh Year of the Republic of India as follows :-

1. Short title, extent and commencement - (1) This Act may be called the Andhra Pradesh Muttah, Jattu, Hamal and other Manual Workers (Regulation of Employment and Welfare) Act, 1976.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It applies to employments specified in the schedule thereto.

(4) It shall come into force on such date as the State Government may, by notification appoint, and different dates may be appointed for different areas, for different employments, and for different provisions of this Act.

2. Definitions - In this Act, unless the context otherwise requires :-

(1) "Advisory Committee" means an Advisory Committee constituted under section 14;

(2) "Board" means a Board established under section 6;

(3) "contractor" in relation to an unprotected worker, means a person who undertakes to execute any work for an establishment by engaging such workers on hire or otherwise, or who supplies such workers either in groups, gangs (muttah or jattu) or as individuals; and includes a sub-contractor, an agent, a mugaddam or a maistry;

(4) "employer" in relation to any unprotected worker engaged by or through contractor, means the principal employer and in relation to any other unprotected worker, the person who has ultimate control over the affairs of the establishment and includes any other person to whom the affairs of such establishment are entrusted, whether such person is called an agent, manager or is called by any other name prevailing in the scheduled employment;

(5) "establishment" means any place or premises including the precincts thereof, in which or any part of which any schedule employment is being or is ordinarily carried on;

(6) "Government" means the State Government;

(7) "Inspector" means an Inspector appointed under section 15;

(8) "member of the family" in relation to an employer, means the spouse, son, daughter, father, mother, brother or sister of such employer who lives with him and is wholly dependent on him;

(9) "notification" means a notification published in the Andhra Pradesh Gazette and the word notified shall be construed accordingly;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "principal employer" means an employer who engages unprotected workers by or through a contractor in any scheduled employment;

(12) "scheduled employment" means any employment specified in the Schedule hereto or any process or branch of work forming part of such employment;

(13) "scheme" means a scheme made under this Act;

(14) "unprotected worker" means a manual worker who is engaged or to be engaged in any scheduled employment;

(15) "wages" means all remunerations expressed in terms of money or capable of being so expressed which would, if the terms of contract or employment, express or implied, were fulfilled, be payable to an unprotected worker in respect of work done in any scheduled employments but does not include.-

(i) the value of any house accommodation, supply of light, water, medical attendance, or any other amenity or any service excluded from the computation of wages by general or special order of the Government;

(ii) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance and the interest which may have accrued thereon;

(iii) any travelling allowance or the value of any travelling concession;

(iv) any sum paid to the worker to defray special expenses entailed on him by the nature of his employment; or

(v) any gratuity payable on discharge.

(16) "worker" means a person who is engaged or to be engaged directly or through any agency, whether for wages or not, to do manual work in any scheduled employment, and includes any person not employed by any employer or a contractor, but working with the permission of, or under agreement with, the employer or contractor, but does not include any member of the family of an employer.

3. Schemes for ensuring regular employment of unprotected Workers - (1) For the purpose of ensuring an adequate supply and full and proper utilisation of unprotected workers in scheduled employments, and generally for making better provision for the terms and conditions of employment of such workers, whether registered or not, the Government may by means of a scheme provide for the registration of employers and unprotected workers in all or any of the scheduled employments and provide for the terms and conditions of work of such unprotected workers, whether registered or not, to make provision for their general welfare.

(2) In particular, a scheme may provide for-

(a) the application of the scheme to such classes of employers and unprotected workers, as may be specified therein;

(b) defining the obligations of employers and unprotected workers subject to the fulfillment of which the scheme may apply to them;

(c) regulating the recruitment and entry into the scheme of unprotected workers, and the registration of employers and unprotected workers including the maintenance of registers, removal either temporarily or permanently, of names from the registers and provision for appeal against such removal to the prescribed authority, and the imposition of fees for registration;

(d) regulating the employment of unprotected workers whether registered or not, and the terms and conditions of such employment, including rates of wages, hours of work, maternity

benefit, over-time payment, leave with wages, provision for gratuity and conditions as to weekly and other holidays and pay in respect thereof;

(e) securing minimum wage subject to the conditions of the scheme to registered workers in respect of periods during which employment or full employment is not made available to them, although they are available for work;

(f) prohibiting, restricting or otherwise controlling the employment of unprotected workers either by employers or otherwise, to whom the scheme does not apply;

(g) the welfare of unprotected workers covered by the scheme, in so far as satisfactory provision therefor does not exist, apart from the scheme;

(h) health and safety measures in places where the unprotected workers are engaged, in so far as satisfactory provision therefor is required but does not exist, apart from the scheme;

(i) the constitution of any funds, including provident fund for the benefit of unprotected workers, the vesting of such funds, the payment and contributions to be made to such funds, and all matters relating thereto;

(j) the manner in which, and the persons by whom, the cost of operating the scheme is to be defrayed, including any contributions to be paid by employers and unprotected workers, and the rate of such contribution;

(k) the appointment of persons or authorities who are to be responsible for the administration of the scheme or funds aforesaid;

(l) such incidental and supplemental matters, as may be, necessary or expedient for giving effect to the purposes of a scheme.

(3) The scheme may further provide that a contravention of any provision thereof shall be punished with imprisonment for such term as may be specified, but in no case exceeding three months in respect of a first contravention or six months in respect of any subsequent contravention or with fine which may extend to such amount as may be specified, but in no case exceeding five hundred rupees in respect of the first contravention, or one thousand rupees in respect of any subsequent contravention, or with both imprisonment and fine.

4. Making variation and revocation of scheme - Government may, by notification after consultation with the Advisory Committee, and subject to the conditions of previous publication, make one or more schemes for any scheduled employments or group of scheduled employments in one or more areas specified in the notification, and in like manner add to, amend, vary or substitute another scheme made by them:

Provided that no such notification shall come into force unless a period of one month has expired from the date on which it is notified;

Provided further that,-

(a) if the Government considers it necessary, or

(b) if a demand or request is made by a majority of the employers or workers in any other scheduled employment, the Government may, after consulting the employers and workers in such other scheduled employment by notification, apply the provisions of the scheme or part thereof to any other scheduled employment, with such modifications, if any, as may be specified, in the notification

that the provisions of any scheme so made for any scheduled employment or any part thereof should be applied to such other scheduled employment.

5. Disputes regarding application of scheme - If any question arises whether any scheme applies to, employers or any class of unprotected workers, the matter shall be referred to the Government and the decision of the Government on the question, which shall be taken after consulting the Advisory Committee, shall be final.

6. Establishment of Board - (1) The Government may, by notification, establish a Board to be known by such name as may be specified in the notification for any scheduled employment in any area; and they may establish one Board for two or more scheduled employments or areas.

(2) Every such Board shall be a body corporate with the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, and to contract and may by that name, sue or be sued.

(3) The Board shall consist of members nominated by the Government, representing the employers, the unprotected workers, and the Government.

(4) The members representing employers, and unprotected workers, shall be equal in number, and the members representing the Government shall not exceed one-third of the total number of members presenting employers and unprotected workers.

(5) The Chairman of the Board shall be nominated by the Government, from among the members representing the Government.

(6) After nomination of all the members of the Board including the Chairman, the Government shall, by notification, publish the names of all the members of the Board.

(7) The term of the office of the members of the Board shall be such as may be prescribe.

(8) The meetings of the Board and procedure to be followed for the purpose and all matters supplementary or ancillary thereto, to shall, subject to the approval of the Government, be regulated by the Board itself.

7. Powers and duties of Boards - (1) The Board shall be responsible for administering a scheme, and shall perform such functions as may be conferred on it by the scheme.

(2) The Board may take such measures as it may deem fit for administering the scheme.

(3) The Board shall submit to Government, as soon as may be, after the 1st day of April, every year, and not later than 31st day of October, an annual report on the working of the scheme during the preceding year ending on the 31st day of March of that year. Every report so received shall be laid as soon as may be after it is received before each House of the State Legislature if it is in session, or in the session immediately following the date of receipt of the report.

(4) In the performance of its functions, the Board shall be bound by such directions as the Government may, for reasons to be recorded in writing, give to it from time to time.

8. Accounts and audit- (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including a balance sheet in such forms as may be prescribed.

(2) The accounts of the Board shall be audited annually by such qualified person as the Government may appoint in this behalf.

(3) The auditor shall at all reasonable time have access to the books of accounts and other documents of the Board, and may, for the purposes of the audit, call for such explanation and information as he may require, or examine any member or officer of the Board.

(4) The accounts of the Board certified by the auditor, together with the audited report thereon shall be forwarded annually to the Government before such date as the Government may specify in this behalf.

(5) The Board shall comply with such directions as the Government may, after perusal of the report of the auditor, think fit to issue.

(6) The cost of audit, as determined by the Government, shall be paid out of the funds of the Board.

9. Disqualifications and removal of members of Board – (1) A person shall be disqualified for being chosen as or for continuing as a member of the Board if he-

- (a) is a salaried officer of the Board; or
- (b) is or at any time has been adjudged insolvent; or
- (c) is found to be a lunatic or becomes of unsound mind; or
- (d) is or has been convicted of any offence involving moral turpitude.

(2) The Government may remove from office any member, who-

- (a) is or has become subject to any of the disqualifications mentioned in sub-section (1); or
- (b) is absent without leave of the Board for more than three consecutive meetings of the Board.

10. Resignation of office by member - Any member of the Board may at any time, resign his office by writing under his hand addressed to the Government, and his office shall, on acceptance of resignation, become vacant.

11. Vacancy to be filled as early as possible - In the event of any vacancy occurring on account of death, resignation, disqualification or removal or otherwise, the Board shall forthwith communicate the occurrence to the Government, and the vacancy shall be filled not later than ninety days from the date of the occurrence of the vacancy, and the person nominated to fill in the vacancy, shall hold office for the residue of term of his predecessor;

Provided that, during any such vacancy, the continuing members may act as if no vacancy has occurred.

12. Validity of proceedings of Board - No act or proceeding of the Board shall be questioned or invalidated merely by reason of any vacancy in its membership or by reason of any defect in the constitution thereof.

13. Recovery of monies due to Board - (1) On an application made by the Board for the recovery of arrears of any sum payable to it under this Act or any schemes and on its furnishing a statement of accounts in respect of such arrears, the Collector may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears.

(2) A certificate by the Collector shall be final and conclusive as to the arrears stated to be due. The arrears stated to be due therein shall then be recoverable as arrears of land revenue.

14. Advisory Committee - (1) The Government may constitute an Advisory Committee to advise upon such matters, arising out of the administration of this Act or any scheme made under this Act or relating to the application of the provisions of this Act to any employer or any particular class of unprotected workers, or co-ordination of the work of various Boards, as the Advisory

Committee may itself consider to be necessary or as the Government may refer to it for advice.

(2) The members of the Advisory Committee shall be, appointed by the Government and shall be of such number and chosen in such manner as may be prescribed:

Provided that, the Advisory Committee shall include an equal number of members representing employers, workers and the Legislature of the State and members representing the Government not exceeding one-fourth of its total number of members.

(3) The Chairman of the Advisory Committee shall be nominated by the Government from among the members representing the Government.

(4) The Government shall, by notification, publish the names of all the members of the Advisory Committee.

(5) The meetings of the Advisory Committee and procedure to be followed thereat shall be regulated according to rules made under this Act.

(6) The term of office of members of the Advisory Committee shall be such as may be prescribed.

15. Inspectors and their powers - (1) The Board may appoint such persons as it thinks fit to be Inspectors possessing the prescribed qualifications for the purposes of this Act or of any scheme and may define the limits of their jurisdiction.

(2) Subject to any rules made by the Government in this behalf, an Inspector may-

(a) enter and search at all reasonable hours, with such assistance as he thinks fit, any premises or place, where unprotected workers are employed, or work is given out to unprotected workers in any scheduled employment, for the purpose of examining any register, record of wages or notices required to be kept or exhibited under any scheme, and require the production thereof, for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reason to believe, is an unprotected worker employed therein or an unprotected worker to whom work is given out therein;

(c) require any person giving any work to an unprotected worker or to a group of unprotected workers to give any information, which is in his power to give, in respect of the names and addresses of the persons to whom the work is given, and in respect of payments made or to be made, for the said work;

(d) seize or take copies of such registers, records of wage or notices or portions thereof, as he may consider relevant, in respect of an offence under this Act or scheme, which he has reason to believe, has been committed by an employer; and

(e) exercise such other powers as may be prescribed:

Provided that no person shall be required under the provisions of this section to answer any question or make any statement tending to incriminate himself.

(3) Every Inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

16. Prohibition of employment of children - No child shall be required or allowed to work in any scheduled employment.

Explanation- "Child" means a person who has not completed fourteen years of age.

17. Cognizance of offences - (1) No court shall take cognizance of any offence made punishable by a scheme or of any abetment thereof, except on a complaint, in writing, made by an Inspector or by a person specially authorised in this behalf by the Board or Government.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), an offence made punishable by a scheme or an abetment thereof shall be triable only by a magistrate of the first class.

18. Application of Workmen's Compensation Act to unprotected workers - The provisions of the Workmen's Compensation Act, 1923 (Central Act 8 of 1923), and the rules made, from time to time, thereunder, shall mutatis mutandis apply to unprotected workers employed in any scheduled employment to which this Act applies; and for that purpose they shall be deemed to be workmen within the meaning of that Act; and in relation to such workmen, employer shall mean where a Board makes payment of wages to any such workmen, the Board, and in any other case, the employer as defined in this Act.

19. Application of Payment of Wages Act, 1936 to workers - (1) Notwithstanding anything in the Payment of Wages Act, 1936 (Central Act 4 of 1936) (hereinafter referred to in this section as "the said Act"), the Government may, by notification, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of unprotected workers employed in any scheduled employment to which this Act applies with the modification that in relation to unprotected workers, employer shall mean where a Board makes payment of wages to any such worker, the Board, and in any other case, the employer as defined in this Act and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of such provisions of the said Act within the local limits of this jurisdiction.

(2) The Government may, only if the Advisory Committee so advises, by a like notification, cancel or vary any notification issued under sub-section (1).

20. Application of Maternity Benefit Act to unprotected women workers - Notwithstanding anything in the Maternity Benefit Act, 1961 (Central Act 53 of 1961) (hereinafter referred to in this section as "the said Act"), the Government may, by notification direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to unprotected women workers employed in any scheduled employment to which this Act applies; and for that purpose they shall be deemed to be women within the meaning, of the said Act; and in relation to such women, employer shall mean where a Board makes payment of wages to such women, the Board; and in any other case, the employer as defined in this Act and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of such provisions of the said Act, within the local limits of his jurisdiction.

21. Rights and privileges under other laws not affected in certain cases - Nothing in this Act shall affect any rights or privileges, which any unprotected worker employed in any scheduled employment is entitled to on the date on which this Act comes into force, under any other law, contract, custom or usage applicable to such worker, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act and a scheme made thereunder:

Provided that such worker shall not be entitled to receive any corresponding benefit under the provisions of this Act and the scheme.

22. Exemption - The Government may, after consulting the Advisory Committee, by notification, and subject to such conditions and for such period as may be specified in the notifications, exempt from the operation of all or any

of the provisions of this Act or any scheme made thereunder, all or any class or classes of unprotected workers employed in any scheduled employment or any establishment or part of any employment of any scheduled employment, if in the opinion of the Government all such unprotected workers of such class or classes of workers, are in the enjoyment of benefits which are on the whole not less favourable to such unprotected workers than the benefits provided by or under this Act or any scheme made thereunder:

Provided that before any such notification is issued, the Government shall publish in the Andhra Pradesh Gazette, a notice of its intention to issue such notification, and invite objections and suggestions in respect thereto, and no such notification shall be issued until the objections and suggestions have been considered and a period of one month has expired from the date of first publication of the notice:

Provided further that the Government may, by notification at anytime, for reasons to be specified rescind the aforesaid notification.

23. Enquiry into working of Board - (1) The Government may, at any time, appoint any person to investigate or enquire into the working of any Board or scheme and submit a report to the Government in that behalf.

(2) The Board shall give to the person so appointed all facilities for the proper conduct of the investigation, or enquiry, and furnish to him such documents, accounts or information in possession of the Board as he may require.

(3) Any person so appointed to investigate or enquire into the working of any Board or scheme may exercise all the powers of an Inspector appointed under this Act.

24. Supersession of the Board - (1) If the Government, on consideration of the report referred to in sub-section (1) of section 23 or otherwise are of the opinion-

(a) that the Board is unable to perform its functions; or

(b) that the Board has persistently made default in the discharge of its functions or has exceeded or abused its powers, the Government may, by notification, supersede the Board and constitute it in the prescribed manner, within a period of twelve months from the date of supersession. The period of supersession may be extended for sufficient reasons by a like notification or by not more than six months:

Provided that before issuing a notification under this sub-section on any of the grounds mentioned in clause (b), the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded, and shall consider the explanations and objections, if any, of the Board.

(2) After the supersession of the Board or until it is reconstituted, the functions of the Board under this Act shall be performed by the Government, or any such officer or officers, as the Government may appoint for this purpose.

(3) When the Board is superseded the following consequences shall ensue, that is to say-

(a) all the members of the Board shall, as from the date of publication of the notification under sub-section (1), vacate their office;

(b) all the functions which may be performed by the Board shall, during the period of supersession be performed by such persons as may be specified in the notification;

(c) all funds and other property vesting in the Board shall, during the period of supersession, vest in the Government and on the reconstitution of the Board, such funds and property shall revest in the Board.

25. Contracting out - Any contract or agreement, whether made before or after the commencement of this Act whereby an unprotected worker relinquishes any right conferred by, or any privilege or concession accruing to him under this Act or any scheme, shall be void and of no effect in so far as it purports to deprive him of such right or privilege or concession.

26. Amendment of Schedule - The Government may, by notification, after giving not less than three months notice of its intention so to do, add to the Schedule any employment in respect of which they are of opinion that the provisions of this Act should apply; and the provisions of this Act shall thereupon apply to such employment.

27. General penalty for offences - Save as otherwise expressly provided in this Act any person who contravenes any of the provisions of this Act or any rule made thereunder shall, on conviction, be punished with fine which may extend to five hundred rupees, and in case of continued contravention thereof, with an additional fine which may extend to one hundred rupees per day, for every day during which such contravention continues.

28. Power to make rules - (1) The Government may, by notification, and subject to the condition of previous publication, make rules for carrying out all or any of the purposes of this Act.

(2) Every scheme under this Act and rule made under this section shall immediately after it is made be laid before each House of the State Legislature if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the scheme or rule or in the annulment of the rule or scheme, or any provision thereof, the rule or scheme shall, from the date on which the modification or annulment is notified, have effect only in such modified form or stand annulled, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done or omitted to be done under that scheme, provision, or rule, as the case may be.

29. Savings - Nothing contained in this Act, shall apply to contract labour governed by the Indian Railways Act, 1890 (Central Act 9 of 1890), the Factories Act, 1948 (Central Act 63 of 1948) or the Contract Labour (Regulation and Abolition) Act, 1970 (Central Act 37 of 1970).

30. Repeal of Ordinance 15 of 1976 - The Andhra Pradesh Mutta, Jattu, Hamal and other Manual Workers (Regulation of Employment and Welfare) Ordinance, 1976, is hereby repealed.

THE SCHEDULE
[See Section 2(12)]

1. Employment in connection with loading, unloading, packing, carrying, weighing, measuring or such other work, including work preparatory or incidental to such operations-

(1) in iron and steel markets or shops;

(2) in cloth and cotton markets or shops;

(3) In docks, not being employment of dock-worker within the meaning of the Dock-Workers (Regulation of Employment) Act, 1948 (Central Act 9 of 1948);

(4) in grocery markets or shops;

(5) in bus depots in so far as it relates to loading of goods into public transport vehicle or unloading of goods therefrom and any other operation incidental and connected thereto;

(6) in vegetable and fruit markets (including onions and potatoes markets);

(7) in markets or subsidiary markets established under the Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966 (Andhra Pradesh Act 16 of 1966).

2. Employment in timber markets.

3. Employment in salt pans.

4. Employment in fishing industry.

5. Employment in connection with the loading, unloading, and carrying of food-grains into godowns and such other work incidental and connected thereto.

6. Employment in markets, and other establishments, in connection with loading, unloading, stocking, carrying, weighing, measuring or such other work, including work preparatory or incidental to such operations carried on by workers not covered by any other entries in this Schedule.