

# **THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986**

**(ACT NO. 61 OF 1986)**

*[23rd December, 1986.]*

An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

Be it enacted by Parliament in the Thirty-Seventh Year of the Republic of India as follows: --

## **PART I**

### **PRELIMINARY**

**1. Short title, extent and commencement.** -- (1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.

(2) It extends to the whole of India.

(3) The provisions of this Act, other than Part III, shall come into force at once, and Part III shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for different classes of establishments.

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

(i) "appropriate Government" means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;

(ii) "child" means a person who has not completed his fourteenth year of age;

(iii) "day" means a period of twenty-four hours beginning at mid-night;

(iv) "establishment" includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(v) "family", in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother or sister of such individual;

(vi) "occupier", in relation to an establishment or a workshop, means the person who has the ultimate control over the affairs of the establishment or workshop;

(vii) "port authority" means any authority administering a port;

(viii) "prescribed" means prescribed by rules made under section 18;

(ix) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector;

(x) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948 (63 of 1948), for the time being, apply.

## PART II

### PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES

**3. Prohibition of employment of children in certain occupations and processes.--** No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on:

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

**4. Power to amend the Schedule.--** The Central Government, after giving by notification in the Official Gazette, not less than three months notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

**5. Child Labour Technical Advisory Committee.--** (1) The Central Government may, by notification in the Official Gazette, constitute an advisory committee to be called the Child Labour Technical Advisory Committee (hereafter in this section referred to as the

Committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.

(4) The Committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.

(5) The term of office, of the manner of filling casual vacancies in the office of, and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint any person who is not a member of the Committee as a member of any of its sub-committees shall be such as may be prescribed.

### **PART III**

#### **REGULATION OF CONDITIONS OF WORK OF CHILDREN**

**6. *Application of Part.***-- The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on.

**7. *Hours and period of work.*** -- (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

**8. Weekly holidays.--** Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

**9. Notice to Inspector.--** (1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:--

- (a) the name and situation of the establishment;
- (b) the name of the person in actual management of the establishment;
- (c) the address to which communications relating to the establishment should be sent; and
- (d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

**Explanation.--** For the purposes of sub-sections (1) and (2), "date of commencement of this Act, in relation to an establishment" means the date of bringing into force of this Act in relation to such establishment.

(3) Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

**10. Disputes as to age.--** If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

**11. Maintenance of register.--** There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing--

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

**12. Display of notice containing abstract of sections 3 and 14.--** Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of sections 3 and 14.

**13. Health and safety.--** (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:--

- (a) cleanliness in the place of work and its freedom from nuisance;
- (b) disposal of wastes and effluents;
- (c) ventilation and temperature;
- (d) dust and fume;
- (e) artificial humidification;
- (f) lighting;
- (g) drinking water;
- (h) latrine and urinals;
- (i) spittoons;
- (j) fencing of machinery;

- (k) work at or near machinery in motion;
- (l) employment of children on dangerous machines;
- (m) instructions, training and supervision in relation to employment of children on dangerous machines;
- (n) device for cutting off power;
- (o) self-acting machines;
- (p) easing of new machinery;
- (q) floor, stairs and means of access;
- (r) pits, sumps, openings in floors, etc.;
- (s) excessive weights;
- (t) protection of eyes;
- (u) explosive or inflammable dust, gas, etc.;
- (v) precautions in case of fire;
- (w) maintenance of buildings; and
- (x) safety of buildings and machinery.

#### **PART IV**

#### **MISCELLANEOUS**

**14. Penalties.--** (1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever--

- (a) fails to give notice as required by section 9; or
- (b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or
- (c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or
- (d) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder.

shall be punishable with simple imprisonment, which may extend to one month or with fine, which may extend to ten thousand rupees or with both.

**15. Modified application of certain laws in relation to penalties.--** (1) Where any person is found guilty and convicted of contravention of any of the provisions mentioned in sub-section (2), he shall be liable to penalties as provided in sub-sections (1) and (2) of section 14 of this Act and not under the Acts in which those provisions are contained.

(2) The provisions referred to in sub-section (1) are the provisions mentioned below:--

- (a) section 67 of the Factories Act, 1948 (63 of 1948);
- (b) section 40 of the Mines Act, 1952 (35 of 1952);
- (c) section 109 of the Merchant Shipping Act, 1958 (44 of 1958); and
- (d) section 21 of the Motor Transport Workers Act, 1961 (27 of 1961).

**16. Procedure relating to offences. --** (1) Any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction.

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.

**17. Appointment of Inspectors.--** The appropriate Government may appoint Inspectors for the purposes 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 Indian Penal Code (45 of 1860).

**18. Power to make rules.--** (1) The appropriate 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.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the term of office of, the manner of filling casual vacancies of, and the allowances payable to the Chairman and members of the Child Labour Technical Advisory Committee and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of section 5;

(b) number of hours for which a child may be required or permitted to work under sub-section (1) of section 7;

(c) grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities, which may issue such certificate, the form of such certificate, charges, which may be made thereunder, and the manner in which such certificate may be issued:

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned;

(d) the other particulars, which a register maintained under section 11, should contain.

**19. Rules and notifications to be laid before Parliament or State legislature.--** (1) Every rule made under this Act by the Central Government and every notification issued under section 4, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the legislature of that State.



**20. Certain other provisions of law not barred.--** Subject to the provisions contained in section 15, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948 (63 of 1948), the Plantations Labour Act, 1951 (69 of 1951) and the Mines Act, 1952 (35 of 1952).

**21. Power to remove difficulties.--** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of Parliament.

**22. Repeal and savings. --** (1) The Employment of Children Act, 1938 (26 of 1938) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

**23. Amendment of Act 11 of 1948. In section 2 of the Minimum Wages Act, 1948,--**

*(i) for clause (a), the following clauses shall be substituted, namely:--*

(a) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

(aa) "adult" means a person who has completed his eighteenth year of age;

*(ii) after clause (b), the following clause shall be inserted, namely:--*

(bb) "child" means a person who has not completed his fourteenth year of age;'

**24. Amendment of Act 69 of 1951.--** In the Plantations Labour Act, 1951: --

(a) in section 2, in clauses (a) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted;

(b) section 24 shall be omitted;

(c) in section 26, in the opening portion, the words "who has completed his twelfth year" shall be omitted.

**25. Amendment of Act 44 of 1958.--** In the Merchant Shipping Act, 1958, in section 109, for the word "fifteen", the word "fourteen" shall be substituted.

**26. Amendment of Act 27 of 1961.--** In the Motor Transport Workers Act, 1961, in section 2, in clauses (a) and (c), for the word "fifteenth", the word "fourteenth" shall be substituted.

The Bombay Shops and Establishments Act, 1948

BOMBAY ACT NO. LXXIX OF 1948

[11th January 1948]

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified. It is hereby enacted as follows:-

## **CHAPTER I**

### **Preliminary**

1. Short title extent and operation. This Act may be called the Bombay Shops and Establishments Act, 1948.

[(2) It extends to the whole of the State of Maharashtra.]

(3) It shall in the first instance come into force in the local areas specified in schedule I:

^Provided that, on the commencement of the Bombay Shops and Establishments (Extension and Amendment) Act, 1960, Mah. XXVI of 1961, all the provisions of this Act shall also come into force in each of the areas in which the Central Provinces and Berar Shops and Establishments Act, 1947, C.P. and Berar Act, XXII of 1947, or the Hyderabad Shops and Establishments Act, 1951, Hyd. X of 1951, was in force immediately before such commencement.]

(4) The State] Government shall by notification published in the Official Gazette direct that all or any of the provisions of this Act shall come into force in such other local areas having population of twenty-five thousand and more as may be specified in the notification.

(5) The 5 [State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population of less than twenty-five thousand as may be specified in the notification.

NOTES

Whether stands repealed by Motor Transport Workers Act, 1961 - According to ordinary principles of interpretation of statutes, repeal by implication is not favoured - None of the provisions of Bombay Shops and Establishments' Act can be said to be conflicting or inconsistent with the provisions of Motor Transport Workers Act - The former does not stand repealed by the latter.

Kishorbhai Khamanchand Goyal v. State of Gujarat &, Anr. 1996 II CLR 266 (Guj.H.C.)

1. For Statement of Objects and Reasons, see Bombay Government Gazette, 1948, Part V, page 499.
2. This Act was extended to the rest of the State of Maharashtra by Mah. 26 of 1961, s.2.
3. Sub-sec. (2) was substituted by Mah. 26 of 1961, s.3(a).
4. This proviso was added, *ibid* s.3(b).
5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

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

(1) "Apprentice" means a person who is employed/whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

<sup>6</sup> [(2) "Child" means a person who has not completed his fifteenth year of age; but does not include a person who has, before the date of commencement of the Bombay Shops and Establishments (Amendment) Act, 1977, completed his twelfth year of age even though he has not completed his fifteenth year of age, if he is on the day immediately preceding the said date an employee in any establishment to which this Act applies;]

<sup>7</sup> (3) "Closed" means not open for the service of any customer, or for any business, of the establishment, or for work, by or with the help of any employee, of or connected with the establishment;]

(4) "Commercial establishment" means an establishment which carries on, any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession ^and includes establishment of any legal practitioner, medical practitioner, architect, engineer, accountant, tax consultant or any other technical or professional consultant and also includes] a society registered under the Societies Registration Act, 1866 (XXI of 1860), and a charitable or other trust, whether registered or not, which carries on <sup>9</sup> [whether

for purposes of gain or not] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

### **NOTES**

There is nothing in the definition of section 2(4) of "commercial establishment" which indicates that before an establishment can become a commercial establishment it must have a certain fixed place or abode, premises or location from where it operates. The idea of premises is not implicit in the definition of, "Commercial establishment".

The organisation to be a commercial establishment must not only be an organised activity for carrying on any business, trade or profession but the activity must be carried in a commercial manner. If these two conditions are satisfied it is wholly irrelevant that such an activity of which there is an employer and in which there are employees will be a commercial establishment only because it has no particular premises from which it operates.

A sales organisation with a regional officer" at the head of a region and having salesmen in different parts of the State, the organisation having no specific office or its own, would nonetheless be a commercial establishment if the organisation carries on any business, trade or profession, etc. (1973) I LLJ 447 Guj.

Commercial establishment is not only an establishment which carries on trade but also business, whether for the purpose of gain or not. The profit or intention to make profit is not an essential part of the legal definition of trade or business. Business includes trade. The occupation followed by the applicant can well come within the purview of the word "business" as well as "trade" and the applicant's premises is a "commercial establishment" as defined in section 2(4) (1971) II LLJ 31 (Bom.H.C.)

**Establishment of a Legal Practitioner** - Amendment to S.2(4) of 1948 Act effected by S.2 (b) of the amending Maharashtra Act 64 of 1977 sought to enlarge the definition of "Commercial establishment" by including the establishment of a legal practitioner, architect, engineer, accountant, tax consultant and certain other categories. But, there is no common properties or characteristics to be found in other commercial establishments and the establishment of a legal practitioner. There is no rational bases for herding them together and the conclusion that they have been brought together arbitrarily is inescapable. The inclusion of the establishment of a legal practitioner in

commercial establishment does not answer the test of reasonableness and the inclusion would therefore, be violative of Art. 14 of the Constitution.

Consequently, the provisions of the amending Act (Mah. Act 64 of 1977) insofar as they include the establishment of a legal practitioner in the Bombay Shops and Establishments Act, 1948 are struck down. *Narendra Kesharichand Fuladi v. The State of Maharashtra* 1985 ILLN512(Bom.H.C.).

**Commercial Establishment-** The firm Khanna Construction House has put up a building and parts thereof have been let out to various business concerns paying rent which totals Rs.88000/- per month. The occupants are tenants of the firm. The firm has employed workmen to provide various facilities and amenities to the occupants and those visiting the premises in their occupation. The Labour Court held that the business being carried on by the firm would amount to industry and there is no error in this finding. Commercial establishment as per S.2(4) of the Act includes an establishment which carries on any business. The very size of the establishment and the quantum of rent being recovered implies that the firm is in the business of providing accommodation plus service to residents who, in consideration thereof pay rent to it. -The enterprise amounts to "commercial establishment" within the meaning of the expression in the Act. *D.B. Khade v. Ramsingh Jaysing* 1986 (53) FLR 378 = 1986 I LLN 771 (Bom.H.C.)

The correct test of finding whether a professional activity falls within the definition 2(4) of the AeJ. is whether the activity is systematically and habitually undertaken for production or distribution of goods or for rendering material services to the community with the help of employees in the manner of trade or business in such an undertaking. It is also necessary to construe the word, "profession" in section 2(4).

It is clear that; a professional activity must be an activity carried on by an individual by his personal skill and intelligence. There is a fundamental distinction, therefore, between a professional activity and an activity of a commercial character and unless the profession carried on by the appellant also partakes of the character of a commercial nature the applicant's dispensary cannot fall within the ambit of section 2(4) of the Act.

Dispensary would fall within the definition of section 2(4) if the activity of the appellant is organised in the manner in which a trade or business is generally organized or arranged and if the activity is systematically or habitually undertaken for rendering material services to the community at large or a part of such community with the help of the employees and if such an activity involves co-operation of employees.

To put it differently the manner in which the activity in question is organised or arranged; the condition of the co-operation between the employer and the employee being necessary for its success and its object being to render material service to the community, can be regarded as some of the features which render carrying on of a professional activity to fall within the ambit of section 2(4) of the Act. Tested in the light of these principles, the case of the doctor does not fall within the purview of the Act. *Devendra Surti v. State of Gujarat* (1969) II LLJ 116 - 1969 LIC 245.

The ordinary meaning of an establishment given in the dictionary as equable to a place where one is permanently fixed for residence or business; such as an office or place of business with its fixtures, is not a safe guide for interpretation of the expression commercial establishment. The criteria to decide whether a particular establishment is a commercial establishment is only to find whether a regular mercantile activity is carried on by a person on behalf of another or by an individual himself with the assistance of other and whether such activity is regular and is commercial in its outlook and purpose. If such a meaning is attributable to an activity in a particular area a fixed place or premises for carrying on such a commercial activity is not the *sine qua non* in order to make such an overall integrated operation as one of a part of his own abode for commercial activities connected with and incidental to the carried on by a person engaged in a commercial establishment. It is not disputed that the employee is carrying on the business of his employer but in his own home. The utilisation employer's trade is by itself an incident that there is commercial establishment. *Laxmi Vishnu Textile Mills Ltd. v. Balakrishnan* (1978) 52 FJR 104 (Mad.H.C.)

There is nothing in the definition of "commercial establishment" which indicates that before an establishment could be a commercial establishment it should have a certain fixed place or abode, premises or location from where it operates. The act is for the benefit of the "persons employed" in shops and establishments. On reorganisation of an establishment its head office was abolished and some clerical staff from the head office came to be attached to a factory of the establishment. The authorities under the Shops Act sought to apply the Act to these employees treating them as "clerical department" of the factory. Held that when it was not necessary for an establishment to have a definite location or abode even in order to be a "commercial establishment" it was not necessary that a department should function at a separate identifiable place. The functional division of work might constitute a department. There was a clerical department in the head office before it was abolished. The same work that was being done at the head office was being done from the factory premises by the clerical employees. These employees would therefore, constitute a "clerical department"

of the factory and Shops Act would be applicable to them. *Guest Keen Williams Ltd. v. State of West Bengal* (1977) 51 FJR 267 (Cal.-D.B).

The notification which seeks to cover under the Shops Act a Maternity Home run by medical practitioner is beyond the powers conferred by the act and therefore invalid. There is no evidence to show that the organisation is nothing more than consisting of employees who aid the respondent in her medical practice and the entire clientele depends on her personal skill and knowledge. *The State of Maharashtra v. Smt. Dhanalaxmi V. Meisheri* 1981 APS L.C, 97.

Amendment to S.2(4) of 1948 Act effected by S.2(b) of the Amending Maharashtra Act 64 of 1977 so as to include establishment of legal practitioner in the definition of "Commercial establishment" is unreasonable, irrational and arbitrary and also violative of Art. 14 of the Constitution.

The position of law as it stood in respect of the Shops Act prior to the amendment effected by Mah. Act 64 of 1977 was that the professional activity of a legal practitioner could not be included in the definition of 'commercial establishment' under section 2(4) of the unamended Act. This exclusion was made by the Courts on principle of interpretation. In *Sakharam Narayan Kha^ekar v. City of Nagpur Corporation* 1963 Mah.L.J. 533 the Court took the view that a lawyer who carries on his profession as an advocate is not an 'employer' within the meaning of S.2(7) of the Shops Act and he is not liable to have any establishment registered under S.7 of the Act. An activity to be a profession must be one carried on by an individual by his personal skill, intelligence and dependent on individual characteristics and it is the personal skill, intelligence, study, integrity which is a core of professional activity.. The very concept of activity which can justly be called commercial activity, must imply profession of law carried on by an advocate in any manner or to any extent cannot be said to partake of commercial character or to be a commercial activity. The activity of an advocate carrying profession of law is radically distinguished from any other commercial activity. The role of an advocate in practising and discharging his duties is participation in administration justice, which is a regal function of the state.

Amending Mah. Act 64 of 1977 sought to enlarge the definition of 'Commercial establishment' by including the establishment of a legal practitioner, architect, engineer, accountant, tax-consultant and certain other categories. But, there are no common properties or characteristics to be found on other commercial establishments and the establishment of legal practitioner which have been herded together. There is no rational basis for herding them together and the



conclusion that they have been brought together arbitrarily i inescapable. Therefore, the inclusion of the establishment of a legal practitioner in th context of the connotation of commercial establishment does not answer the test o reasonableness and the inclusion would therefore, be violative of Art. 14 of the Constitution of India also on the ground of unreasonableness, irrationality and arbitrariness.

Consequently, the provisions of the amending Act (Mah. Act 64 of 1977) insofar as the included the establishment of a legal practitioner in the Bombay Shops & Establishment Act 1948 are struck down. *Narindra Keshrichand Fuladi v. The State of Maharashtra* 1986 I CLR 15 (Bot H.C.)

**Employees<sup>9</sup> State Insurance Act, 1948-** S.I sub-sections (4) and (5) - The place where the petitioner has been carrying on business is a shop and therefore the Act is applicable for it.

The petitioner, a partnership firm carrying on the business of playing music on occasions, such as, marriages and other social functions, questioned its liability to pay contribution under the provisions of the Act on two grounds (i) that the place where it was carrying on business was not a shop and (ii) that its business being one of intermittent or seasonal character the Act could not be extended to its business. The petitioner's petition under S.75 of the Act being rejected by the Employees' Insurance Court, Jaipur and the petitioner's appeal under S.82 of the Act being dismissed by the High Court of Rajasthan, the petitioner has filed this Special Leave Petition under Art. 136 of the Constitution of India.

Held: The place where the petitioner has been carrying on business is a shop. The Employees' State Insurance Act is applicable to it by virtue of the notification dated September 20, 1975 issued under sub-section (5) of S.I of the Act by the Government of Rajasthan extending all the provisions of the Act to shops employing 20 or more persons. The first contention of the petitioner, therefore, fails. The second contention of the petitioner is that as its business is of intermittent or seasonal character the Act could not be extended to the business. There is no much substance in this contention too. The petitioner cannot rely on sub-section (4) of S.I of the Act as that sub- section refers to factories only. In this case we arc concerned with a shop and not a factory. There is no merit in this Special Leave Petition. *Mis. Hindu Jea Band., Jaipur v, The. Regional Director, E.S.I.C., Jaipur* 1987 I CLR 228 (S.C.).

(5) "Day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

"[(6) "Employee" means a person wholly or principally employed, whether directly or through any agency, and whether for wages or other consideration in or in connection with any establishment; and includes an apprentice, but does not include a member of the employer's family;]

(7) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(8) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the "[State] Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(9) "Factory" means any premises which is a factory within the meaning of ^[clause (m) of section 2 of the Factories Act, 1948,(LX1II of 1948) or which is deemed to be a factory under section 85 of the said Act];

(10) "Goods" includes all materials, commodities and articles;

(11) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of ihis Act;

(12) "Inspector" means an Inspector appointed under section 48;

(13) "Leave" ^means leave provided for in Chapter VII of this Act;

(14) "Local area" means any area or combination of areas to which this Act applies;

(15)Local authority" means a body specified in Schedule I-A and includes any other body which the State Government may, by notification in the *Official Gazetpfe*, declare to be a local authority for the purposes of this Act];

(16) "Manager" means a person declared to be a manager under section 7;

(17) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;

(118) "Opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee of! or connected with the establishment;]

(19) "Period of work", means the time during which an employee are at the disposal of the employer;

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

(21) "Prescribed authority" means the authority prescribed under the rules mat under this Act;

(22) " Register of establishment" means a register maintained for the registration of establishments under this Act;

(23) "Registration certificate" means a certificate showing the registration of an establishment;

(24) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes 15 residential club

(25) " Restaurant or eating house" means any premises in which is carried wholly or principally the business of the supply of meal or refreshments to the public or a class of the public for consumption on the premises;

(26) "Schedule" means a Schedule appended to this Act;

(27) "Shop" means any premises where goods are sold, either by retail, wholesale or where services are rendered to customers, and includes an office a store-room, godown, warehouse or work place, whether in the same premises or otherwise, [mainly used] in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

### NOTES'

It is not every establishment in the sense of premises or buildings where business, trade or profession is carried on that is intended to be governed by the Act, but only those premises though carrying on one or the other of these kinds of activities which are of a commercial nature..

A lawyer who carries on his profession as an advocate cannot answer the definition of an "employer" in Section 2(7) of the Act. *Sakharam v. City of Nagpur Corporation* 65 Bom.L.R. 627.

The Office of Chartered Accountant with article clerks and one salaries ordinary clerk is not a commercial establishment so as to attract the provisions of the Act. *N.E. Merchant v. State* 1968 LIC 1034 - AIR Born. 282 1968 Cri.LJ 1041.

The firm of lawyers is also not a Commercial establishment. *Sasidharan v. Peter and Karunakaran* 1978 LIC 1614.

The accused owned small workshop in which he employed 3 workmen. The method of his doing business was to go to the local mills, to collect orders from them for small parts of machinery, to manufacture those parts in his workshop, to deliver the parts to mills when ready, and to collect the money therefore from the mills. No buying or selling was done on the premises. A question arose whether the workshop was a shop, it was held that the workshop in question was not a shop within the meaning of Section 2(27) of the Act. *Kalidas Dhanjibhai v. State of Bombay* LR. 57 Bot. 703 (S.C.).

Where a works place is mainly used in connection with the business of rendering services to customers which is conducted on the premises, it falls within the inclusive part of the definition of the word "shop" in Section 2(27) of the Act, *Homi Bhajiwala v. State* 62 Bom.LR1021.

(28) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;

(29) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

(30) "Wages" means wages as defined in the Payment of Wages Act, 1936 (IV of 1936);

(31) "Week" means the period of seven days beginning at midnight of Saturday;

(32) "Year" means a year commencing on the first day of January

(33) "Young person" means a person who is not a child and has not completed his seventeenth year.

**3. Reference to time of day.**-References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of Greenwich mean time.

**4. Exemption.**-Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule:

Provided that the [State] Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule [subject to such conditions, if any, as may be specified in such notification] and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

### **NOTES**

The cumulative effect of all the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, shows that the nationalised banks are independent corporate entities having their own common seal and succession. Though the Central Government has control over the activities of the nationalised bank and the entire capital stands vested with it the bank is not an undertaking or an establishment of the Central Government. Entries in Schedule II of the Bombay Shops and Establishments Act, 1948 have exempted offices of the Reserve Bank and the State\* Bank from the provisions of the Act showing that without specific exemptions the provisions of the Act are applicable to those banks. There is no such specific exemption for nationalised banks. A nationalised bank, therefore, cannot claim exemption from the provisions of the Shops and Establishments Act and its failure to renew its registration is an offence punishable with fine.

*Corporation of the City of Nagpur v. Gopal Shastri* (1977) 50 FJR 231 (Bom.H.C.)

**Notification is a conditional legislation** - Initially the establishments of the Food Corporation of India in Maharashtra were subject to the Bombay Shops and Establishments Act as a whole. However, as a result of notification issued by the State Government these establishments are totally exempted from the provisions of the Act from 28.3.1985. The employees challenged the notification on the ground that they were not given hearing despite the fact that it affected their vital right; '

Held: The notification constituted a piece of legislation and in the matter of law no one could insist upon a notice of hearing before the law is formulated. There is nothing in S.4 to compel the inference that a notice and hearing were required, once it is held that the notification constituted conditional legislation. Objection held not legal. *Transport and Dock Workers' Union v. Food Corporation of India* 1986 II LLN 681 (Bot. H.C.).

#### **5. Application of Act to other establishments and persons.-(1)**

Notwithstanding anything contained in this Act, the [State] Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptation as may in the opinion of the [State] Government be necessary shall apply from such date as may be specified in the notification.

(2) On such declaration under sub-section (1), any such establishment or class of establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act, applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees

#### **NOTES**

A notification issued under Section 5(1) of the Act is made to apply to a class of workers who are not in the direct employment of the employer, the Notification itself being a deeming provision the concept of employment shall also be deemed in case of such workers. Being a special legislation, court cannot whittle down the full amplitude of the Section (1968) 70 Bom.LR. 817.

Section 5 is intended to include a one man shop.

Accordingly, where the owner of a one-man-shop keeps the shop open for business after 9 P.m. he renders himself liable to punishment under Section 30 read with Section 5 of the Act, *Emperor v. Mohammed* 43 Bom.LR 952.

**6. Suspension of all or any of the Provisions of this Act.**-The [State] Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

## **CHAPTER II Registration of Establishments**

**7. Registration of establishments.**(1) Within the period specified in sub-section (4), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed, containing-

- (a) the name of the employer and the manager, if any;
- (b) the postal address of the establishment;
- (c) the name, if any, of the establishment;
- (d) the category of the establishment, i.e., whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and
- (e) such other particulars as may be prescribed.

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(2-A) A registration certificate granted under sub-section (2), shall be valid up to the end of the year for which it is granted. An application for the renewal of a registration certificate shall be submitted not less than fifteen days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed.]

(2-AA) If the application for the renewal of a registration certificate is submitted after the expiry of the period specified in sub-section (2A) but within thirty days after the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, such application shall be accompanied by an additional fee as late fee equal to half the fee payable for the renewal of a registration certificate.

[(2-B) Notwithstanding anything contained in the preceding sub-sections of this section, any registration certificate granted under sub-section (2) or renewal under sub-section (2A) may, at the option of the employer, be granted or renewed for a period of three years at a time, on payment of the fees for that

period, so as to be valid up to the end of the third year from and including the year in which is granted or renewed, as the case may be.]

(3) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the prescribed authority which shall, after an inquiry as it thinks proper, decide the category of such establishment and the decision shall be final for the purposes of this Act.

(4) Within thirty days from the date mentioned in column (2) below in respect of an establishment mentioned in column (1), the statement together with fees shall be sent to the Inspector under sub-section (1):-

Establishments	Date from which the period of 30 days to commence
(i) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force	The date on which this Act comes into force.
(ii) Establishments existing in local areas on the date on which this section comes into force.	The date on which this section comes into force in the local areas.
(iii) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work,

## NOTES

A place where services are rendered to a customer is a shop for the purpose of the Act and these services may be of different kinds. But it cannot be said that where different kinds of services are rendered for every kind of service which the employer chooses to embark upon after he has registered his establishment, the employer must submit necessary information under section 7 for a fresh registration. If his establishment is already registered and he chooses to widen the nature of his activities in the same establishment, in such a case it is difficult to see how section 7(1) which contemplates an initial registration of the establishment, required to be complied with on every subsequent occasion when the employer embarks on a new venture on the same premises in addition to the original business.

It cannot be said that where different kinds of services are rendered in a shop for every kind of service which the employer chooses to embark upon after he has registered his establishment he must submit necessary information for fresh registration under section 7.

What is required to be registered under Section 7 is the establishment which the petitioner had already registered. If he widens his activities in the same establishment no fresh registration is essential. All that is required of the applicant is to intimate the authorities fact that he has started another business in the same premises under section 8 of the Act.

*Dayawanti Bai v. Corporation of the City of Nagpur* (1969) 11 LLJ 128 (Bom.H.C.).

If an establishment is already registered and the employer chooses to widen the nature of his activities in the same establishment in such a case section 7(1) which contemplates an initial registration of the establishment, is not required to be complied with on every subsequent occasion when the employer embarks on a new venture on the same premises in addition to the original business, 1969 MLJ 25 (Bom.H.C.).

### **S.7 - Prosecution for failure to register establishment under the Act**

The appellant, dealing in tea, had in the year 1968, godowns wherein tea was stored. One salesman used to take tea pockets on a pushcart manually operated and sales were offered from door to door. The appellant was prosecuted for not registering the said establishments under the Act. The challenge is to the constitutional validity of the order bringing the appellant within the Act. Dismissal of writ petition by the High Court has led to this appeal.

Without deciding the challenge, the Supreme Court had closed the matter in view of the fact that about 3 decades are to over shortly. The practice of operating pushcart for selling tea from door to door no longer exists. The prosecution is also now stale. In the circumstances learned counsel for the State was fair enough to state that appellant would not be prosecuted for the alleged lapses. As such the appeal is disposed of.

*Lipton India Ltd. v. State of Maharashtra* 1996 11 LLJ 932 (S.C.)

**8. Change to be communicated to Inspector.-**It shall be the duty of an employer to notify to the Inspector, in prescribed form, [any change in any of the particulars contained in the statement submitted under section 7 within such period, after the change has taken place, as the State Government may prescribe in respect of any establishment or class of establishments]. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

**9. Closing of establishment to be communicated to Inspector.-**The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information



and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate:

^ [Provided that if the Inspector does not receive the information but he is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register and cancel such certificate.

### **CHAPTER III**

#### **Shops and Commercial Establishments**

##### **10. Opening hours of shops.-**(l) No shop-

(a) dealing wholly in milk, vegetable, fruits, fish, meat, bread or any other goods notified by the [State] Government shall on any day be opened earlier than 5 a.m.;

(b) [\*\*\*\*\*] other than those specified in clause (a) of this sub-section, shall on any day be opened earlier than 7 a.m.

(2) Subject to the provisions of sub-section (1) the [State] Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year

**11. Closing hours of shops.-**(l) Notwithstanding anything contained in any other enactment for the time being in force, no shop-

(a) [\*\*\*\*] other than those specified in clause (b) of this sub-section shall on any day be closed later than 8.30 p.m.;

(b) [dealing mainly in *pan bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11 p.m.:

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the [State] Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

##### **12. Hawking prohibited before opening and after closing hours of shops.-**

(l) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate:

[Provided that nothing in this sub-section shall apply to the sale of newspapers]

(2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector.

(3) The goods seized under sub-section (2) shall be returned to the person from whom they were seized on his depositing rupees twenty-five as security for his appearance in the Court.

(4) If the person fails to make the deposit, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.

(5) Where no prosecution is instituted for contravention of the provisions of sub-section (I) within such period as the Magistrate may fix in this behalf, Magistrate shall direct their return to the person from whom they were seized.

(6) Subject to the provisions of the preceding sub-section, the provisions of Code of Criminal Procedure, 1898 (V of 1898), shall so far as they may applicable, apply to the disposal of the goods seized under this section.

**13. Opening and closing hours of commercial establishments.** 1) No commercial establishment shall on any day be opened earlier than 8.30 a.m. and closed later than 9.30 p.m.

(2) Subject to the provisions of sub-section (1), the [State] Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

**14. Daily and weekly hours of work in shops and commercial establishment.-**

(1) Subject to the <sup>29</sup> [other] provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(2) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed [six] hours in any week.

(3) On not more than six days in a year which the [State] Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (1), if such excess period does not exceed twenty-four hours.

<sup>31</sup> [15. **Interval for rest.**-The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period for continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour]:

[Provided that,-

(a) in the case of employees in a commercial establishment engaged in any manufacturing process, the interval for rest shall be .at least half an hour;

and

(b)in the case of any other employee the State Government may, on an application made in that behalf [by the union recognised under any law for the time being in force where there is such union, or where there is no such union by a majority of the employees concerned] permit the reduction of the interval for rest to half an hour.]

**16. Spread-over in shops.**-The spread-over of an employee in a shop shall not exceed eleven hours in any day:

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day:

Provided also that where an employee works on any day in accordance with the provisions of sub-section (2) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (3) of the said section, the spread-over shall not exceed sixteen hours in any such day.

**17. Spread-over in commercial establishments.-**The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day;

Provided that the [State]Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

**18. Holidays in a week in shops and commercial establishments,-** [(I) Every Shop and commercial establishment shall remain closed on one day of the week. [Except where the day is fixed under the provisions of sub-section (1B), the employer shall prepare] a calendar or list of such closed days at the beginning of the year, notify such calendar or list to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment:

[Provided that, if no change is made in the calendar or list of closed days for any year, it shall not be necessary to notify again such calendar or list as aforesaid

Provided further that, where any shop or commercial establishment comes after the beginning of any year within the purview of this Act for the first time, the employer shall also prepare a calendar or list of such closed days for the remaining part of the year, and notify it to the Inspector within a month of the date on which the shop or establishment so comes within the purview of this Act.

(1-A) Notwithstanding anything contained in sub-section (1), [but except where the day is fixed under sub-section (1-B)], a shop or commercial establishment may remain open on any day notified as closed day under sub-section (1) if-

- (a) it remains closed on any day of the week; and
- (b) the employer has notified to the Inspector, his intention to close the shop or the commercial establishment, as the case may be, on the day substituted under clause (a), at least seven days before the substituted day or the day notified as closed day under sub-section (1), whichever is earlier.]

[(I-B) A local authority in respect of any area within its jurisdiction and State Government in any local area elsewhere, may, by order published in the prescribed manner, after consultation with representative associations or otherwise as appear to such authority or the State Government to be most appropriate for ascertaining the views of the employers and employees affected by the order, fix the day on which a shop or commercial establishment is to be closed, and any such order may either fix the same day for all shops or establishments therein, or may fix-

(a) different days for different classes of shops or establishments, or  
(b) different days for different parts of the area or local area, or  
(c) different days for different periods of the year,  
and thereupon, every shop or commercial establishment shall, on such day so fixed remain closed; but nothing in this sub-section shall apply to a shop or commercial establishment the employer of which has notified to the Inspector at the beginning of the year his intention to close the shop or commercial establishment on a public holiday within the meaning of the Negotiable Instruments Act 1881, (XXVI 1881)]

(2) It shall not be lawful for an employer to call an employee at, or for employee to go to, his shop or commercial establishment or any other place for work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(3) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall nonetheless be paid his daily wage for the day on which such shop or commercial establishment remains closed. [If any employee is paid a piece rated wage, he shall nonetheless be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime:]

[Provided that nothing in this sub-section shall apply to any person whose total period of continuous employment is less than six days.

#### **NOTES**

Both the employer and Employee are prohibited against service to customer or for doing any business of the establishment on a closed day and therefore owner of establishment giving service to his customers on a weekly holiday is guilty of contravention of section 18-(1) even though there were no employees.

*Jethalal Valand v. Vipinchandra Gandhi* 1971 LIC 803 /12 Guj. LR 58.

Under section 18(3) an employee is entitled to wage for the day for which the establishment remains closed in any week under section 18(1) of the Act, provided he has been employed for six days continuously in that week.

The question whether a worker was employed for six days continuously in any week will have to be decided in each case on the facts and circumstances of that case.

Under section 18(3) of the Act the only condition to be satisfied about the the period of employment and not about having worked a particular number of hours in the week or on each of the six days other than the closed days,

*Sitaldas v. Kalekar* 65 Bom. LR. 10.

.The effect of exempting-power-loom establishments from the applicability of section 18(1) of the Bombay Shops and Establishments Act is that they need not remain closed on any day of the week but could remain open on all the 365 days of the year. If no special provision were made for employees other than daily wage employees or piece-rated employees, they would have to work for all the 365 days unless they themselves took a holiday subject to deduction from their wages. No such considerations would arise in the case of daily wage employees or piece-rated employees since they are only to be paid either according to the number of days they worked, or the amount of work they turned out. No provision at all was required to be made for providing a weekly holiday for them. That being the basic distinction between the daily wage employees and piece-rated employees on the one hand and other employees on the other, a special provision had to be made in column (3) of Entry No. 59 in Schedule II only in respect of such other employees, that they<sup>^</sup> should be paid for weekly holiday. The purpose of giving them a day off without affecting their fixed earnings could thus be achieved. Clearly therefore the word deductions, in column (3) of Entry No. 59 has been used in order to restrict the applicability of that limitation in the manner stated above.

In view of this, the piece-rated employee in the power-loom industry is not entitled to be paid for weekly holidays,

*Buchayya Chandrayya v. G.S. Chindhade* 1976 LIC 1072 (Bom.-D.B.).

#### CHAPTER IV

#### **Residential Hotels, Restaurants and Eating Houses 19. Opening and closing hours of restaurants and eating houses.- (**

Notwithstanding anything contained in any other enactment for the time being in force, no restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than twelve midnight for service:

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4.30 a.m. and shall not be required to work later than <sup>41</sup> [00.30 a.m.]:

Provided also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the [State] Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(3) Notwithstanding anything contained in this section, or any other enactment for the time being in force, or not more than ten days in a year on festive or special occasions, the [State] Government may, by notification in the *Official*

*Gazette, fix* such opening and closing hours for different restaurants or eating houses or different areas, as it thinks proper.

**20. Restaurants and eating houses not to sell goods of the kind sold in before the opening and after the closing hours of shops.**-Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

**21. Daily and weekly] hours of work in residential hotels, restaurants and eating houses.-(1)** [Subject to the other provisions of this Act], no employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than nine hours in any day/and forty eight hours in any week].

(2) On the days which may be notified under sub-section (3) of section 19 employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (1), if such excess period does not exceed three hours in any day.

<sup>46</sup>[**22. Interval for rest.**-The period of work of an employee in a residential hotel, restaurant or eating house each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest at least one hour]:

[Provided that, the State Government may, on an application made in that behalf [by the union recognised under any law for the time being in force where there is such union or where there is no such union by a majority of the employees concerned] permit the reduction of the interval for rest to half an hour.]

**23. Spread-over.**-The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed twelve] hours:

Provided that the [State] Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (3) of section 19.

**24. Holidays in a week.-(1)** Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday:

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (1). If an employee, is employed on a daily wage, he shall nonetheless be paid his daily wage for the holiday.

**25. Employer to furnish identity card to employee.**-The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an

Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely:

- (a) the name of the employer;
- (b) the name, if any, and the postal address, of the establishment;
- (c) the name and age of the employee;
- (d) the hours of work, the interval for rest and the holiday of the employee;
- (e)<sup>2</sup> [the signature (with date) of the employer or manager].

## **CHAPTER V**

### **Theatres or Other Places of Public Amusement or Entertainment**

**26. Closing hours of theatres or other places of public amusement or entertainment.**-Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than [00.30 a.m.]

**27. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.**- After the hour fixed for the closing of shop under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

**28. Daily [and weekly] hours of work in theatres or other places of public amusement or entertainment.**-(1) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day and forty-eight hours in any week].

(2) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed six hours in any week].

**[29. Interval for rest**-The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour]:

[Provided that, the State Government may, on an application made, in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

**30. Spread-over.**-The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day:

Provided that the [State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

**31. Holiday in a week.**-(1) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday:

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wage, he shall nonetheless be paid his daily wage for the holiday given to him.

## CHAPTER VI

**32. Employment of Children, Young Persons and Women .** -No child shall be required or allowed to work whether as an employer or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

**33. Opening and closing hours for young persons and women.(I)[deleted]**

(2) No such young person shall be required or allowed to work in any establishment after 7.00 p.m.

(3) No such woman shall be required or allowed to work in any establishment after 9.30 p.m.]

**34. Daily hours of work for young persons.-(I)** Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(2) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

**34-A. Prohibition of employment of young persons and women in dangerous work.**-No young person or woman working in any establishment, whether as an employee or otherwise, shall be required or allowed to perform such work as may be declared by the State Government by notification in the *Official Gazette*, to be work involving danger to life, health or morals.]

## CHAPTER VII

### Leave with Pay and Payment of Wages

**35. Leave.**-(1)(a) Subject to the provisions of clause (b), every employee who has been employed for not less than three months in any year, shall for every 60 days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not more than five days:

(b) every employee who has worked for not less than two hundred and forty days during a year [irrespective of the date of commencement of his service,]



shall be allowed leave, consecutive or otherwise, for a period of not less than twenty-one days:

Provided that such leave may be accumulated up to a maximum period of forty-two days.

*Explanation:-*The leave allowed to an employee under clauses (a) and (b) shall be inclusive of the day or days during the period of such leave, on which a shop, or commercial establishment remains closed under sub-section (1) of section 18, or on which he is entitled to a holiday under sub-section (1) of section 24 or section 31.]

**[X XXX]deleted**

(2) If an employee entitled to leave under sub-section (1) [or (1-A)] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(3) If an employee entitled to leave under sub-section (1) [or (1-A)] is refused the leave, he may give intimation to the Inspector or any other officer authorised in this behalf by the [State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.<sup>16</sup> [The employee shall also send a copy of such intimation to his employer and, thereupon, the employee shall be entitled to carry forward the unavailed leave without any limit.

(4) Notwithstanding anything contained in this section, every employee, irrespective of his period of employment, shall be entitled to additional holiday on the 26th January, 1st May, 15th August and 2nd October every year. For holiday on these days, he shall be paid wages at a rate equivalent to the daily average of his wages (excluding overtime), which he earns during the month in which such compulsory holidays falls:

Provided that the employer may require any employee to work in the establishment on all or any of these days, subject to the conditions that for such work the employee shall be paid double the amount of the daily average wages and also leave on any other day in lieu of the compulsory holiday.

**36. Pay during leave.**-Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

**37. Payment when to be made.**-An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

**38. Application and amendment of the Payment of Wages Act.**

(l) Notwithstanding anything contained in the Payment of Wages Act, 1936, (V of 1936) herein referred to as "the said Act", the[State] Government may, by

notification published in the Official Gazette, direct that subject to the provision of sub-section (2) of the said Act [shall, in such local areas as may be specific in the notification, apply] to all or any class of establishments or to all or any classes of employees to which or whom this Act for the time being applies.

(2) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

**[38 A. Application of Act VIII of 1923 to employees of establishment.-**The provisions of the Workmen's Compensation Act, 1923 (VIII of 1923), and the rules made from time to time thereunder, shall, *mutatis mutandis*, apply to employees of an establishment to which this Act applies, as if they were workmen within the meaning of the Workmen's Compensation Act, 1923.

## NOTES

### **S.38-A - Compensation can be claimed under Workmen's Compensation Act, 1923.**

In this case, a Clerk in the establishment of Maharashtra State Electricity Board to whom admittedly the Bombay Shops and Establishments Act is applicable claimed compensation under the Workmen's Compensation Act, 1923 for the accidental injury sustained by him arising out of and in the course of his employment. The point is whether he is entitled to put up such a claim.

Their Lordships considered the scope and extent of S.38-A of the Bombay Act and held that the claim was quite legally maintainable. Under S.38A of the Bombay Act, the provisions of the Workmen's Compensation Act, 1923 and the Rules made thereunder shall 'mutatis mutandis' apply to the employees of an establishment to which Bombay Act applies, as if they were workmen within the meaning of the 1923 Act. This is a legislative device adopted by the legislature to enact the provisions of 1923 Act with reference to the employees covered under the Bombay Act. The definition workman under 1923 Act does not cover the clerical cadre, but the fiction created under S.38A would cover all categories of employees of the respondent Board except those who are exempted under Sch.II of the Act.

*Yasudev Anant Kulkarni v. Executive Engineer, M.S.E.B.* 1994 II CLR 172 (Bom.-D.B.)

**^ [3B-B. Application of Industrial Employment (Standing Orders) Act to establishments.-**The provisions of the Industrial Employment (Standing Orders)

Act, 1946, in its application to the State of Maharashtra [(hereinafter in this section referred to as "the said Act"), and the rules and standing orders (including model standing orders) made thereunder from time to time, shall, *mutatis rnuimdis*, apply to all establishments wherein fifty or more employees are employed and to which this Act applies, as if they were industrial establishment within the meaning of the said Act.

#### **NOTES**

By reason of S.38(b) the provisions of the Industrial Employment (Standing Order) Act, 1946 shall apply to all establishments to which the Bombay Shops and Establishments Act applies as if they were industrial establishments within the meaning of Industrial Employment (Standing Order) Act, 1946.

An appellant, who was employed as stenographer, was suspended on 20.3.78 pending disciplinary enquiry against him. He made an application claiming full back wages. The Labour Court relying upon the provisions of the Industrial Employment (S.O.) Act. declared that the appellant was entitled to 50% of his wages for three months from May 1978; 75% of his wages for subsequent three months and full wages for balance period minus lawful deduction. Being dissatisfied with the order the appellant preferred writ petition this was dismissed and the order of the Labour Court was confirmed. The appellant challenged that order in this appeal.

Held: Section 38(B) of the Act does not make any provision for number of employees that an establishment should employ for the satisfaction of the conditions imposed by S.38(B) of the Industrial Employment (Standing Orders) Act, 1946. By virtue of S.38(B) the provisions of the Industrial Employment (Standing Orders) Act, 1946 are engrafted into the Bombay Shops and Establishment Act, 1946 with only the necessary consequential changes in points of details in so far as they are applicable. Hence, the order made by the Labour Court relying upon the provisions of the Industrial Employment (Standing Orders) Act, 1946 for paying wages during suspension period is legal and valid.

*C.N. Bhaskaran v. Shri S.A. Patil and Others.* 1986 I LLJ 163 (Bom. H.C.).

Section 38-B of the Bombay Shops and Establishments Act makes no provision for the number of employees that the establishment (covered by the Bombay Shops and Establishments Act) should employ for the satisfaction of the condition imposed by S.1(3) of the The Industrial Employment (Standing Orders) Act. The interpretation placed by the learned Single Judge on S.38-B of the Bombay Shops and Establishments Act is perfectly legal. By S.38-B, in effect the provisions of the Industrial Employment (Standing Orders) Act, 1946 are engrafted into the Bombay Shops and Establishments Act, 1948 with only the

necessary consequential changes in points of detail in so far as they are applicable.

*C.N. Bhaskaran v, J Gannon Dunkerely & Co. & Ors.* 1986 I C.L.R. 313.

S.38-B - Industrial Employment (Standing Orders) Act, 1946 - S.10-A - Section 38-B of Bombay Shops and Establishments Act, 1948 does not confer on managerial cadre benefits restricted to 'workmen' by Industrial Employment (Standing Orders) Act, 1946 and Rules framed thereunder. Petitioner, who was Manager of respondent Bank drawing salary of Rs.4,500/- p.m., cannot, therefore, claim subsistence allowance under S.10-A of Industrial Employment (Standing Orders) Act, 1946.

*Kalyanpur Keshav Venkatrai Pai v. Corporation Bank* 1987 II C.L.R. 6 (Bom.H.C.).

**S.38-B - before its amendment in 1986 and Industrial Employment (Standing Orders) Act, 1946 - Applicability even if employees are less than 100.**

The question decided is that the provisions of Industrial Employment (Standing Orders) Act, 1946 in its application to the State of Maharashtra and the Rules and Standing Orders including Model Standing Orders mutatis mutandis apply to all establishments under Shops Act as if they were industrial establishment and that applicability is not restricted to establishments in which 100 or more employees are employed.

Fictionally, when establishments become Industrial Establishments by the thrust of S.38-B of the Shops Act, the Standing Orders issued under the Standing Orders Act, from time to time would apply mutatis mutandis to establishments under the Shops Act. Upto this time the fiction work. But there cannot be fiction over fiction. It cannot be suggested for a moment that shops and establishments on becoming industrial establishments must qualify thence forth to have 100 employees or more. Such an interpretation would destroy not only the purpose of S.38-B but the working of the Shops Act too and the purpose for which it was enacted.

*Indian Tobacco Co. Ltd., Nagpur v. Industrial Court, Nagpur* 1995 I LLJ 582 (S.C.)

**[33-C. Application of Maternity Benefit Act for women employees in establishment.**-Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter in this section referred to as "the said Act"), the State Government may, by notification in the *Official Gazette*, direct that all or any of the

provisions of the said Act or the rules made thereunder shall apply to women employed for wages in all or any of the establishments to which his Act applies, For that purpose, such women employees shall be deemed to be women within the meaning of the said Act. 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 the provisions of the said Act also within the limits of his jurisdiction.]

## CHAPTER VIII

### Health and Safety

**39. Cleanliness.-**The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfection and deodorising.

**40. Ventilation.-**The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

**41. Lighting.-**(1) The premises of every establishment shall be sufficiently lighted during all working hours.

(2) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

**42. Precautions against fire.-**In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

**42-A. First-Aid.-**In every establishment wherein a manufacturing process as defined in clause (k) of section 2 of the Factories Act, 1948, (LXIII of 1948) is carried on, there shall be provided and maintained a first-aid box containing such articles as may be prescribed.]

## CHAPTER IX Enforcement and Inspection

**43. Powers and duties of local authorities.-**Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the [State] Government as may be prescribed:

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions, if any, as may be specified in the order, by its Chief Executive Officer or any other subordinate to it:

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the [State] Government to enforce the said provisions.

**44. Power to make by-laws.-**A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the [State] Government make by-laws not inconsistent with the provisions of the Act, or the

rules or orders made by the ^[State] Government thereunder for the purpose of carrying out the provisions of this Act.

**[44- A. Provisions for taking over administration of the Act from local authorities.-**Notwithstanding anything contained in sections 43 and 44, with a view to implementing the policy of the State Government of taking over the administration of this Act gradually from all the local authorities in the State, the State Government may, from time to time, by notification in the *Official Gazette*, without the necessity of giving any further notice or reasons, declare that any local authority or authorities or class of local authorities specified in such notification shall cease to perform the duty of enforcing the provisions of this Act from a date specified in that notification. From that date, it shall be the duty of the State Government to enforce the said provisions, in respect of the areas subject to the jurisdiction of such local authorities also.]

<sup>26</sup> **[45. Delegation of powers.-**The State Government may by order published in the *Official Gazette*, direct that any power exercisable by it under this Act or the rules made thereunder (except the power to make rules) shall in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercised also by any local authority, or by any officer subordinate to the State Government, as may be specified in the order.]

**46. Power of "State Government to provide for performance of duties on default by local authority.-**(1) If any local authority makes default in the performance of any duty imposed by or under this Act, the [State] Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid, the ^[State] Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

**47. Expenses of local authority to be paid out of its fund.-** Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes this Act shall be paid out of the municipal or local fund, as the case may be.

**48. Appointment of Inspectors.-**(1) Every local authority shall appoint sufficient number of persons with the prescribed qualifications as Inspectors for! the area

subject to its jurisdiction as it may deem fit for the purpose of carrying out) the provisions of this Act.

(2) In areas which are. not subject to the jurisdiction of any local authority, the [State] Government shall appoint Inspectors with the prescribed qualifications [and in areas which are subject to the jurisdiction of any local authority, the State Government may appoint Inspectors with the prescribed qualifications for such supervision as the State Government may prescribe.]

[(3) A local authority or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any), as may be specified in the direction be exercised.

(a) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, and

(b) in the case of the State Government, by any officer subordinate to it.

(4) Notwithstanding anything contained in the Minimum Wages Act, 1948, (XI of 1948), Inspectors appointed, whether by a local authority, or the State Government under this Act in relation to any area, shall be deemed to be also Inspectors for the purposes of the Minimum Wages Act, 1948, in respect of establishments to which this Act applies, and the local limits within which an Inspector shall exercise his functions under that Act shall be the same as the area for which he is appointed under this Act XI of 1948.<sup>1</sup>

**49. Powers and duties of Inspectors.**-Subject to any rules made by the [State Government] in this behalf an Inspector may, within the local limits for which he is appointed.-

(a) enter, at all reasonable time and with such assistants, if any, being persons in the service of the ^[Government or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;

(b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act;<sup>30</sup> [\*\*\*\*\*]

[(bb) if he has reason to suspect that any employer of an establishment to which this Act applies has committed an offence punishable under section 52 or 55 seize, with the previous permission of such authority as may be prescribed such registers, records or other documents of the employer, as he may consider necessary, and shall grant a receipt therefor and shall retain them only for so long as may be necessary for examination thereof, or for prosecution; and]

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act;

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

**50. Inspectors to be public servants.**-Every inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

**51. Employer [and manager to produce registers, records etc. for inspection.**-Every employer [and in his absence the manager shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purpose of this Act.

## **CHAPTER X**

### **Offences and Penalties**

**52. Contravention of certain provisions and offences.**-(a) If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9; or

(b) If in any establishment there is any contravention of any of the provisions of sections 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder, or

(c) If in any establishment any person is required or allowed to work in contravention of sections 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30, or 31, or

(d) If in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34; or

[(e) If any employer or manager contravenes the provisions of Section 51 or any employer contravenes the provisions of section 62 or 65; or]

(f) If in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished [for each offence] with fine which shall not be less than [one thousand rupees] and which may extend to [five thousand rupees]:

Provided that, if the contravention of the provisions of sub-section (1) section 7 is continued after the expiry of the tenth day after conviction, the employer shall on conviction be punished with a further fine which may extend one hundred rupees for each day on which the contravention is so continued.

**53. Contravention of section 12.**-If any person contravenes the provisions section 12, he shall, on conviction, [be punished for each offence with fine which shall not be less than one thousand rupees] and which may extend to [five thousand rupees.]

**54. Employee contravening section 18(2), 24, 31 and 65.**-If any employee contravenes the provisions of sub-section (2) of section 18, 24, 31 or 65 he shall on conviction [be punished for each offence with fine which shall not be less than five hundred rupees] and which may extend to [five thousand rupees]

**55. False entries by employer and manager.**-If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or willfully omits or causes or allows to be omitted, from any such



register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be <sup>^</sup>[less than <sup>^</sup>[one thousand rupees] and which may extend to <sup>^</sup>[five thousand rupees]:

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the .same contravention shall not exceed <sup>^</sup>[five thousand rupees.]

**56. Enhanced penalty in certain cases after previous conviction,-** If any employer and manager who have been convicted of any offence under sub-section (1) of sections 10, 11, 13, 14, 18, 19, 24, 31 or 34 or under sub-section (2) or (3) of section 14 or under section 55 or under sections 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be <sup>^</sup>[less than <sup>^</sup>[one thousand rupees] and which may extend to five thousand rupees]; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than [seven thousand and five hundred rupees] and which may extend to [ten thousand rupees]:

Provided that if both the employer and the manager are convicted the aggregate of the fine in respect of the same contravention shall not exceed ten thousand rupees] on second conviction and [Fifteen thousand rupees] on third or any subsequent conviction:

Provided further that, for the purposes of this section, no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished:

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course may after recording its reasons in writing impose a smaller fine than is required by this section.

**57. Penalty for obstructing Inspector.-**Whoever willfully obstructs an Inspector in the exercise of any power under section 49 or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than [one thousand rupees] and which may extend to <sup>^</sup>[five thousand rupees].

**58. Determination of employer for the purpose of this Act.-**(I) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable:

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the [State] to be the employer for the purposes of this Act and such individual shall so long as he is so resident

be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer in the establishment is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder who is resident in the State to be the employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

**59. Exemption of employer or manager from liability in certain cases.-(I)**

Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court-

(a) that he has used due diligence to enforce the execution of this Act; and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings -

(a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders, the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as he were the employer or manager.

**60. Cognizance of offences.-(I)** No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the [District Magistrate · [Additional District Magistrate, Sub- Divisional Magistrate, Commissioner of Labour, Additional Commissioner of Labour or Deputy Commissioner of Labour, or the local authority, as the case may be [or, without any such sanction, by an aggrieved

person, or by a representative of the registered union of which the aggrieved person, is a member:

Provided that any local authority may direct that the powers conferred on it by this sub-section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, be exercised by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner, [Deputy Municipal Commissioner or Assistant Municipal Commissioner.

(2) No court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence against this Act or any rule or order made thereunder.

**61. Limitation of Prosecutions.** (1) No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within [three months from the date on which the alleged commission of the offence came to the knowledge of an Inspector.

[(2) Notwithstanding anything contained in sub-section (1) the aggrieved person or a representative of the registered union of which the aggrieved person is a member, may within three months from the date on which the alleged commission of the offence took place give intimation of the offence to the Inspector and request him to institute prosecution. On receipt of such intimation and request, the Inspector may himself institute the prosecution within the period of limitation specified in sub-section (1) or inform the applicant before the expiry of the said period or as soon as possible thereafter that he does not propose to institute prosecution. On receipt of such intimation, the applicant shall be entitled to institute prosecution, and the Court shall take cognizance of the offence, if complaint thereof is made to it within two months from the date of receipt of the intimation of the Inspector by the applicant.

#### **NOTES**

The essence of Section 61 is that if any employer or Manager of any such establishment were to be prosecuted under section 52(a) read with section 7(1) of the Act, it must be so done within a period of three months from the existence of any such establishment came to be known to the Inspector-in-charge of the case. *State of Gujarat v. N. Vishwanatha*, 1970 Cri.L.J./ 1053; II Guj .L..R. 817.

## **CHAPTER XI**

### **Miscellaneous and Supplemental**

**62. Maintenance of registers and records and display of notices,-** Subject to the general or special orders of the [State Government an employer shall

maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

**63. Wages for overtime work.**-Where an employee in any establishment to which this Act applies is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages.

*Explanation* .For the purposes of this section the expression "limit of hours of work" shall mean-

- (a) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;
- (b) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and
- (c) in the case of employees in any other establishment, such hours as may be prescribed.

[Provided that, the maximum limit for working overtime shall not exceed three; hours and the employer may, for the purpose of the work beyond the said overtime hours, engage additional number of employees.]

#### **NOTES**

The employee of a bakery who was a delivery man and whose work was to deliver bread and loaves prepared by the bakery to its customers, applied under section 63 of the Bombay Shops and Establishments Act, 1948, for payment of overtime wages alleging that he had worked more than forty-eight hours every week in respect of certain wage periods. On the question whether the application was maintainable in view of the fact that under Schedule II, item 8 of the Act, the prohibition contained in section 14 of the Act, prohibiting the employer from making the employee work beyond the limit of work prescribed therein is removed as regards delivery men it was held that if the employee established that he had worked overtime in any particular week, he was entitled to overtime wages as provided in section 63 of the Act.

The limit of work for the purpose of section 14 of the Bombay Shops and Establishments Act, 1948, is entirely different from the limit of work laid down for the purpose of Section 63 of the Act. Whereas the limit of work for the purpose of section 14 is laid down in order to prohibit the employer from requiring an employee to make him work beyond the limit, the limit of work laid down for the purpose of section 63 is purely for the purpose of computation of overtime wages. *Penambur Visnurnurthi v. Fernandes*, 58 Bom.L.R. 977.

**64. Evidence as to age.**-(1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on accused to prove that such person is not under or over such age.

(2) A declaration in writing by a [qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

*Explanation.*-For the purposes of this section, a qualified medical practitioner shall have the same meaning as in the Factories Act, <sup>2</sup>[1948, (LXIII of 1948)].

**65. Restriction on double employment on a holiday or during leave.**-No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

**66. Notice of termination of service.**-No employer shall dispense with the services of an employee who has been in his continuous employment -

(a) for not less than a year, without giving such person at least thirty days' notice in writing, of wages in lieu of such notice:

(b) for less than a year but more than three months, without giving such person at least fourteen days' notice in writing, or wages in lieu of such notice:

Provided that, such notice shall not be necessary where the services of such employees are dispensed with for misconduct.

*[Explanation.*-For the purposes of this section, "misconduct" shall include-

(a) absence from service without notice in writing or without sufficient reasons for seven days or more;

(b) going on or abetting a strike in contravention of any law for the time being in force; and

(c) causing damage to the property of his employer.

#### **NOTE**

S.66 - Discharge of an employee without notice - Relief of reinstatement and back wages -Termination of an employee without notice is bad in law and therefore workman entitled to reinstatement and continuity of service with back wages. *N.L. Mehta Cinema Ent. P. Ltd, v. Vijay G. Shivgan &. Ors.* 1988 I C.L.R. 416 (Bom.H.C.)

**67. Rules.**-(1) The [State] Government may make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any .of the following matters, namely:-

- (a) the appointment of prescribed authority under clause (21) of section 2;
- (b) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6;
- (c) the form of submitting a statement, the fees and other particulars under sub-section (1), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (2) of section 7 and the form and the period for notifying] a change and the fees under section 8;
- (d) fixing six days in a year for additional overtime under sub-section (3) of section 14;
- (e) fixing ten days in a year for overtime under sub- section (3) of section 19;
- (f) further particulars to be prescribed for an identity card under section 25;
- h) fixing times and methods for cleaning the establishments under section 69; fixing standards and methods for ventilation under section 40; prescribing such establishments as are to be exempted from the provisions of, and, precautions against fire to be taken under section 42.
- ha) the articles which a first-aid-box maintained under section 42-A contain;
- (i) the supervision which the State Government shall exercise over authorities under section 43;
- (j) the qualification of Inspectors appointed under section 48 and their powers and duties under section 49;
- (k) the registers and records to be maintained and notices to be displayed under section 62;
- (l) the limit of hours of work under clause (c) of the explanation to section 63,
- (m) any other matter which is or may be prescribed.

(3) The rules made under this section shall be subject to the condition of previous publication and when so made, shall be deemed to be part of this *Act*.

[(4) All rules made under this Act shall be laid before each House of the Legislature as soon as possible after they are made, and shall be subject to modifications as the State legislature may make during the session in which they are so laid or the session immediately following and published in the *Gazette*].

**68. Protection to persons acting under this Act.**-No suit, prosecution or legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**69. Right and privileges under other law etc. not affected.**- Nothing in this Act shall affect any right or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

<sup>11</sup> **[70. Persons employed in factory to be governed by Factories Act and not by this Act-** Nothing in this Act shall be deemed to apply to a factory to which the provisions of the Factories Act, 1948 (LXIII of 1948,) apply:

Provided that, where any shop or commercial establishment situate within precincts of a factory is not connected with the manufacturing process of the factory the provisions of this Act shall apply to it:

Provided further that, the State Government may, by notification in the *Gazette*, apply all or any of the provisions of the Factories Act, 1948 (LXIII of 1948,) to any shop or commercial establishment situate within the precincts of factory and on the application of that Act to such shop or commercial establishment, the provisions of this Act shall cease to apply to it.

**71. Submission of annual report etc.**-It shall be the duty of every local authority to submit within two months after the close of the year, to the Commissioner of Labour, Bombay a report on the working of the Act within the local area under its jurisdiction during such year. It shall also submit to him from time to time such annual or periodical return as may be required.

**72 Repeal of Bombay Shops and Establishments Act.**-On and from the date of commencement of this Act, the Bombay Shops and Establishments Act, 1939 Bom. (XXIV of 1939), shall be repealed:

Provided that-

2(a) every appointment order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act.

(b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.





# **THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**

## **CONTENTS**

**Introduction**

**Sections**

### **CHAPTER I PRELIMINARY**

- 1. Short title, extent and commencement**
- 2. Definitions**
- 3. Act to have overriding effect**

### **CHAPTER II ABOLITION OF BONDED LABOUR SYSTEM**

- 4. Abolition of bonded labour system.**
- 5. Agreement, custom, etc. to be void**

### **CHAPTER III EXTINGUISHMENT OF LIABILITY TO REPAY BONDED DEBT**

- 6. Liability to repay bonded debt to stand extinguished**
- 7. Property of bonded labourer to be freed from mortgage, etc.**
- 8. Freed bonded labourer not to be evicted from homestead, etc.**
- 9. Creditor not to accept payment against extinguished debt**

### **CHAPTER IV IMPLEMENTING AUTHORITIES**

- 10. Authorities who may be specified for implementing the provisions of this Act.**
- 11. Duty of District Magistrate and other officers to ensure credit.**
- 12. Duty of District Magistrate and officers authorised by him.**

### **CHAPTER V VIGILANCE COMMITTEES**

- 13. Vigilance Committees**
- 14. Functions of Vigilance Committees**
- 15. Burden of proof**

### **CHAPTER VI OFFENCES AND PROCEDURE FOR TRIAL**

- 16. Punishment for enforcement of bonded labour.**
- 17. Punishment for advancement of bonded debt.**
- 18. Punishment for extracting bonded labour under the bonded labour system.**
- 19. Punishment for omission or failure to restore possession of property to bonded labourers.**
- 20. Abetment to be an offence.**
- 21. Offences to be tried by Executive Magistrates.**
- 22. Cognizance of offences.**

**23. Offences by companies.**

**CHAPTER VII  
MISCELLANEOUS**

**24. Protection of action taken in good faith.**

**25. Jurisdiction of civil courts barred.**

**26. Power to make rules.**

**27. Repeal and saving.**

**BONDED LABOUR SYSTEM (ABOLITION) RULES**

## **THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**

### **INTRODUCTION**

Article 23(1) of the Constitution prohibits "begar" and other similar forms of forced labour and it provides that any contravention of the said prohibition shall be an offence. But inspite of this provision a system of usuary under which the debtor or his decendants or dependants have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt, existed in many parts of the country. It has been found that several generations work under bondage for the repayment of a small sum which had been taken by some remote ancestor. This system of bondage implies the infringement of basic human rights and destruction of the dignity of human labour. The evils of bonded labour, having been recognised by many voluntary organisations, were highlighted by them. Many voluntary organisations raised their heads against such a system. Accordingly the Bonded Labour System (Abolition) Ordinance, 1975 was promulgated by the President on 24<sup>th</sup> October, 1975. To replace the said Ordinance the Bonded Labour System (Abolition) Bill, 1976 was introduced in the Parliament.

### **STATEMENT OF OBJECTS AND REASONS**

There still exists in different parts of the country a system of usuary under which the debtor or his decendants or dependants have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. At times, several generations work under bondage for the repayment of a paltry sum which had been taken by some remote ancestor. The interest rates are exhorbitant and such bondage Can not be interpreted as the result of any legitimate contract or agreement. The system implies the infringement of the basic human rights and destruction of the dignity of human labour.

2. Article 23(1) of the Constitution prohibits "begar" and other similar forms of forced labour and further provides that any contravention of the said prohibition shall be an offence punishable in accordance with law, Article 35(a)(ii) of the Constitution not only confers the power on Parliament to provide for punishment for the contravention of the said provisions of Article 23(1) but expressly takes away the power of the State Legislature to make any legislation with regard to the said matter. Accordingly, the Bonded Labour System (Abolition) Ordinance, 1975, was promulgated by the President on the 24th October, 1975. By the said Ordinance, the bonded labour system was abolished and the bonded labourers were freed and discharged from any obligation to render any bonded labour and their bonded debts were also extinguished. The Ordinance further affords protection to the freed bonded labourers from eviction from their homestead. Contraventions of the provisions of the Ordinance have been made offences punishable in accordance with law. Provisions for the follow-up measures and economic rehabilitation of the freed bonded labourers have also been made in the Ordinance.

3. The Bill seeks to replace the said Ordinance.

### **ACT 19 OF 1976**

The Bonded Labour System (Abolition) Bill, 1976 was passed by both the Houses of Parliament. It received the assent of the President on 9th February, 1976 and came on the Statute Book as THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976 (19 of 1976).

### **AMENDING ACT**

The Bonded Labour System (Abolition) Amendment Act, 1985 (73 of 1985).

**THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**  
**(19 of 1976)**

**[9th February, 1976]**

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:-

**CHAPTER I**  
**PRELIMINARY**

**1. Short title, extent and commencement.**-(1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

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

(a) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

(b) "agreement" means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

**Explanation.**- The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely: -

Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti;

(c) "ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(d) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of the bonded labour system;

(e) "bonded labour" means any labour or service rendered under the bonded labour system;

(f) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred a bonded debt;

(g) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,-

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community,-

he would-

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) for the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

<sup>1</sup>[Explanation.-For the removal of doubts, it is hereby declared that any system of force or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (73 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is "bonded labour system" within the meaning of this clause].

(h) "family" in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,-

---

1. Ins. by Act 73 of 1985, sec. 2.

- (a) the minimum wages fixed by the Government in relation to the same or similar labour, under any law for the time being in force, and  
(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(j) "prescribed" means prescribed by rules made under this Act.

**3. Act to have over-riding effect.**- The provisions of this Act shall have effect notwithstanding anything in consistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

## **CHAPTER II ABOLITION OF BONDED LABOUR SYSTEM**

**4. Abolition of bonded labour system.**-(1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Act, no person shall-

- (a) make any advance under, or in pursuance of, the bonded labour system, or
- (b) compel any person to render any bonded labour or other form of forced labour.

### **COMMENTS**

The bonded labour system has been abolished from 25th October, 1975 and every bonded labourer has been set free and has been discharged from any obligation to render any bonded labour from this date. No person is allowed to make an advance under, or in pursuance of the bonded labour system. No one can compel any person to render any bonded labour or other form of forced labour.

**5. Agreement, custom, etc., to be void.**-On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

### **COMMENTS**

From 25th October, 1975 any custom or tradition or any agreement or other instrument (whether entered into or executed before or after 25th October, 1975) by virtue of which any person or any member of his family or dependent is required to do any work or render any service as a bonded labourer, shall be void and it shall not be operative.

## **CHAPTER III EXTINGUISHMENT OF LIABILITY TO REPAY BONDED DEBT**

**6. Liability to repay bonded debt to stand extinguished.**-(1) On the commencement of this Act every obligation of a bonded labourer to repay any bonded debt or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order .

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act.

Provided that the bonded labour, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

## COMMENTS

Under section 6 of the Act every obligation of a bonded labourer to repay any bonded debt have been extinguished no suit or other proceeding shall lie for the recovery of any such debt. Every decree or order for the recovery of bonded debt shall be deemed to have been fully satisfied. Every attach made for the recovery of bonded debt shall stand vacated. If possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of the bonded debt, such property shall be restored.

**7. Property of bonded labourer to be freed from mortgage, etc.-** (1) All property vested in a bonded labourer which was, immediately before the commencement of this Act under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or incumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer .

(2) If any delay is made in restoring any property referred to in sub-section (1) to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or incumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

## COMMENTS

Any property vested in a bonded labourer which was under any mortgage, charge, lien or other encumbrances in connection with any bonded debt stands freed and discharged and if the possession of the said property was with the mortgagee or other holder of the charge, lien or incumbrance will be restored to the possession of the bonded labourer.

**8. Freed bonded labourer not to be evicted from homestead, etc.-**(1) No person who has been freed and discharged under this Act from any obligation, to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

## COMMENTS

No person who has been freed and discharged from any obligation to render any bonded labour will be evicted from any homestead or other residential premises as part of the consideration for the bonded labour.

**9. Creditor not to accept payment against extinguished debt.-**(1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.



(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

#### **CHAPTER IV IMPLEMENTING AUTHORITIES**

**10. Authorities who may be specified for implementing the provisions of this Act.-**

The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

**11. Duty of District Magistrate and other officers to ensure credit.-** The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract and further bonded debt.

**12. Duty of District Magistrate and officers authorised by him.-**It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such enquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

#### **CHAPTER V VIGILANCE COMMITTEES**

**13. Vigilance Committees.-**(1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely :-

- (a) the District Magistrate, or a person nominated by him, who shall be the Chairman;
- (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate;

- (c) two social workers, resident in the district, to be nominated by the District Magistrate;
- (d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;
- (e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely :-

- (a) the Sub-Divisional Magistrate, or person nominated by him, who shall be the Chairman;
- (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
- (c) two social workers, resident in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
- (d) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate;
- (e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
- (f) one officer specified under section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial-assistance, as may be necessary, shall be provided by-

- (a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;
- (b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or the proceedings, of the Vigilance Committee.

**14. Functions of Vigilance Committees.**-(1) The functions of each Vigilance Committee shall be,-

- (a) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;
- (b) to provide for the economic and social rehabilitation of the freed bonded labourers;
- (c) to co-ordinate the functions of rural banks and co-operative societies with a view to analysing adequate credit to the freed bonded labourer;
- (d) to keep an eye on the number of offences of which cognizance has been taken under this Act;
- (e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

**15. Burden of proof.**-Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

#### COMMENTS

The burden of proving that a particular debt is not a bonded debt will be on the creditor.

### CHAPTER VI OFFENCES AND PROCEDURE FOR TRIAL

**16. Punishment for enforcement of bonded labour.**-Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

#### COMMENTS

Punishment for compelling any person to render any bonded labour is imprisonment for three years and a fine of two thousand rupees-

**17. Punishment for advancement of bonded debt.**-Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

**18. Punishment for extracting bonded labour under the bonded labour system.**- Whoever enforces after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

**19. Punishment for omission or failure to restore possession of property to bonded labourers.**-Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him ;

**20. Abetment to be an offence.**- Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

**Explanation.**-For the purpose of this Act, "abetment" has the meaning assigned to it in the Indian Penal Code (45 of 1860).

**21. Offences to be tried by Executive Magistrates.**-(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.

**22. Cognizance of offences.**-Every offence under this Act shall be cognizable and bailable.

**23. Offences by companies.**-(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.**-For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

## **CHAPTER VII MISCELLANEOUS**

**24. Protection of action taken in good faith.**-No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

**25. Jurisdiction of civil courts barred.**-No civil court shall have jurisdiction in respect of any matter to which any provisions of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

**26. Power to make rules.**-(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted in pursuance of sub-section (6) of that section;

(b) the time within which application for restoration of possession of property is to be made under sub-section (6) of section 6, to the prescribed authority;

(c) steps to be taken by Vigilance Committees under clause (a) of sub-section (1) of section 14, to ensure the implementation of the provisions of this Act or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**27. Repeal and saving.**-(1) The Bonded Labour System (Abolition) Ordinance, 1975 (17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

## THE BONDED LABOUR SYSTEM (ABOLITION) RULES, 1976<sup>1</sup>

In exercise of the powers conferred by sub-section (1), read with sub-section (2) of section 26 of the Bonded Labour System (Abolition) Act, 1976 (19 of 1976), the Central Government hereby makes the following rules, namely :-

**1. Short title and commencement.**-(1) These rules may be called the Bonded Labour system (Abolition) Rules, 1976.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**-In these rules, unless the context otherwise requires,-

(a) " Act" means the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);

(b) "District Vigilance Committee" means a Vigilance Committee constituted for a district under sub-section (1) of section 13;

(c) "section" means a section of the Act;

(d) "Sub-Divisional Vigilance Committee" means a Vigilance Committee constituted or a sub-division under sub-section (1) of section 13.

**3. Term of Office, and vacation of seat, of members of District Vigilance Committee.**-<sup>2</sup>[(1) Every member of a District Vigilance Committee, nominated under clauses (b), (c), (d) and (e) of sub-section (2) of section 13 shall hold office for a period of two years from the date on which his nomination is notified in the Official Gazette and shall, on the expiry of the said period, continue to hold office until his successor is nominated and shall also be eligible for re-nomination.]

(2) Every member referred to in sub-rule (1)---

<sup>3</sup>[(a) may, by giving notice in writing of not less than 30 days to the authority which nominated him, resign his office and, on such resignation being accepted or on the expiry of the notice period of 30 days, whichever is earlier, shall be deemed to have vacated his office.]

(b) shall be deemed to have vacated his office-

(i) if he fails to attend three consecutive meetings of the District Vigilance Committee without obtaining leave of the Chairman of such absence:

Provided that the authority, which nominated him may, if it is satisfied that such member was prevented by sufficient cause from attending the three consecutive meetings of the Committee, restore him to membership;

(ii) if he becomes subject to any of the following disqualifications, namely :-

(1) is adjudged involent;

(2) is declared to be of unsound mind by a competent court;

(3) is convicted of an offence which, in the opinion of the authority, which nominated him, involves moral turpitude;

---

1. Vide G.S.R 99(E), dated 28th February, 1976, published in Gazette of India, Extra., Pt. II, sec. 3(i), dated 28th February, 1976.

2. Subs. by S.O. 1755, dated 12th March, 1983.

3. Subs. by G.S.R. 1455, dated 16th November, 1978.

(c) may be removed from office, if the authority, which nominated such member, is of the opinion that such member has ceased to represent the interest to represent which he was nominated:

Provided that a member shall not be removed from office under this clause unless a reasonable opportunity is given to him for showing cause against such removal.

(3) A member, nominated to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

#### **4. Term of office, and vacation of seat, of members of Sub-Divisional Vigilance Committee.**

<sup>1</sup>[(1) Every member of a Sub-Divisional Vigilance Committee, nominated under clauses (b), (c), (d) and (e) of sub-section (3) of section 13 shall hold office for a period of two years from the date on which his nomination is notified in the Official Gazette and shall, on the expiry of the said period, continue to hold office until his successor is nominated and shall also be eligible for re-nomination.]

(2) Every member referred to in sub-rule (1)-

<sup>2</sup>[(a) may, by giving notice in writing of not less than 30 days, to the authority which nominated him, resign his office and, on such resignation being accepted or on the expiry of the notice period of 30 days, whichever is earlier, shall be deemed to have vacated his office.]

(b) shall be deemed to have vacated his office-

(i) if he fails to attend three consecutive meetings of the Sub-Divisional Vigilance Committee without obtaining leave of the Chairman of such Committee for such absence :

Provided that the authority which nominated him may, if it is satisfied that such member was prevented by sufficient cause from attending three consecutive meetings of the Committee restore him to membership;

(ii) if he becomes subject to any of the following disqualifications, namely:-

(1) is adjudged insolvent;

(2) is declared to be of unsound mind by a competent court;

(3) is convicted of an offence which, in the opinion of the authority which nominated him, involves moral turpitude;

(c) may be removed from office, if the authority which nominated such member, is of the opinion that such member has ceased to represent the interest to represent which he was nominated:

Provided that a member shall not be removed from officer under this clause unless a reasonable opportunity is given to him for showing cause against such removal.

(3) A member nominated to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

**5. Prescribed authority under sub-section (6) of section 6.**-An application under sub-section (6) of section 6 for restoration of possession of any property referred to in sub-section (4) or sub-section (5) of that section shall be made to the Executive Magistrate, on whom the powers of a Judicial Magistrate of the first class or of the second class have been conferred under sub-section (1) of section 21, and within the local limits of whose jurisdiction the said property is, or the applicant has reason to believe is, situated at the time of making the application :

---

1. Subs. by S.O.1755, dated 12th March, 1983.

2. Subs. by G.S.R. 1455, dated 16th November, 1978.

Provided that where there are two Executive Magistrates, on one of whom the powers of a Judicial Magistrate of the first class and on the other the powers of a Judicial Magistrate of the second class have been conferred under sub-section (1) of section 21 having jurisdiction to entertain the application for restoration of possession of property referred to in sub-rule (1), the application shall be made to the Executive Magistrate on whom the powers of a Judicial Magistrate of the second class have been conferred.

**6. Time within which an application under sub-section (6) of section 6 is to be made.**-An application under sub-section (6) of section 6 for restoration of possession of any property referred to in sub-section (4) or sub-section (5) of that section shall be made within a period of ninety days from the date on which these rules come into force.

**7. Records to be maintained by District Vigilance Committees to ensure the implementation of the provisions of the Act and Rules.**-In order to ensure the implementation of the Act and the Rules, every District Vigilance Committee shall maintain the following registers in respect of freed bonded labour within the local limits of its jurisdiction, namely :-

- (a) a register containing the names and addresses of freed bonded labour;
- (b) a register containing statistics relating to the vocation, occupation and income of every freed bonded labour;
- (c) a register containing details of the benefits which the freed bonded labour are receiving, including benefits in the form of land, inputs for agriculture, training in handicrafts and allied occupations, loans at differential rates of interest or employment in urban or non-urban areas;
- (d) a register containing details of cases under sub-section (6) of section 6, sub-section (2) of section 8, sub-section (2) of section 9, section 16, section 17, section 18, section 19 and section 20.



THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

---

ARRANGEMENT OF SECTIONS

---

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent, commencement and application.
2. Definitions.

CHAPTER II

THE ADVISORY BOARDS

3. Central Advisory Board.
4. State Advisory Board.
5. Power to constitute committees.

CHAPTER III

REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

6. Appointment of registering officers.
7. Registration of certain establishments.
8. Revocation of registration in certain cases.
9. Effect of non-registration.
10. Prohibition of employment of contract labour.

CHAPTER IV

LICENSING OF CONTRACTORS

11. Appointment of licensing officers.
12. Licensing of contractors.
13. Grant of licences.
14. Revocation, suspension and amendment of licences.
15. Appeal.

CHAPTER V

WELFARE AND HEALTH OF CONTRACT LABOUR

16. Canteens.
17. Rest-rooms.
18. Other facilities.
19. First-aid facilities.
20. Liability of principal employer in certain cases.
21. Responsibility for payment of wages.

CHAPTER VI  
PENALTIES AND PROCEDURE

SECTIONS

- 22. Obstructions.
- 23. Contravention of provisions regarding employment of contract labour.
- 24. Other offences.
- 25. Offences by companies.
- 26. Cognizance of offences.
- 27. Limitation of prosecutions.

CHAPTER VII  
MISCELLANEOUS

- 28. Inspecting staff.
- 29. Registers and other records to be maintained.
- 30. Effect of laws and agreements inconsistent with this Act.
- 31. Power to exempt in special cases.
- 32. Protection of action taken under this Act.
- 33. Power to give directions.
- 34. Power to remove difficulties.
- 35. Power to make rules.

# THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

ACT NO. 37 OF 1970

[5th September, 1970.]

An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent, commencement and application.**—(1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970.

(2) It extends to the whole of India.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

(4) It applies—

(a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

(5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with Central Board or, as the case may be, a State Board, and its decision shall be final.

*Explanation.*—For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature—

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

## STATE AMENDMENT

### Maharashtra

**Amendment of section 1 of 37 of 1970.**—In Section 1 of the Contract Labour (Regulation and Abolition) Act, 1970, in its application to the State of Maharashtra, in sub-section (4),—

(a) in clause (a), for the words “twenty or more workmen” the words “fifty or more workmen” shall be substituted;

---

1. 10th February, 1971, *vide* notification No. G.S.R. 190, dated 1st February, 1971, *see* Gazette of India, Extraordinary, Part II, sec. 3(i).

(b) in clause (b), for the words “twenty or more workmen” the words “fifty or more workmen” shall be substituted;

(c) in the proviso, for the words “less than twenty” the words “less than fifty” shall be substituted.

[Vide Maharashtra Act 2 of 2017, s. 2.]

## **Andhra Pradesh**

**Amendment of section 1 central Act 37 of 1970.**—In the Contract Labour (Regulation and Abolition) Act, 1970, in section 1, in sub-section (4), in clauses (a), (b) and the proviso thereunder, for the word “twenty” the word “fifty” shall be substituted.

[Vide Andhra Pradesh Act 21 of 2015, s. 2.]

**2. Definitions.**—(1) In this Act, unless the context otherwise requires,—

<sup>1</sup>[(a) “appropriate Government” means,—

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;]

(b) a workman shall be deemed to be employed as “contract labour” in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

(c) “contractor”, in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

(d) “controlled industry” means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(e) “establishment” means—

(i) any office or department of the Government or a local authority, or

(ii) any place where any industry, trade, business, manufacture or occupation is carried on;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “principal employer” means—

(i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf,

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948), the person so named,

(iii) in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named,

(iv) in any other establishment, any person responsible for the supervision and control of the establishment.

*Explanation.*—For the purpose of sub-clause (iii) of this clause, the expressions “mine”, “owner” and “agent” shall have the meanings respectively assigned to them in clause (j), clause (l) and clause (c) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

---

2. Subs. by Act 14 of 1986, s. 2, for clause (a) (w.e.f. 28-1-1986).

(h) “wages” shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936);

(i) “workman” means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or un-skilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person—

(A) who is employed mainly in a managerial or administrative capacity; or

(B) who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or

(C) who is an out-worker, that is to say, a person to whom any articles or materials are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out-worker or in some other premises, not being premises under the control and management of the principal employer.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir\* shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

## CHAPTER II

### THE ADVISORY BOARDS

**3. Central Advisory Board.**—(1) The Central Government shall, as soon as may be, constitute a board to be called the Central Advisory Contract Labour Board (hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of—

(a) a Chairman to be appointed by the Central Government;

(b) the Chief Labour Commissioner (Central), *ex officio*;

(c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

**4. State Advisory Board.**—(1) The State Government may constitute a board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State Board shall consist of—

(a) a Chairman to be appointed by the State Government;

---

\*. *Vide* notification No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

(b) the Labour Commissioner, *ex officio*, or in his absence any other officer nominated by the State Government in that behalf;

(c) such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the, members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

**5. Power to constitute committees.**—(1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

(2) The committee constituted under sub-section (1) shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

### CHAPTER III

#### REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

**6. Appointment of registering officers.**—The appropriate Government may, by an order notified in the Official Gazette—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be registering officers for the purposes of this Chapter; and

(b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

**7. Registration of certain establishments.**—(1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment:

Provided that the registering officer may entertain any such application for registration after expiry of the period fixed in this behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed.

**8. Revocation of registration in certain cases.**—If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, the registering

officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government, revoke the registration.

**9. Effect of non-registration.**—No principal employer of an establishment, to which this Act applies, shall—

(a) in the case of an establishment required to be registered under section 7, but which has not been registered within the time fixed for the purpose under that section,

(b) in the case of an establishment the registration in respect of which has been revoked under section 8,

employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

**10. Prohibition of employment of contract labour.**—(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as—

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through, regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of wholtime workmen.

*Explanation.*—If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

## CHAPTER IV

### LICENSING OF CONTRACTORS

**11. Appointment of licensing officers.**—The appropriate Government may, by an order notified in the Official Gazette,—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be licensing officers for the purposes of this Chapter; and

(b) define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

**12. Licensing of contractors.**—(1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.

(2) Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed.

**13. Grant of licences.**—(1) Every application for the grant of a licence under sub-section (1) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the location of

the establishment, the nature of process, operation or work for which contract labour is to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under this Chapter shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

**14. Revocation, suspension and amendment of licences.**—(1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) a licence granted under section 12 has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 12.

**15. Appeal.**—(1) Any person aggrieved by an order made under section 7, section 8, section 12 or section 14 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

## CHAPTER V

### WELFARE AND HEALTH OF CONTRACT LABOUR

**16. Canteens.**—(1) The appropriate Government may make rules requiring that in every establishment—

(a) to which this Act applies,

(b) wherein work requiring employment of contract labour is likely to continue for such period as may be prescribed, and

(c) wherein contract labour numbering one hundred or more is ordinarily employed by a contractor,

one or more canteens shall be provided and maintained by the contractor for the use of such contract labour.

(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; and

(c) the foodstuffs which may be served therein and the charges which may be made therefor.



**17. Rest-rooms.**—(1) In every place wherein contract labour is required to halt at night in connection with the work of an establishment—

(a) to which this Act applies, and

(b) in which work requiring employment of contract labour is likely to continue for such period as may be prescribed,

there shall be provided and maintained by the contractor for the use of the contract labour such number of rest-rooms or such other suitable alternative accommodation within such time 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.

**18. Other facilities.**—It shall be the duty of every contractor employing contract labour in connection with the work of an establishment to which this Act applies, to provide and maintain—

(a) a sufficient supply of wholesome drinking water for the contract labour at convenient places;

(b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment; and

(c) washing facilities.

**19. First-aid facilities.**—There shall be provided and maintained by the contractor so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him.

**20. Liability of principal employer in certain cases.**—(1) If any amenity required to be provided under section 16, section 17, section 18 or section 19 for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed therefor, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity may be recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

**21. Responsibility for payment of wages.**—(1) A contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

## CHAPTER VI

### PENALTIES AND PROCEDURE

**22. Obstructions.**—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**23. Contravention of provisions regarding employment of contract labour.**—Whoever contravenes any provision of this Act or of any rules made thereunder prohibiting, restricting or regulating the employment of contract labour, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

**24. Other offences.**—If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

**25. Offences by companies.**—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

**26. Cognizance of offences.**—No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, the inspector and no court inferior to that of a Presidency Magistrate or a magistrate of the first class shall try any offence punishable under this Act.

**27. Limitation of prosecutions.**—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

## CHAPTER VII

### MISCELLANEOUS

**28. Inspecting staff.**—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, an inspector may, within the local limits for which he is appointed—

(a) enter, at all reasonable hours, with such assistance (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where contract labour is employed, for the purpose of examining any register or record or notices required to be kept or exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a workman employed therein;

(c) require any person giving out work and any workman, to give any information, which is in his power to give with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;

(d) seize or take copies of such register, record of wages or notices 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 the principal employer or contractor; and

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

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

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

**29. Registers and other records to be maintained.**—(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

**30. Effect of laws and agreements inconsistent with this Act.**—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act:

Provided that where under any such agreement, contract of service or standing orders the contract labour employed in the establishment are entitled to benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the contract labour shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any such contract labour from entering into an agreement with the principal employer or the contractor, as the case may be, for granting them rights or privileges in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

**31. Power to exempt in special cases.**—The appropriate Government may, in the case of an emergency, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

**32. Protection of action taken under this Act.**—(1) No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other Government servant or against any member of the Central Board or the State Board, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

**33. Power to give directions.**—The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**34. Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.

**35. Power to make rules.**—(1) The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be appointed as members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;

(b) the times and places of the meetings of any committee constituted under this Act, the procedure to be followed at such meetings including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee;

(c) the manner in which establishments may be registered under section 7, the levy of a fee therefor and the form of certificate of registration;

(d) the form of application for the grant or renewal of a licence under section 13 and the particulars it may contain;

(e) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;

(f) the form of a licence which may be granted or renewed under section 12 and the conditions subject to which the licence may be granted or renewed, the fees to be levied for the grant or renewal of a licence and the deposit of any sum as security for the performance of such conditions;

(g) the circumstances under which licences may be varied or amended under section 14;

(h) the form and manner in which appeals may be filed under section 15 and the procedure to be followed by appellate officers in disposing of the appeals;

(i) the time within which facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the principal employer;

(j) the number and types of canteens, rest-rooms, latrines and urinals that should be provided and maintained;

(k) the type of equipment that should be provided in the first-aid boxes;

(l) the period within which wages payable to contract labour should be paid by the contractor under sub-section (1) of section 21;

(m) the form of registers and records to be maintained by principal employers and contractors;

(n) the submission of returns, forms in which, and the authorities to which, such returns may be submitted;

(o) the collection of any information or statistics in relation to contract labour; and

(p) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

<sup>1</sup>[(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

---

1. Ins. by Act 4 of 2005, s. 2 and the Schedule (w.e.f. 11-1-2005).

# THE FACTORIES ACT, 1948

---

## ARRANGEMENT OF SECTIONS

---

### CHAPTER I PRELIMINARY

#### SECTIONS

1. Short title, extent and commencement.
2. Interpretation.
3. References to time of day.
4. Power to declare different departments to be separate factories or two or more factories to be a single factory.
5. Power to exempt during public emergency.
6. Approval, licensing and registration of factories.
7. Notice by occupier.

### CHAPTER II THE INSPECTING STAFF

- 7A. General duties of the occupier.
- 7B. General duties of manufacturers, etc., as regards articles and substances for use in factories.
8. Inspectors.
9. Powers of Inspectors.
10. Certifying surgeons.

### CHAPTER III HEALTH

11. Cleanliness.
12. Disposal of wastes and effluents.
13. Ventilation and temperature.
14. Dust and fume.
15. Artificial humidification.
16. Overcrowding.
17. Lighting.
18. Drinking water.
19. Latrines and urinals.
20. Spittoons.

### CHAPTER IV SAFETY

21. Fencing of machinery.
22. Work on or near machinery in motion.

## SECTIONS

23. Employment of young persons on dangerous machines.
24. Striking gear and devices for cutting off power.
25. Self-acting machines.
26. Casing of new machinery.
27. Prohibition of employment of women and children near cotton-openers.
28. Hoists and lifts.
29. Lifting machines, chains, ropes and lifting tackles.
30. Revolving machinery.
31. Pressure plant.
32. Floors, stairs and means of access.
33. Pits, sumps openings in floors, etc.
34. Excessive weights.
35. Protection of eyes.
36. Precautions against dangerous fumes, gases, etc.
- 36A. Precautions regarding the use of portable electric light.
37. Explosive or inflammable dust, gas, etc.
38. Precautions in case of fire.
39. Power to require specifications of defective parts or tests of stability.
40. Safety of buildings and machinery.
- 40A. Maintenance of buildings.
- 40B. Safety Officers.
41. Power to make rules to supplement this Chapter.

## CHAPTER IVA

### PROVISION RELATING TO HAZARDOUS PROCESSES

- 41A. Constitution of Site Appraisal Committees.
- 41B. Compulsory disclosure of information by the occupier.
- 41C. Specific responsibility of the occupier in relation to hazardous processes.
- 41D. Power of Central Government to appoint Inquiry Committee.
- 41E. Emergency standards.
- 41F. Permissible limits of exposure of chemical and toxic substances.
- 41G. Workers' participation in safety management.
- 41H. Right of workers to warn about imminent danger.

## CHAPTER V

### WELFARE

42. Washing facilities.
43. Facilities for storing and drying clothing.

## SECTIONS

44. Facilities for sitting.
45. First-aid appliances.
46. Canteens.
47. Shelters, rest rooms and lunch rooms.
48. Creches.
49. Welfare officers.
50. Power to make rules to supplement this Chapter.

## CHAPTER VI

### WORKING HOURS OF ADULTS

51. Weekly hours.
52. Weekly holidays.
53. Compensatory holidays.
54. Daily hours.
55. Intervals for rest.
56. Spread over.
57. Night shifts.
58. Prohibition of overlapping shifts.
59. Extra wages for overtime.
60. Restriction on double employment.
61. Notice of periods of work for adults.
62. Register of adult workers.
63. Hours of work to correspond with notice under section 61 and register under section 62.
64. Power to make exempting rules.
65. Power to make exempting orders.
66. Further restrictions on employment of women.

## CHAPTER VII

### EMPLOYMENT OF YOUNG PERSONS

67. Prohibition of employment of young children.
68. Non-adult workers to carry tokens.
69. Certificates of fitness.
70. Effect of certificate of fitness granted to adolescent.
71. Working hours for children.
72. Notice of periods of work for children.
73. Register of child workers.
74. Hours of work to correspond with notice under section 72 and register under section 73.—
75. Power to require medical examination.
76. Power to make rules.
77. Certain other provisions of law not barred.



CHAPTER VIII  
ANNUAL LEAVE WITH WAGES

SECTIONS

- 78. Application of Chapter.
- 79. Annual leave with wages.
- 80. Wages during leave period.
- 81. Payment in advance in certain cases.
- 82. Mode of recovery of unpaid wages.
- 83. Power to make rules.
- 84. Power to exempt factories.

CHAPTER IX  
SPECIAL PROVISIONS

- 85. Power to apply the act to certain premises.
- 86. Power to exempt public institutions.
- 87. Dangerous operations.
- 87A. Power to prohibit employment on account of serious hazard.
- 88. Notice of certain accidents.
- 88A. Notice of certain dangerous occurrences.
- 89. Notice of certain diseases.
- 90. Power to direct enquiry into cases of accident or disease.
- 91. Power to take samples.
- 91A. Safety and occupational health surveys.

CHAPTER X  
PENALTIES AND PROCEDURE

- 92. General penalty for offences.
- 93. Liability of owner of premises in certain circumstances.
- 94. Enhanced penalty after previous conviction.
- 95. Penalty for obstructing Inspector.
- 96. Penalty for wrongfully disclosing results of analysis under section 91.
- 96A. Penalty for contravention of the provisions of sections 41B, 41 C and 41 H.
- 97. Offences by workers.
- 98. Penalty for using false certificate of fitness.
- 99. Penalty for permitting double employment of child.
- 100. [*Repealed.*]
- 101. Exemption of occupier or manager from liability in certain cases.
- 102. Power of Court to make orders.
- 103. Presumption as to employment.
- 104. Onus as to age.

SECTIONS

- 104A. Onus of proving limits of what is practicable, etc.
- 105. Cognizance of offences.
- 106. Limitation of prosecutions.
- 106A. Jurisdiction of a court for entertaining proceedings, etc., for offence.

CHAPTER XI  
SUPPLEMENTAL

- 107. Appeals.
- 108. Display of notices.
- 109. Service of notices.
- 110. Returns.
- 111. Obligations of workers.
- 111A. Right of workers, etc.
- 112. General power to make rules.
- 113. Powers of Centre to give directions.
- 114. No charge for facilities and conveniences.
- 115. Publication of rules.
- 116. Application of Act to Government factories.
- 117. Protection to persons acting under this Act.
- 118. Restrictions on disclosure of information.
- 118A. Restriction on disclosure of information.
- 119. Act to have effect notwithstanding anything contained in Act 37 of 1970.
- 120. Repeal and savings.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

# THE FACTORIES ACT, 1948

ACT NO. 63 OF 1948<sup>1</sup>

[23rd September, 1948.]

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories;

It is hereby enacted as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Factories Act, 1948.

<sup>2</sup>[(2) It extends to the whole of India <sup>3</sup>\*\*\*.]

(3) It shall come into force on the 1st day of April 1949.

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

(a) “adult” means a person who has completed his eighteenth year of age;

(b) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year;

<sup>4</sup>[(bb) “calendar year” means the period of twelve months beginning with the first day of January in any year;]

(c) “child” means a person who has not completed his fifteenth year of age;

<sup>5</sup>[(ca) “competent person”, in relation to any provision of this Act, means a person or an institution recognised as such by the Chief Inspector for the purposes of carrying out tests, examinations and inspection required to be done in a factory under the provisions of this Act having regard to—

(i) the qualifications and experience of the person and facilities available at his disposal; or

(ii) the qualifications and experience of the persons employed in such institution and facilities available therein,

with regard to the conduct of such tests, examinations and inspections, and more than one person or institution can be recognised as a competent person in relation to a factory;

(cb) “hazardous process” means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would—

(i) cause material impairment to the health of the persons engaged in or connected therewith,  
or

(ii) result in the pollution or the general environment:

Provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule;

(d) “young person” means a person who is either a child or an adolescent;

---

1. The Act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and the First Schedule; Pondicherry by Reg. 7 of 1963, s. 3 and the First Schedule, Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and the Schedule and Laccadive, Minicoy and Amindivi Islands by Reg. 8 of 1965, s. 3 and the Schedule.

2. Subs. by the A.O. 1950, for the former sub-section.

3. The words “except the state of Jammu and Kashmir” omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).

4. Ins. by Act 25 of 1954, s. 2. (w.e.f. 7-5-1954).

5. Ins. by Act 20 of 1987, s. 2. (w.e.f. 1-12-1987).

(e) “day” means a period of twenty-four hours beginning at midnight:

(f) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector of Factories;

(g) “power” means electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(h) “prime mover” means any engine, motor or other appliance which generates or otherwise provides power;

(i) “transmission machinery” means any shaft, wheel, drum, pulley, system of pulleys, coupling, clutch, driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance;

(j) ”machinery” includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied;

(k) “manufacturing process” means any process for—

(i) making altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

<sup>1</sup>[(ii) pumping oil, water, sewage or any other substance; or]

(iii) generating, transforming or transmitting power; or

<sup>2</sup>[(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; <sup>3</sup>[or]]

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; <sup>3</sup>[or]

<sup>3</sup>[(vi) preserving or storing any article in cold storage;]

(l) “worker” means a person <sup>4</sup>[employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not], in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process <sup>3</sup>[but does not include any member of the armed forces of the Union];

(m) “factory” means any premises including the precincts thereof—

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,—

but does not include a mine subject to the operation of <sup>5</sup>[the Mines Act, 1952 (35 of 1952)], or <sup>6</sup>[a mobile unit belonging to the armed forces of the Union, railway running shed or a hotel), restaurant or eating place].

---

1. Subs. by Act 94 of 1976, s. 2, for sub-clause (ii) (w.e.f. 26-10-1976).

2. Subs. by Act 25 of 1954, s. 2, for sub-clause (iv) (w.e.f. 7-5-1954).

3. Ins. by Act 94 of 1976, s. 2, (w.e.f. 26-10-1976).

4. Subs. by s. 2, *ibid.*, for “employed, directly or through any agency, whether for wages or not” (w.e.f. 26-10-1976).

5. Subs. by Act 25 of 1954, s. 2, for “the Indian Mines Act, 1923 (4 of 1923)” (w.e.f. 7-5-1954).

6. Subs. by Act 94 of 1976, s. 2, for “a railway running shed” (w.e.f. 26-10-1976).

<sup>1</sup>[*Explanation* <sup>2</sup>[I]—For computing the number of workers for the purposes of this clause all the workers in <sup>3</sup>[different groups and relays] in a day shall be taken into account;]

<sup>4</sup>[*Explanation* II.—For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof;]

(n) “occupier” of a factory means the person who has ultimate control over the affairs of the factory <sup>5</sup>\*\*\*.

<sup>4</sup>[Provided that—

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;

(ii) in the case of a company, any one of the directors shall be deemed to be the occupier;

(iii) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier:]

<sup>1</sup><sup>6</sup>[Provided further that] in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,—

(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under—

(a) section 6, section 7, <sup>4</sup>[section 7A, section 7B,] section 11 or section 12;

(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to—

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person;

<sup>7</sup>\* \* \* \*

(p) “prescribed” means prescribed by rules made by the State Government under this Act;

<sup>8</sup>\* \* \* \*

(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a <sup>9</sup>[“group” or “relay”] and each of such periods is called a “shift”.

---

1. Ins. by Act 94 of 1976, s. 2 (w.e.f. 26-10-1976).  
2. The *Explanation* numbered as *Explanation* I by Act 20 of 1987, s. 2 (w.e.f. 1-12-1987).  
3. Subs. by s. 2, *ibid.*, for “different relays” (w.e.f. 1-12-1987).  
4. Ins. by s. 2, *ibid.* (w.e.f. 1-12-1987).  
5. Certain words omitted by s. 2, *ibid.*, (w.e.f. 1-12-1987).  
6. Subs. by s. 2, *ibid.*, for “Provided that” (w.e.f. 1-12-1987).  
7. Clause (o) omitted by s. 2, *ibid.*, (w.e.f. 1-12-1987).  
8. Clause (q) omitted by Act A. O. 1950.  
9. Subs. by Act 20 of 1987, s. 2, for “relay” (w.e.f. 1-12-1987).

## STATE AMENDMENTS

### Maharashtra

**Amendment of section 2 of 63 of 1948.**—In section 2 of the Factories Act, 1948 (63 of 1948), in its application to the State of Maharashtra (hereinafter referred to as “the principal Act”), in clause (m),—

(a) in sub-clause (i), after the words “whereon ten or more workers” the words “or such number of workers as may be specified by the State Government by notification, from time to time” shall be inserted;

(b) in sub-clause (ii), after the words “whereon twenty or more workers” the words “or such number of workers as may be specified by the State Government by notification, from time to time” shall be inserted;

(c) after sub-clause (ii), the following proviso shall be inserted, namely:—

“Provided that, the number of workers to be specified by the State Government in sub-clauses (i) and (ii) shall not exceed twenty and forty workers, respectively.”

[Vide Maharashtra Act 40 of 2015, s. 2].

**3. Reference to time of day.**—In this Act references to time of day are references to Indian Standard Time, being five and a half hours ahead of Greenwich Mean Time:

Provided that for any area in which Indian Standard Time is not ordinarily observed the State Government may make rules—

(a) specifying the area,

(b) defining the local mean time ordinarily observed therein, and

(c) permitting such time to be observed in all or any of the factories situated in the area.

**<sup>1</sup>[4. Power to declare different departments to be separate factories or two or more factories to be a single factory.**—The State Government may, <sup>2</sup>[on its own or] on an application made in this behalf by an occupier, direct, by an order in writing <sup>2</sup>[and subject to such conditions as it may deem fit], that for all or any of the purposes of this Act different departments or branches of a factory of the occupier specified in the application shall be treated as separate factories or that two or more factories of the occupier specified in the application shall be treated as a single factory:]

<sup>3</sup>[Provided that no order under this section shall be made by the State Government on its own motion unless an opportunity of being heard is given to the occupier.]

**5. Power to exempt during public emergency.**—In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act <sup>4</sup>[except section 67] for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding three months at a time.

<sup>5</sup>[*Explanation.*—For the purposes of this section “public emergency” means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.]

**6. Approval, licensing and registration of factories.**—(1) The State Government may make rules—

<sup>6</sup>[(a) requiring, for the purposes of this Act, the submission of plans of any class or description of factories to the Chief Inspector or the State Government;]

---

1. Subs. by Act 25 of 1954, s. 3, for section 4 (w.e.f. 7-5-1954).

2. Ins. by Act 20 of 1987, s. 2 (w.e.f. 1-12-1987).

3. Added by s. 2, *ibid.* (w.e.f. 1-12-1987).

4. Ins. by the A.O. 1950.

5. Ins. by Act 94 of 1976, s. 3 (w.e.f. 26-10-1976).

6. Ins. by s. 4, *ibid.* (w.e.f. 26-10-1976).

<sup>1</sup>[(*aa*) requiring the previous permission in writing of the State Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories;

(*b*) requiring for the purpose of considering applications for such permission the submission of plans and specifications;

(*c*) prescribing the nature of such plans and specifications and by whom they shall be certified;

(*d*) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licences;

(*e*) requiring that no licence shall be granted or renewed unless the notice specified in section 7 has been given.

(2) If on an application for permission referred to in <sup>2</sup>[clause (*aa*)] of sub-section (*1*) accompanied by the plans and specifications required by the rules made under clause (*b*) of that sub-section, sent to the State Government or Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.

(3) Where a State Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the State Government and to the State Government in any other case.

*Explanation.*—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, of the addition of any plant or machinery <sup>3</sup>[if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health].

**7. Notice by occupier.**—(*1*) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

(*a*) the name and situation of the factory;

(*b*) the name and address of the occupier;

<sup>4</sup>[(*bb*) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93;]

(*c*) the address to which communications relating to the factory may be sent;

(*d*) the nature of the manufacturing process—

(*i*) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act; and

(*ii*) to be carried on in the factory during the next twelve months in the case of all factories;

<sup>5</sup>[(*e*) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;]

(*f*) the name of the manager of the factory for the purposes of this Act;

(*g*) the number of workers likely to be employed in the factory;

(*h*) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;

---

1. Clause (*a*) re-lettered as clause (*aa*) by Act 94 of 1976, s. 4 (w.e.f. 26-10-1976).

2. Subs. by s. 4, *ibid.*, for “clause (*a*)” (w.e.f. 26-10-1976).

3. Ins. by s. 4, *ibid.* (w.e.f. 26-10-1976).

4. Ins. by Act 25 of 1954, s. 4 (w.e.f. 7-5-1954).

5. Subs. by Act 94 of 1976, s. 5, for “clause (*e*)” (w.e.f. 26-10-1976).

(i) such other particulars as may be prescribed.

(2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act.

(3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) <sup>1</sup>[at least thirty days] before the date of the commencement of work.

(4) Whenever a new manager is appointed, the occupier shall send to the <sup>2</sup>[Inspector a written notice and to the Chief Inspector a copy thereof] within seven days from the date on which such person takes over charge.

(5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

## CHAPTER II

### THE INSPECTING STAFF

<sup>3</sup>[7A. **General duties of the occupier.**—(1) Every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory.

(2) Without prejudice to the generality of the provisions of sub-section (1), the matters to which such duty extends, shall include—

(a) the provision and maintenance of plant and systems of work in the factory that are safe and without risks to health:

(b) the arrangements in the factory for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;

(c) the provisions of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers at work:

(d) the maintenance of all places of work in the factory in a condition that is safe and without risks to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risks;

(e) the provision, maintenance or monitoring of such working environment in the factory for the workers that is safe, without risks to health and adequate as regards facilities and arrangements for their welfare at work.

(3) Except in such cases as may be prescribed, every occupier shall prepare, and, as often as may be appropriate, revise, a written statement of his general policy with respect to the health and safety of the workers at work and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision thereof to the notice of all the workers in such manner as may be prescribed.

**7B. General duties of manufacturers, etc., as regards articles and substances for use in factories.**—(1) Every person who designs, manufactures, imports or supplies any article for use in any factory, shall—

(a) ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to the health of the workers when properly used;

---

1. Subs. by Act 40 of 1949, s. 3 and the Second Schedule, for “within thirty days” (w.e.f. 1-5-1949).

2. Subs. by Act 25 of 1954, s. 4, for “Chief Inspector a written notice” (w.e.f. 7-5-1954).

3. Ins. by Act 20 of 1987, s. 4 (w.e.f. 1-12-1987).



(b) carry out or arrange for the carrying out of such tests and examination as may be considered necessary for the effective implementation of the provisions of clause (a);

(c) take such steps as may be necessary to ensure that adequate information will be available—

(i) in connection with the use of the article in any factory;

(ii) about the use for which it is designed and tested; and

(iii) about any conditions necessary to ensure that the article, when put to such use, will be safe, and without risks to the health of the workers:

Provided that where an article is designed or manufactured outside India, it shall be obligatory on the part of the importer to see—

(a) that the article conforms to the same standards if such article is manufactured in India, or

(b) if the standards adopted in the country outside for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards.

(2) Every person, who undertakes to design or manufacture any article for use in any factory may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or article may give rise.

(3) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(4) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control.

(5) Where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

(6) For the purposes of this section, an article is not to be regarded as properly used if it is used without regard to any information or advice relating to its use which has been made available by the person who has designed, manufactured, imported or supplied the article.

*Explanation.*—For the purposes of this section, “article” shall include plant and machinery].

**8. Inspectors.**—(1) The State Government may, by notification in the Official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the State.

<sup>1</sup>[(2A) The State Government may, by notification in the Official Gazette, appoint as many Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors and as many other officers as it thinks fit to assist the Chief Inspector and to exercise such of the powers of the Chief Inspector as may be specified in such notification.

(2B) Every Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector and every other officer appointed under sub-section (2A) shall, in addition to the powers of a Chief Inspector specified in the notification by which he is appointed, exercise the power of an Inspector throughout the State].

(3) No person shall be appointed under sub-section (1), sub-section (2)<sup>1</sup>[sub-section (2A)] or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

---

1. Ins. by Act 94 of 1976, s. 6 (w.e.f. 26-10-1976).

(5) The State Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one the State Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.

(7)<sup>1</sup>[Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector and every other officer appointed under this section] shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860), and shall be officially subordinate to such authority as the State Government may specify in this behalf.

**9. Powers of Inspectors.**—Subject to any rules made in this behalf, an Inspector may within the local limits for which he is appointed,—

(a) enter, with such assistants, being persons in the service of the Government or any local or other public authority,<sup>2</sup>[or with an expert] as he thinks fit, any place which is used, or which he has reason to believe is used, as a factory;

<sup>3</sup>[(b) make examination of the premises, plant, machinery, article or substance;

(c) inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry;

(d) require the production of any prescribed register or any other document relating to the factory;

(e) seize, or take copies of, any register, record or other document or any portion thereof as he may consider necessary in respect of any offence under this Act, which he has reason to believe, has been committed;

(f) direct the occupier that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (b);

(g) take measurements and photographs and make such recordings as he considers necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment;

(h) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health or safety of the workers, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of this Act), and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

(i) exercise such other powers as may be prescribed:]

**10. 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 factory or class or description of factories as it may assign to them respectively.

(2) A certifying surgeon may, with the approval of the State Government, authorise any qualified medical practitioner to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the State Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

---

1. Subs. by Act 94 of 1976, s. 6, for "every Chief Inspector and Inspector" (w.e.f. 26-10-1976).

2. Ins. by Act 20 of 1987, s. 5 (w.e.f. 1-12-1987).

3. Subs. by s. 5, *ibid.*, for clause (b) and (c) (w.e.f. 1-12-1987).

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any process or machinery connected therewith or is otherwise in the employ of the factory:

<sup>1</sup>[Provided that the State Government may, by order in writing and subject to such conditions as may be specified in the order, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.]

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of young persons this Act;

(b) the examination of person engaged in factories in such dangerous occupations or processes as may be prescribed;

(c) the exercising of such medical supervision as may be prescribed for any factory or class or description of factories where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;

(ii) by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any new manufacturing process or of any new substance for use in a manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process;

(iii) young persons are, or are about to be, employed in any work which is likely to cause injury to their health.

*Explanation.*—In this section “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (7 of 1916), or in the Schedules to the Indian Medical Council Act, 1933 (27 of 1933)<sup>2</sup>.

### CHAPTER III

#### HEALTH

**11. Cleanliness.**—(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular—

(a) accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages, and disposed of in a suitable manner;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall—

(i) where they are <sup>3</sup>[painted otherwise than with washable water-paint] or varnished, be re-painted or re-varnished at least once in every period of five years;

<sup>4</sup>[(ia) where they are painted with washable water-paint, be re-painted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;]

(ii) where they are painted or varnished or where they have smooth impervious surfaces be cleaned at least once in every period of fourteen months by such method as may be prescribed;

(iii) in any other case, be kept white washed or colourwashed, and the whitewashing or colourwashing shall be carried out at least once in every period of fourteen months;

1. Ins. by Act 94 of 1976, s. 7 (w.e.f. 26-10-1976).

2. See now the Indian Medical Council Act, 1956 (102 of 1956).

3. Subs. by Act 94 of 1976, s. 8, for “painted” (w.e.f. 26-10-1976).

4. Ins. by s. 8, *ibid.* (w.e.f. 26-10-1976).

<sup>1</sup>[(*dd*) all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years;]

(*e*) the dates on which the processes required by clause (*d*) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on <sup>2</sup>[in a factory or class or description of factories or any part of a factory or class or description of factories], it is not possible for the occupier to comply with all or any of the provisions of subsection (*I*), the State Government may by order exempt such factory or class or description of factories <sup>3</sup>[or part] from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

**12. Disposal of wastes and effluents.**—<sup>4</sup>[(*I*) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.]

(2) The State Government may make rules prescribing the arrangements to be made under sub-section (*I*) or requiring that the arrangements made in accordance with sub-section (*I*) shall be approved by such authority as may be prescribed.

**13. Ventilation and temperature.**—(*I*) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom—

(*a*) adequate ventilation by the circulation of fresh air, and

(*b*) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health;

and in particular,—

(*i*) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(*ii*) where the nature of the work carried on in the factory involves, or is likely to involve the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that <sup>5</sup>[proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.]

<sup>6</sup>[(3) If it appears to the Chief Inspector that excessively high temperatures in any factory can be reduced by the adoption of suitable measures, he may, without prejudice to the rules made under sub-section (2), serve on the occupier, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.]

**14. Dust and fume.**—(*I*) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

---

1. Ins. by Act 94 of 1976, s. 8 (w.e.f. 26-10-1976).

2. Subs. by s. 8, *ibid.*, for “in a factory” (w.e.f. 26-10-1976).

3. Ins. by s. 8, *ibid.* (w.e.f. 26-10-1976).

4. Subs. by s. 9, *ibid.*, for sub-section (*I*) (w.e.f. 26-10-1976).

5. Subs. by Act 20 of 1987, s. 6, for certain words (w.e.f. 1-12-1987).

6. Subs. by s. 6, *ibid.*, for “sub-section (3) (w.e.f. 1-12-1987).

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

**15. Artificial humidification.**—(1) In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules,—

(a) prescribing standards of humidification;

(b) regulating the methods used for artificially increasing the humidity of the air;

(c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;

(d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before specified date.

**16. Overcrowding.**—(1) No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1) there shall be in every workroom of a factory in existence on the date of the commencement of this Act at least<sup>1</sup>[9.9 cubic meters] and of a factory built after the commencement of this Act at least<sup>2</sup>[14.2 cubic meters] of space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than<sup>3</sup>[4.2 meters] above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may by order in writing exempt, subject to such conditions, if any, as he may think fit to impose, any workroom from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

**17. Lighting.**—(1) In every pan of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of—

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface:

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

---

1. Subs. by Act 20 of 1987, s. 7 for “three hundred and fifty cubic feet” (w.e.f. 1-12-1987).

2. Subs. by s. 7, *ibid.*, for “five hundred cubic feet” (w.e.f. 1-12-1987).

3. Subs. by s. 7, *ibid.*, for “fourteen feet” (w.e.f. 1-12-1987).

(4) The State Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

**18. Drinking water.**—(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked “drinking water” in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within <sup>1</sup>[six meters of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination] unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cool drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the State Government may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3) and for the examination by prescribed authorities of the supply and distribution of drinking water in factories.

**19. Latrines and urinals.**—(1) In every factory—

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any work room except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed—

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, up to a height of <sup>2</sup>[ninety centimeters], of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface;

(c) without prejudice to the provisions of clauses (d) and (e) of sub-section (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The State Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further mailers in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

**20. Spittoons.**—(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

---

1. Subs. by Act 20 of 1987, s. 8, for “twenty feet of any washing place, urinal or latrine” (w.e.f. 1-12-1987).

2. Subs. by s. 9, *ibid.*, for “three feet” (w.e.f. 1-12-1987).

(2) The State Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provide for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

## CHAPTER IV

### SAFETY

**21. Fencing of machinery.**—(1) In every factory the following, namely:—

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water-wheel and water turbine;

(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and

(iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely:—

(a) every part of an electric generator, a motor or rotary converter;

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery;

shall be securely fenced by safeguards of substantial construction which<sup>1</sup>[shall be constantly maintained and kept in position] while the parts of machinery the y are fencing are in motion or in use:

<sup>2</sup>[Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when—

(i) it is necessary to make an examination of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion, or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the currying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery), it is necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts or lubrication or other adjusting operation while the machinery is in motion,

and such examination or operation is made or carried out in accordance with the provisions of sub-section (1) of section 22.]

(2) The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

**22. Work on or near machinery in motion.**—(1)<sup>3</sup>[Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out—

1. Subs. by Act 94 of 1976, s. 10, for "shall be kept in position" (w.e.f. 26-10-1976).

2. Subs. by s. 10, *ibid.*, for the proviso (w.e.f. 26-10-1976).

3. Subs. by s. 10, *ibid.*, for the opening paragraph and clause (a) (w.e.f. 26-10-1976).

(a) in case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation,

while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of this appointment, and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless—

(i) the belt is not more than fifteen centimeters in width;

(ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);

(iii) the belt joint is either laced or flush with the belt;

(iv) the belt, including the joint and the pulley rim, are in good repair;

(v) there is reasonable clearance between the pulley and any fixed plant or structure;

(vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and

(vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person;]

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

<sup>1</sup>[(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.]

(3) The State Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

**23. Employment of young persons on dangerous machines.**—(1) No young person<sup>2</sup>[shall be required or allowed to work] at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and—

(a) has received sufficient training in work at the machine, or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

**24. Striking gear and devices for cutting off power.**—(1) In every factory—

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the

---

1. Subs. by Act 25 of 1954, s. 6, for sub-section (2) (w.e.f. 7-5-1954).

2. Subs. by Act 20 of 1987, s. 10, for “shall work” (w.e.f. 1-12-1987).



transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom:

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to workrooms in which electricity is used as power.

<sup>1</sup>[(3) When a device, which can inadvertently shift from “off “ to “on” position, is provided in a factory to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted].

**25. Self-acting machines.**—No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of <sup>2</sup>[forty-five centimeters] from any fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

**26. Casing of new machinery.**—(1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hi re or, as agent of a seller or hirer, causes or procures to be sold or let on hi re, for use in a factory any machinery driven by power which does not comply with the provisions of <sup>3</sup>[sub-section (1) or any rules made under sub-section (3)], shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

<sup>4</sup>[(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.]

**27. Prohibition of employment of women and children near cotton-openers.**—No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

**28. Hoists and lifts.**—(1) In every factory—

(a) every hoist and lift shall be—

(i) of good mechanical construction, sound material and adequate strength;

---

1. Ins. by Act 94 of 1976, s. 12 (w.e.f. 26-10-1976).

2. Subs. by Act 20 of 1987, s. 11, for “eighteen inches” (w.e.f. 1-12-1987).

3. Subs. by Act 25 of 1954, s. 7, for “sub-section (1)” (w.e.f. 7-5-1954).

4. Subs. by s. 7, *ibid.*, for “sub-section (3)” (w.e.f. 7-5-1954).

(ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoist way and lift way shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;

(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirement shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely:—

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

<sup>1</sup>[*Explanation.*—For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.]

<sup>2</sup>[**29. Lifting machines, chains, ropes and lifting tackles.**—(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:—

(a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be—

(i) of good construction, sound material and adequate strength and free from defects;

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing; and a register shall be kept containing the prescribed particulars of every such examination;

(b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register; and where this is not practicable, a

---

1. Ins. by Act 20 of 1987, s. 12 (w.e.f. 1-12-1987).

2. Subs. by Act 25 of 1954, s. 8, for section 29 (w.e.f. 7-5-1954).

table showing the safe working loads of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within <sup>1</sup>[six meters] of that place.

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories—

(a) prescribing further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined.

*Explanation.*—In this section.—

(a) “lifting machine” means a crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway;

<sup>2</sup>[(b) “lifting tackle” means any chain sling, rope sling, hook, shackle, swivel, coupling, socket, clamp, tray or similar appliance, whether fixed or movable, used in connection with the raising or lowering of persons, or loads by use of lifting machines.]

**30. Revolving machinery.**—<sup>(1)</sup><sup>3</sup>[In every factory] in which the process of grinding is carried on there shall be permanently affixed to or placed near each machine in use a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, fly-wheel, pulley, disc or similar appliance driven by power is not exceeded.

**31. Pressure plant.**—<sup>4</sup>[(1) If in any factory, any plant or machinery or any part thereof is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such plant or machinery or part is not exceeded.]

(2) The State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

<sup>5</sup>[(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.]

**32. Floors, stairs and means of access.**—In every factory—

(a) all floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained<sup>6</sup>[and shall be kept free from obstructions and substances likely to cause persons to slip],

---

1. Subs. by Act 20 of 1987, s. 13, for “twenty feet” (w.e.f. 1-12-1987).

2. Subs. by s. 13, *ibid.*, for clause (b) (w.e.f. 1-12-1987).

3. Subs. by s. 14, *ibid.*, for “in every room in a factory” (w.e.f. 1-12-1987).

4. Subs. by s. 15, *ibid.*, for sub-section (1) (w.e.f. 1-12-1987).

5. Ins. by Act 94 of 1976, s. 13 (w.e.f. 26-10-1976).

6. Ins. by s. 14, *ibid.* (w.e.f. 26-10-1976).

and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work.

<sup>1</sup>[(c) when any person has to work at a height from where he is likely to fall, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.]

**33. Pits, sumps openings in floors, etc.**—(1) In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The State Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

**34. Excessive weights.**—(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying or any specified process.

**35. Protection of eyes.**—In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light, the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediately vicinity of, the process.

<sup>2</sup>[**36. Precautions against dangerous fumes, gases, etc.**—(1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust; or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.]

<sup>3</sup>[**36A. Precautions regarding the use of portable electric light.**—In any factory—

(a) no portable electric light or any other electric appliance of voltage exceeding twenty-four volts shall be permitted for use inside any chamber, tank, vat, pit, pipe, flue or other confined space<sup>4</sup>[unless adequate safety devices are provided]; and

---

1. Subs. by Act 20 of 1987, s. 16, for clause (c) (w.e.f. 1-12-1987).

2. Subs. by s. 17, *ibid.*, for section 36 (w.e.f. 1-12-1987).

3. Ins. by Act 94 of 1976, s. 16 (w.e.f. 26-10-1976).

4. Ins. by Act 20 of 1987, s. 18 (w.e.f. 1-12-1987).

(b) if any inflammable gas, fume or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, no lamp or light other than that flame-proof construction shall be permitted to be used therein.]

**37. Explosive or inflammable dust, gas, etc.**—(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measure shall be taken to prevent any such explosion by—

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:—

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part of any such pipe shall be effectively stopped by a stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken or prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or the case may be, securely replaced;

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising therefrom or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The State Government may by rules exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

<sup>1</sup>**[38. Precautions in case of fire.**—(1) In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain—

- (a) safe means of escape for all persons in the event of a fire, and
- (b) the necessary equipment and facilities for extinguishing fire.

(2) Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-section (1) and (2).

---

1. Subs. by Act 20 of 1987, s. 19, for section 38 (w.e.f. 1-12-1987).

(4) Notwithstanding anything contained in clause (a) of sub-section (1) or sub-section (2), if the Chief Inspector, having regard to the nature of the work carried on in any factory, the construction of such factory, special risk to life or safety, or any other circumstances, is of the opinion that the measures provided in the factory, whether as prescribed or not, for the purposes of clause (a) of sub-section (1) or sub-section (2), are inadequate, he may, by order in writing, require that such additional measures as he may consider reasonable and necessary, be provided in the factory before such date as is specified in the order.]

**39. Power to require specifications of defective parts or tests of stability.**—If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on<sup>1</sup>[the occupier or manager or both] of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests in such manner as may be specified in the order, and to inform the Inspector of the results thereof.

**40. Safety of buildings and machinery.**—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on<sup>1</sup>[the occupier or manager or both] of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on<sup>1</sup>[the occupier or manager or both] of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

<sup>2</sup>**40A. Maintenance of buildings.**—If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.]

**40B. Safety Officers.**—(1) In every factory—

(i) wherein one thousand or more workers are ordinarily employed, or

(ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory,

the occupier shall, if so, required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualifications and conditions of service of Safety Officer shall be such as may be prescribed by the State Government.]

**41. Power to make rules to supplement this Chapter.**—The State Government may make rules requiring the provision in any factory or in any class or description of factories of such further<sup>3</sup>[devices and measures] for securing the safety of persons employed therein as it may deem necessary.

---

1. Subs. by Act 94 of 1976, s. 18, for “the manager” (w.e.f. 26-10-1976).

2. Ins. by s. 19, *ibid.* (w.e.f. 26-10-1976).

3. Subs. by s. 20, *ibid.*, for “devices” (w.e.f. 26-10-1976).

<sup>1</sup>[CHAPTER IVA

PROVISION RELATING TO HAZARDOUS PROCESSES

**41A. Constitution of Site Appraisal Committees.**—(1) The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of an such factory, appoint a Site Appraisal Committee consisting of—

(a) the Chief Inspector of the State who shall be its Chairman;

(b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(d) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(e) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(f) a representative of the Department of Environment in the State;

(g) a representative of the Meteorological Department of the Government of India;

(h) an expert in the field of occupational health; and

(i) a representative of the Town Planning Department of the State Government,

and not more than five other members who may be co-opted by the State Government who shall be—

(i) a scientist having specialised knowledge of the hazardous process which will be involved in the factory,

(ii) a representative of the local authority within whose jurisdiction the factory is to be established, and

(iii) not more than three other persons as deemed fit by the State Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within a period of ninety days of the receipt of such application in the prescribed form.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or a company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process.

(5) Where the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Board established under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).

---

1. Ins. by Act 20 of 1987, s. 20 (w.e.f. 1-12-1987).

**41B. Compulsory disclosure of information by the occupier.**—(1) The occupier of every factory involving a hazardous process shall disclose in the manner prescribed all information regarding dangers, including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector, the local authority within whose jurisdiction the factory is situate and the general public in the vicinity.

(2) The occupier shall, at the time of registering the factory involving a hazardous process, lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate such policy to the Chief Inspector and the local authority and, thereafter, at such intervals as may be prescribed, inform the Chief Inspector and the local authority of any change made in the said policy.

(3) The information furnished under sub-section (1) shall include accurate information as to the quantity, specifications and other characteristics of wastes and the manner of their disposal.

(4) Every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall,—

(a) if such factory engaged in a hazardous process on the commencement of the Factories (Amendment) Act, 1987, within a period of thirty days of such commencement; and

(b) if such factory engaged in a hazardous process at any time after such commencement, within a period of thirty days before the commencement of such process,

inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

(6) Where any occupier of a factory contravenes the provisions of sub-section (5), the licence issued under section 6 to such factory shall, notwithstanding any penalty to which the occupier or factory shall be subjected to under the provisions of this Act, be liable for cancellation.

(7) The occupier of a factory involving a hazardous process shall, with the previous approval of the Chief Inspector, lay down measures for the handling, usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed among the workers and the general public living in the vicinity.

**41C. Specific responsibility of the occupier in relation to hazardous processes.**—Every occupier of a factory involving any hazardous process shall—

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(b) appoint persons who possess qualifications and experience in handling hazardous substances and are competent to supervise such handling within the factory and to provide at the working place all the necessary facilities for protecting the workers in the manner prescribed:

Provided that where any question arises as to the qualifications and experience of a person so appointed, the decision of the Chief Inspector shall be final;

(c) provide for medical examination of every worker—

(a) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and

(b) while continuing in such job, and after he has ceased to work in such job, at intervals not exceeding twelve months, in such manner as may be prescribed.



**41D. Power of Central Government to appoint Inquiry Committee.**—(1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected, due to such failure or neglect and for the prevention and recurrence of such extraordinary situations in future in such factory or elsewhere.

(2) The Committee appointed under sub-section (1) shall consist of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Central Government according to the requirements of the situation.

(3) The recommendations of the Committee shall be advisory in the nature.

**41E. Emergency standards.**—(1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director-General of Factory Advice Service and Labour Institutes or any institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Act, be enforceable and have the same effect as if they had been incorporated in the rules made under this Act.

**41F. Permissible limits of exposure of chemical and toxic substances.**—(1) The maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

(2) The Central Government may, at any time, for the purpose of giving effect to any scientific proof obtained from specialised institutions or experts in the field by notification in the Official Gazette, make suitable changes in the said Schedule.

**41G. Workers' participation in safety management.**—(1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled, set up a Safety Committee consisting of equal number of representatives of workers and management to promote co-operation between the workers and the management in maintaining proper safety and health at work and to review periodical the measures taken in that behalf:

Provided that the State Government may, by order in writing and for reasons to be recorded exempt the occupier of any factory or class of factories from setting up such Committee.

(2) The composition of the Safety Committee, the tenure of office of its members and their right and duties shall be such as may be prescribed.

**41H. Right of workers to warn about imminent danger.**—(1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident, they may bring the same to the notice of the occupier, agent, manager or any other person who is in charge of the factory or the process concerned directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector.

(2) It shall be the duty of such occupier, agent, manager or the person in charge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the nearest Inspector.

(3) If the occupier, agent, manager or the person in charge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forthwith to the nearest Inspector whose decision on the question of the existence of such imminent danger shall be final.]

CHAPTER V  
WELFARE

**42. Washing facilities.**—(1) In every factory—

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The State Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

**43. Facilities for storing and drying clothing.**—The State Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

**44. Facilities for sitting.**—(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If, in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The State Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

**45. First-aid appliances.**—(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed <sup>1</sup>[at any one time] in the factory.

<sup>2</sup>[(2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard.

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person <sup>3</sup>[who holds a certificate in first-aid treatment recognised by the State Government] and who shall always be readily available during the working hours of the factory.]

<sup>4</sup>[(4) In every factory wherein more than five hundred workers are <sup>5</sup>[ordinarily employed] there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed <sup>6</sup>[and those facilities shall always be made readily available during the working hours of the factory].

**STATE AMENDMENTS**

**Karnataka**

**Amendment of section 45.**—In section 45 of the Factories Act, 1948 (Central Act LXIII of 1948) (hereinafter referred to as the principal Act), in sub-section (4), for the words “five hundred” the words “two hundred” shall be substituted.

[Vide Karnataka Act 1 of 2003, s. 2].

---

1. Ins. by Act 25 of 1954, s. 9 (w.e.f. 7-5-1954).

2. Subs. by s. 9, *ibid.*, for sub-section (2) (w.e.f. 7-5-1954).

3. Subs. by Act 94 of 1976, s. 21, for “who is trained in first-aid treatment” (w.e.f. 26-10-1976).

4. Sub-section (3) re-numbered as sub-section (4) by Act 25 of 1954, s. 9 (w.e.f. 7-5-1954).

5. Subs. by Act 94 of 1976, s. 21, for “employed” (w.e.f. 26-10-1976).

6. Ins. by s. 21, *ibid.* (w.e.f. 26-10-1976).

**46. Canteens.**—(1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.]

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

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefore;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

<sup>1</sup>[(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;]

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

**47. Shelters, rest rooms and lunch rooms.**—(1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers;

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelters or rest rooms or lunch rooms to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The State Government may—

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(b) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.

**48. Creches.**—(1) In every factory wherein more than<sup>2</sup>[thirty women workers] are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules—

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision i n any factory of free milk or refreshment or both for such children;

---

1. Ins. by Act 94 of 1976, s. 22 (w.e.f. 26-10-1976).

2. Subs. by s. 23, *ibid.*, for “fifty women workers” (w.e.f. 26-10-1976).

(d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

**49. Welfare officers.**—(1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

## STATE AMENDMENTS

### Karnataka

**Amendment of section 49.**—In section 49 of the principal Act,—

(1) in sub-section (1), for the words “five hundred” the words “two hundred” shall be substituted;

(2) after sub-section (1), the following shall be inserted, namely:—

“(1A) In every factory where two hundred or more women workers are ordinarily employed the occupier shall employ in the factory, such number of female supervisors, as may be prescribed.”

[Vide Karnataka Act 1 of 2003, s. 3].

**50. Power to make rules to supplement this Chapter.**—The State Government may make rules—

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or class or description of factories from compliance with any of the provisions of this Chapter;

(b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements of the workers.

## CHAPTER VI

### WORKING HOURS OF ADULTS

**51. Weekly hours.**—No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

**52. Weekly holidays.**—(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless—

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day, and

(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,—

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

**53. Compensatory holidays.**—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of

section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The State Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

**54. Daily hours.**—Subject to the provisions of section 51, not adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

<sup>1</sup>[Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.]

**55. Intervals for rest.**—<sup>2</sup>[(1)]<sup>3</sup>[The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

<sup>4</sup>[(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.]

**56. Spread over.**—The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing increase the<sup>5</sup>[spreadover up to twelve hours].

**57. Night shifts.**—Where a worker in a factory works on a shift which extends beyond midnight,—

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

**58. Prohibition of overlapping shifts.**—(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

<sup>6</sup>[(2) The State Government or subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-section (1).]

**59. Extra wages for overtime.**—(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

<sup>7</sup>[(2) For the purposes of sub-section (1), “ordinary rate of wages” means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

---

1. Added by Act 25 of 1954, s. 10 (w.e.f. 7-5-1954).

2. Section 55 re-numbered as sub-section (1) of that section by s. 11, *ibid.* (w.e.f. 7-5-1954).

3. Subs. by act 40 of 1949, s. 3 and the Second Schedule, for “The period” (w.e.f. 1-5-1949).

4. Added by Act 25 of 1954, s. 11 (w.e.f. 7-5-1954).

5. Subs. by Act 94 of 1976, s. 24, for “spread over to twelve hours” (w.e.f. 26-10-1976).

6. Subs. by Act 25 of 1954, s. 12, for sub-section (2) (w.e.f. 7-5-1954).

7. Subs. by Act 94 of 1976, s. 25, for sub-section (2) and (3) (w.e.f. 26-10-1976).

(3) Where any workers in a factory are paid on a piece rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be ordinary rates of wages of those workers:

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

*Explanation.*—For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.]

<sup>1</sup>[(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food grains and other articles admissible to a standard family.

*Explanation 1.*—“Standard family” means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2.*—“Adult consumption unit” means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 8 and 6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.]

**60. Restriction on double employment.**—No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

**61. Notice of periods of work for adults.**—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section, and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 51, 52, 54,<sup>2</sup>[ 55, 56 and 58].

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

---

1. Subs. by Act 25 of 1954, s. 13, for sub-section (4) (w.e.f. 7-5-1954).

2. Subs. by s.14, *ibid.*, for “55 and 56” (w.e.f. 7-5-1954).

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts where under the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The State Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

**62. Register of adult workers.**—(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing—

- (a) the name of each adult worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as the register of adult workers in that factory.

<sup>1</sup>[(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.]

(2) The State Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

**63. Hours of work to correspond with notice under section 61 and register under section 62.**—No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory.

**64. Power to make exempting rules.**—(1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory <sup>2</sup>[or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed], and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined <sup>2</sup>[or declared]:

<sup>2</sup>[Provided that any person so defined or declared shall, where the ordinary rate of wages of such person <sup>3</sup>[does not exceed the wage limit specified in sub-section (6) of section 1 of the Payment of Wages

---

1. Ins. by Act 94 of 1976, s. 26 (w.e.f. 26-10-1976).

2. Ins. by s. 27, *ibid.* (w.e.f. 26-10-1976).

3. Subs. by Act 20 of 1987, s. 21, for “does not exceed rupees seven hundred and fifty per month” (w.e.f. 1-12-1987).

Act, 1936 (4 of 1936), as amended from time to time], be entitled to extra wages in respect of, overtime work under section 59.]

(2) The State Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56;

(d) of workers engaged in any work which for technical reasons must be carried on continuously <sup>1\*\*\*</sup> from the provisions of sections 51, 52, 54, 55 and 56;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of <sup>2</sup>[section 51 and section 52];

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed sections, from the provisions of <sup>2</sup>[section 51, section 52 and section 54];

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of <sup>2</sup>[section 51 and section 52];

<sup>3</sup>[(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of sections 51, 54 and 56.

*Explanation.*—In this clause the expression “newspapers” has the meaning assigned to it in the Press and Registration of Books Act, 1867 (25 of 1867);

(j) of workers engaged in the loading or unloading of railway wagons, <sup>4</sup>[or lorries or trucks] from the provisions of sections 51, 52, 54, 55 and 56];

<sup>4</sup>[(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.]

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the State Government may deem to be expedient, subject to such conditions as it may prescribe.

<sup>5</sup>(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2) the following limits of work inclusive of overtime:—

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the spread over, inclusive of intervals for rest, shall not exceed twelve hours in any one day:

Provided that the State Government may, in respect of any or all of the categories of workers referred to in clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by clause (i) and clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

<sup>4</sup>[(iii) the, total number of hours of work in a week, including overtime, shall not exceed sixty;]

<sup>6</sup>[(iv)] the total number of hours of overtime shall not exceed fifty for any one quarter,

---

1. The words “throughout the day” omitted by Act 25 of 1954, s. 15 (w.e.f. 7-5-1954).

2. Subs. by Act 94 of 1976, s. 27, for section 52 (w.e.f. 26-10-1976).

3. Added by Act 25 of 1954, s. 15 (w.e.f. 7-5-1954).

4. Ins. by Act 94 of 1976, s. 27 (w.e.f. 26-10-1976).

5. Subs. by Act 25 of 1954, s. 15, for sub-section (4) (w.e.f. 7-5-1954).

6. Clause (iii) re-numbered as clause (iv) by Act 94 of 1976, s. 27 (w.e.f. 26-10-1976).





(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

## STATE AMENDMENTS

### Maharashtra

**Amendment of section 66 of 63 of 1948.**—In section 66 of the principal Act, in sub-section (1), in clause (b), for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that, the women workers may be required or allowed to work even between the hours of 7.00 p.m. and 6.00 a.m. in any factory in which adequate safety and security measures or safeguards as may be prescribed are provided;”.

[Vide Maharashtra Act 40 of 2015, s. 4].

## CHAPTER VII EMPLOYMENT OF YOUNG PERSONS

**67. Prohibition of employment of young children.**—No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

**68. Non-adult workers to carry tokens.**—A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless—

(a) a certificate of fitness granted with reference to him under section 69 is in the custody of the manager of the factory, and

(b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

**69. Certificates of fitness.**—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which any young person wishes to work, examine such person and ascertain his fitness for work in a factory.

(2) The certifying surgeon, after examination, may grant to such young person, in the prescribed form, or may renew—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, that he has attained the prescribed physical standards and that he is fit for such work;

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his fifteenth year, and is fit for a full day's work in a factory:

Provided that unless the certifying surgeon has personal knowledge of the place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew a certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub-section (2)—

(a) shall be valid only for a period of twelve months from the date thereof:

(b) may be made subject to conditions in regard to the nature of the work in which the young person may be employed, or requiring re-examination of the young person before the expiry of the period of twelve months.



**72. Notice of periods of work for children.**—(1) There shall be displayed and correctly maintained in every factory in which children are employed, in accordance with the provisions of sub-section (2) of section 108 a notice of periods of work for children, showing clearly for every day the periods during which children may be required or allowed to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adult workers in section 61, and shall be such that children working for those periods would not be working in contravention of any of the provisions of section 71.

(3) The provisions of sub-sections (8), (9) and (10) of section 61 shall apply also to the notice required by sub-section (1) of this section.

**73. Register of child workers.**—(1) The manager of every factory in which children are employed shall maintain a register of child workers, to be available to the Inspector at all times during working hours or when any work is being carried on in a factory, showing—

- (a) the name of each child worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted, and
- (e) the number of his certificate of fitness granted under section 69.

<sup>1</sup>[(1A) No child worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of child workers.]

(2) The State Government may prescribe the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

**74. Hours of work to correspond with notice under section 72 and register under section 73.**—No child worker shall be employed in any factory otherwise than in accordance with the notice of periods of work for children displayed in the factory and the entries made beforehand against his name in the register of child workers of the factory.

**75. Power to require medical examination.**—Where an Inspector is of opinion—

- (a) that any person working in a factory without a certificate of fitness is a young person, or
- (b) that a young person working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person or young person, as the case may be, shall be examined by a certifying surgeon, and such person or young person shall not, if the Inspector so directs, be employed, or permitted to work, in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be, under section 69, or has been certified by the certifying surgeon examining him not to be a young person.

**76. Power to make rules.**—The State Government may make rules—

- (a) prescribing the forms of certificates of fitness to be granted under section 69, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;
- (b) prescribing the physical standards to be attained by children and adolescents working in factories;
- (c) regulating the procedure of certifying surgeons under this Chapter;
- (d) specifying other duties which certifying surgeons may be required to perform in connection with the employment of young persons in factories, and fixing the fees which may be charged for such duties and the persons by whom they shall be payable.

---

1. Ins. by Act 94 of 1976, s. 30 (w.e.f. 26-10-1976).

**77. Certain other provisions of law not barred.**—The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938 (26 of 1938).

<sup>1</sup>[CHAPTER VIII  
ANNUAL LEAVE WITH WAGES

**78. Application of Chapter.**—(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award,<sup>2</sup>[agreement (including settlement)] or contract of service:

<sup>3</sup>[Provided that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favourably therein, the provisions of sections 79 to 82, so far as may be, shall apply.]

(2) The provisions of this Chapter shall not apply to workers<sup>4</sup>[in any factory] of any railway administered by the Government, who are governed by leave rules approved by the Central Government.

**79. Annual leave with wages.**—(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of—

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

*Explanation 1.*—For the purpose of this sub-section—

(a) any days of lay off, by agreement or contract or as permissible under the standing orders;

(b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed,

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

*Explanation 2.*—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

<sup>5</sup>[(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuating or death calculated at the rates specified in sub-section (1) even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made—

(i) where the worker is discharged or dismissed or quits employment, before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuating or death.]

---

1. Subs. by Act 25 of 1954, s. 20 for Chapter VIII (w.e.f. 7-5-1954).

2. Subs. by Act 94 of 1976, s. 31, for “agreement” (w.e.f. 26-10-1976).

3. Subs. by s. 31, *ibid.*, for the proviso (w.e.f. 26-10-1976).

4. Subs. by Act 94 of 1976, s. 31, for “in any workshop” (w.e.f. 26-10-1976).

5. Subs. by s. 32, *ibid.*, for sub-section (3) (w.e.f. 26-10-1976).

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-sections (8) and (9) <sup>1</sup>[or in contravention of sub-section (10)] shall be entitled to carry forward the <sup>2</sup>[leave refused] without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

Provided that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6); and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (14 of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of leave allowable under this section may be regulated.

(9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in the factory and shall be in force for a period of twelve months from the date on which it comes into force, and may thereafter be renewed with or without modification for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment, before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

(12) The unavailed leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

---

1. Ins. by Act 94 of 1976, s. 32. (w.e.f. 26-10-1976).

2. Subs. by s. 32, *ibid.*, for "unavailed leave" (w.e.f. 26-10-1976).

## STATE AMENDMENTS

### Maharashtra

**Amendment of section 79 of 63 of 1948.**—In section 79 of the principal Act, in sub-section (1),—

(a) for the figures and word “240 days” the figures and word “90 days” shall be substituted;

(b) in *Explanation 1*, for the figures and word “240 days” the figures and word “90 days” shall be substituted.

[*Vide* Maharashtra Act 40 of 2015, s. 5].

**80. Wages during leave period.**—(1) For the leave allowed to him under <sup>1</sup>[section 78 or section 79, as the case may be,] a worker <sup>2</sup>[shall be entitled to wages] at a rate equal to the daily average of his total full time earnings for the days on which <sup>3</sup>[he actually worked] during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of food grains and other articles:

<sup>4</sup>[Provided that in the case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave, in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of food grains and other articles.]

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of food grains and other articles shall be computed as often as may be prescribed, on the basis of the maximum quantity of food grains and other articles admissible to a standard family.

*Explanation 1.*—“Standard family” means a family consisting of a worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2.*—“Adult consumption unit” means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 8 and 6 respectively of one adult consumption unit.

(3) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

**81. Payment in advance in certain cases.**—A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins be paid the wages due for the period of the leave allowed.

**82. Mode of recovery of unpaid wages.**—Any sum required to be paid by an employer, under his Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (4 of 1936).

**83. Power to make rules.**—The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

---

1. Subs. by Act 94 of 1976, s. 33, for “section 79” (w.e.f. 26-10-1976).

2. Subs. by Act 20 of 1987, s. 24, for “shall be paid” (w.e.f. 1-12-1987).

3. Subs. by Act 94 of 1976, s. 33, for “he worked” (w.e.f. 26-10-1976).

4. Ins. by Act 20 of 1987, s. 24 (w.e.f. 1-12-1987).

**84. Power to exempt factories.**—Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision it may, by written order; exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.]

<sup>1</sup>[*Explanation.*—For the purposes of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.]

## CHAPTER IX

### SPECIAL PROVISIONS

**85. Power to apply the act to certain premises.**—(1) The State Government may, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that—

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

*Explanation.*—For the purposes of this section, “owner” shall include a lessee or mortgagee with possession of the premises.

## STATE AMENDMENTS

### Maharashtra

**Amendment of section 85 of 63 of 1948.**—In section 85 of the principal Act, in sub-section (1), in clause (i),—

(a) after the words “less than ten” the words “or such number of workers as may be specified by the State Government under sub-clause (i) of clause (m) of section 2” shall be inserted;

(b) after the words “less than twenty” the words “or such number of workers as may be specified by the State Government under sub-clause (ii) of clause (m) of section 2,” shall be inserted.

[*Vide* Maharashtra Act 40 of 2015, s. 6].

**86. Power to exempt public institutions.**—The State Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education,<sup>2</sup>[training, research] or reformation, from all or any of the provisions of this Act:

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution submit, for the approval of the State Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the State Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

---

1. Ins. by Act 94 of 1976, s. 34 (w.e.f. 26-10-1976).

2. Subs. by Act 94 of 1976 s. 35, for “training” (w.e.f. 26-10-1976).



**87. Dangerous operations.**—Where the State Government is of opinion that any <sup>1</sup>[manufacturing process or operation] carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the <sup>1</sup>[manufacturing process or operation] is carried on—

(a) specifying the <sup>1</sup>[manufacturing process or operation] and declaring it to be dangerous;

(b) prohibiting or restricting the employment of women, adolescents or children in the <sup>1</sup>[manufacturing process or operation];

(c) providing for the periodical medical examination of persons employed, or seeking to be employed, in the <sup>1</sup>[manufacturing process or operation], and prohibiting the employment of persons not certified as fit for such employment <sup>2</sup>[and requiring the payment by the occupier of the factory of fees for such medical examination];

(d) providing for the protection of all persons employed in the <sup>1</sup>[manufacturing process or operation] or in the vicinity of the places where it is carried on;

(e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the <sup>1</sup>[manufacturing process or operation];

<sup>2</sup>[(f) requiring the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation.

<sup>3</sup>\*\*\*

\*

\*

<sup>4</sup>[**87A. Power to prohibit employment on account of serious hazard.**—(1) Where it appears to the Inspector that conditions in a factory or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by order in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard is removed.

(2) Any order issued by the Inspector under sub-section (1) shall have effect for a period of three days until extended by the Chief Inspector by a subsequent order.

(3) Any person aggrieved by an order of the Inspector under sub-section (1), and the Chief Inspector under sub-section (2), shall have the right to appeal to the High Court.

(4) Any person whose employment has been affected by an order issued under sub-section (1), shall be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible and in the manner prescribed.

(5) The provisions of sub-section (4) shall be without prejudice to the rights of the parties under the Industrial Disputes Act, 1947 (14 of 1947).]

**88. Notice of certain accidents.**—<sup>5</sup>[(1)] Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

<sup>6</sup>[(2) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall make an inquiry into the occurrence within one month of the receipt of the

---

1. Subs. by Act 94 of 1976s. 36, *ibid.*, for “operation” (w.e.f. 26-10-1976).

2. Ins. by s. 36, *ibid.* (w.e.f. 26-10-1976).

3. Omitted by Act of 20 of 1987, s. 25 (w.e.f. 1-12-1987).

4. Ins. by s. 26, *ibid.* (w.e.f. 1-12-1987).

5. Section 88 re-numbered as sub-section (1) thereof by Act 94 of 1976, s. 37 (w.e.f. 26-10-1976).

6. Ins. by s. 37, *ibid.* (w.e.f. 26-10-1976).

notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.

(3) The State Government may make rules for regulating the procedure at inquiries under this section.]

<sup>1</sup>[**88A. Notice of certain dangerous occurrences.**—Where in a factory any dangerous occurrence of such nature as may be prescribed occurs, whether causing any bodily injury or disability or not, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.]

**89. Notice of certain diseases.**—(1) Where any worker in a factory contracts any disease specified in<sup>2</sup>[the Third Schedule], the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be, suffering from any disease specified in<sup>2</sup>[the Third Schedule], the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector stating—

- (a) the name and full postal address of the patient,
- (b) the disease from which he believes the patient to be suffering, and
- (c) the name and address of the factory in which the patient is, or was last, employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of a certifying surgeon or otherwise, that the person is suffering from a disease specified in<sup>2</sup>[the Third Schedule], he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land-revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to<sup>3</sup>[one thousand rupees].

<sup>4</sup>[(5) The Central Government may, by notification in the Official Gazette, add to or alter the Third Schedule and any such addition or alteration shall have effect as if it had been made by this Act.]

**90. Power to direct enquiry into cases of accident or disease.**—(1) The State Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in<sup>5</sup>[the Third Schedule] has been, or is suspected to have been contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (45 of 1860).

(3) The person holding an inquiry under this section shall make a report to the State Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and addition any observations which he or any of the assessors may think fit to make.

(4) The State Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The State Government may make rules for regulating the procedure at inquiries under this section.

---

1. Ins. by Act 94 of 1976, s. 38 (w.e.f. 26-10-1976).

2. Subs. by Act 20 of 1987, s. 27, for “the Schedule” (w.e.f. 1-12-1987).

3. Subs. by s. 27, *ibid.*, for “fifty rupees” (w.e.f. 1-12-1987).

4. Added by s. 27, *ibid.* (w.e.f. 1-12-1987).

6. Subs. by s. 28, *ibid.*, for “the Schedule” (w.e.f. 1-12-1987).

**91. Power to take samples.**—(1) An Inspector may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in charge of the factory, take in the manner hereinafter provided a sufficient sample of any substances used or intended to be used in the factory, such use being—

(a) in the belief of the Inspector in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under that sub-section unless such person willfully absents himself, divide the sample into three portions and effectually seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall—

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government Analyst for analysis and report thereon;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government Analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

<sup>1</sup>**[91A. Safety and occupational health surveys.**—(1) The Chief Inspector, or the Director General of Factory Advice Service and Labour Institutes, or the Director General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes or the Director General of Health Services may, at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in charge of the factory, undertake safety and occupational health surveys, and such occupier or manager or other person shall afford all facilities for such every, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the factory.]

<sup>2</sup>[*Explanation.*—For the purposes of this section, the report, if any, submitted to the State Government by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector under this Act.]

## CHAPTER X

### PENALTIES AND PROCEDURE

**92. General penalty for offences.**—Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factor there is any contravention of any of the

---

1. Ins. by Act 94 of 1976, s. 39 (w.e.f. 26-10-1976).

2. Ins. by Act 20 of 1987, s. 29 (w.e.f. 1-12-1987).

provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to<sup>1</sup>[two years] or with fine which may extend to<sup>2</sup>[one lakh rupees] or with both, and if the contravention is continued after conviction, with a further fine which may extend to<sup>3</sup>[one thousand rupees] for each day on which the contravention is so continued:

<sup>4</sup>[Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than<sup>5</sup>[twenty-five thousand rupees] in the case of an accident causing death, and<sup>6</sup>[five thousand rupees] in the case of an accident causing serious bodily injury.

*Explanation.*—In this section and in section 94 “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.]

## STATE AMENDMENTS

### Maharashtra

**Insertion of section 92A in 63 of 1948.**—After section 92 of the principal Act, the following section shall be inserted, namely:—

**92A. Compounding of certain offences.**—(1) The State Government may, by notification in the *Official Gazette*, prescribe in respect of the offences specified in the Fourth Schedule, which may before the institution of the prosecution, be compounded by such officer not below the rank of Deputy Chief Inspector of Factories and for such amount as may be prescribed but the amount of fine shall not be more than the fine prescribed under section 92:

Provided that, the State Government may, by notification in the *Official Gazette*, amend the Fourth Schedule by way of addition, omission or variation of any offence specified in the said Schedule.

(2) Where an offence has been compounded under sub-section (1), no further proceedings shall be taken against the offender in respect of such offence.”.

[*Vide* Maharashtra Act 40 of 2015, s. 7].

<sup>7</sup>[**93. Liability of owner of premises in certain circumstances.**—(1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

(i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;

(ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or user of an occupier;

---

1. Subs. by Act 20 of 1987, s. 30, for “three months” (w.e.f. 1-12-1987).

2. Subs. by s. 30, *ibid.*, for “two thousand rupees” (w.e.f. 1-12-1987).

3. Subs. by s. 30, *ibid.*, for “seventy-five rupees” (w.e.f. 1-12-1987).

4. Ins. by Act 94 of 1976, s. 40 (w.e.f. 26-10-1976).

5. Subs. by Act 20 of 1987, s. 30, for “one thousand rupees” (w.e.f. 1-12-1987).

6. Subs. by s. 30, *ibid.*, for “five thousand rupees” (w.e.f. 1-12-1987).

7. Subs. by Act 25 of 1954, s. 21, for section 93 (w.e.f. 7-5-1954).

(iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;

(iv) precautions in case of fire;

(v) maintenance of hoists and lifts; and

(vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 14 and 15;

(ii) Chapter IV, except sections 22, 23, 27, 34, 35 and 36:

Provided that in respect of the provisions of sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.]

**94. Enhanced penalty after previous conviction.**—<sup>1</sup>[(I)] If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to<sup>2</sup>[three years] or with fine<sup>3</sup>[which shall not be less than<sup>4</sup>[ten thousand rupees] but which may extend to<sup>5</sup>[two lakh rupees]] or with both:

<sup>6</sup>[Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than<sup>4</sup>[ten thousand rupees]:

---

1. Section 94 renumbered is sub-section (I) thereof by Act 94 of 1976, s. 41 (w.e.f. 26-10-1976).

2. Subs. by Act 20 of 1987, s. 31, for "six months" (w.e.f. 1-12-1987).

3. Subs. by Act 94 of 1976, s. 41, for "which may extend to one thousand rupees" (w.e.f. 26-10-1976).

4. Subs. by Act 20 of 1987, s. 31, for "two hundred rupees" (w.e.f. 1-12-1987).

5. Subs. by s. 31, *ibid.*, for "five thousand rupees" (w.e.f. 1-12-1987).

6. Subs. by Act 94 of 1976, s. 41, for the proviso (w.e.f. 26-10-1976).

Provided further that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than <sup>1</sup>[thirty-five thousand rupees] in the case of an accident causing death and <sup>2</sup>[ten thousand rupees] in the case of an accident causing serious bodily injury.]

<sup>3</sup>[(2) For the purposes of sub-section (I) no cognizance shall be taken of any conviction made more than two years before the commission or the offence for which the person is subsequently being convicted.]

**95. Penalty for obstructing Inspector.**—Whoever willfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, a n Inspector, shall be punishable with imprisonment for a term which may extend to <sup>4</sup>[six months] or with fine which may extend to <sup>5</sup>[ten thousand rupees] or with both.

**96. Penalty for wrongfully disclosing results of analysis under section 91.**—Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to <sup>6</sup>[six months] or with fine which may extend to <sup>7</sup>[ten thousand rupees] or with both.

<sup>8</sup>**96A. Penalty for contravention of the provisions of sections 41B, 41 C and 41 H.**—(I) Whoever fails to comply with or contravenes any of the provisions of section 41B, 41 C or 41 H or the rules made thereunder, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to two lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (I) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to ten years.]

**97. Offences by workers.**—(I) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to <sup>9</sup>[five hundred rupees].

(2) Where a worker is convicted of an offence punishable under sub-section (I) the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

**98. Penalty for using false certificate of fitness.**—Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to <sup>10</sup>[two months] or with fine which may extend to <sup>11</sup>[one thousand rupees] or with both.

---

1. Subs. by Act 20 of 1987, s. 31, for “two thousand rupees” (w.e.f. 1-12-1987).

2. Subs. by s. 31, *ibid.*, for “one thousand rupees” (w.e.f. 1-12-1987).

3. Ins. by Act 94 of 1976, s. 41 (w.e.f. 26-10-1976).

4. Subs. by Act 20 of 1987, s. 32, for “three months” (w.e.f. 1-12-1987).

5. Subs. by s. 32, *ibid.*, for “five thousand rupees” (w.e.f. 1-12-1987).

6. Subs. by s. 33, *ibid.*, for “three months” (w.e.f. 1-12-1987).

7. Subs. by s. 33, *ibid.*, for “five hundred rupees” (w.e.f. 1-12-1987).

8. Ins. by s. 34, *ibid.* (w.e.f. 1-12-1987).

9. Subs. by s. 35, *ibid.*, for “twenty rupees” (w.e.f. 1-12-1987).

10. Subs. by s. 36, *ibid.*, for “one month” (w.e.f. 1-12-1987).

11. Subs. by s. 36, *ibid.*, for “fifty rupees” (w.e.f. 1-12-1987).

**99. Penalty for permitting double employment of child.**—If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to <sup>1</sup>[one thousand rupees], unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

**100.**[*Detention of occupier in certain cases.*]Rep. by the *Factories (Amendment) Act, 1987 (20 of 1987)*,s. 38 (w.e.f. 1-12-1987).

**101. Exemption of occupier or manager from liability in certain cases.**—Where the occupier or manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the occupier or manager cannot be brought before the Court at the time appointed for hearing the charge, the Court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the Court, the Court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

**102. Power of Court to make orders.**—(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the court may, if it thinks fit and on application in such behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1) the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order or the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefore by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

**103. Presumption as to employment.**—If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

---

1. Subs. by Act 20 of 1987, s. 37, for "fifty rupees" (w.e.f. 1-12-1987).

**104. Onus as to age.**—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

<sup>1</sup>[**104A. Onus of proving limits of what is practicable, etc.**—In any proceeding for an offence for the contravention of any provision of this Act or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or, as the case may be, all practicable measures were taken to satisfy the duty or requirement.]

**105. Cognizance of offences.**—(1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

## STATE AMENDMENTS

### Maharashtra

**Amendment of section 105 of 63 of 1948.**—In section 105 of the principal Act, in sub-section (1), for the words “an Inspector” the words “the Chief Inspector” shall be substituted.

[*Vide* Maharashtra Act 40 of 2015, s. 8].

**106. Limitation of prosecutions.**—No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

<sup>2</sup>[*Explanation.*—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.]

<sup>3</sup>[**106A. Jurisdiction of a court for entertaining proceedings, etc., for offence.**—For the purposes of conferring jurisdiction on any court in relation to an offence under this Act or the rules made thereunder in connection with the operation of any plant, the place where the plant is for the time being situate shall be deemed to be the place where such offence has been committed.]

## CHAPTER XI

### SUPPLEMENTAL

**107. Appeals.**—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the prescribed authority, and such authority may, subject to rules made in this behalf by the State Government, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf by the State Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed:

---

1. Ins. by Act 20 of 1987, s. 39 (w.e.f. 1-12-1987).

2. Ins. by Act 94 of 1976, s. 43 (w.e.f. 26-10-1976).

3. Ins. by Act 20 of 1987, s. 40 (w.e.f. 1-12-1987).



Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the State Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

**108. Display of notices.**—(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

**109. Service of notices.**—The State Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

**110. Returns.**—The State Government may make rules requiring owners, occupiers or managers of factories to submit such returns, occasional or periodical, as may in its opinion be required for the purposes of this Act.

**111. Obligations of workers.**—(1) No worker in a factory—

(a) shall willfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;

(b) shall willfully and without reasonable cause do anything likely to endanger himself or others; and

(c) shall willfully neglect to make use of any appliance or other thing provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

<sup>1</sup>[**111A. Right of workers, etc.**—Every worker shall have the right to—

(i) obtain from the occupier, information relating to workers' health and safety at work,

(ii) get trained within the factory wherever possible, or, to get himself sponsored by the occupier for getting trained at a training center or institute, duly approved by the Chief Inspector, where training is imparted for workers' health and safety at work,

(iii) represent to the Inspector directly or through his representative in the matter of inadequate provision for protection of his health or safety in the factory.]

**112. General power to make rules.**—The State Government may make rules providing for any matter which under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

---

1. Ins. by Act 20 of 1987, s. 41 (w.e.f. 1-12-1987).

**113. Powers of Centre to give directions.**—The Central Government may give directions to a State Governments to the carrying into execution of the provisions of this Act.

**114. No charge for facilities and conveniences.**—Subject to the provisions of section 46 no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided, or any equipments or appliances to be supplied by the occupier under the provisions of this Act.

**115. Publication of rules.**—<sup>1</sup>[(1)] All rules made under this Act shall be published in the Official Gazette, and shall be subject to the condition of previous publication; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall be not less than<sup>2</sup>[forty-five days] from the date on which the draft of the proposed rules was published.

<sup>3</sup>[(2)] Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

**116. Application of Act to Government factories.**—Unless otherwise provided this Act shall apply to factories belonging to the Central or any State Government.

**117. Protection to persons acting under this Act.**—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.

**118. Restrictions on disclosure of information.**—(1) No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution, or for the purposes, of this Act any information relating to any manufacturing or commercial business or any working process which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

<sup>4</sup>[**118A. Restriction on disclosure of information.**—(1) Every Inspector shall treat as confidential the source of any complaint brought to his notice on the breach of any provision of this Act.

(2) No inspector shall, while making an inspection under this Act, disclose to the occupier, manager or his representative that the inspection is made in pursuance of the receipt of a complaint:

Provided that nothing in this sub-section shall apply to any case in which the person who has made the complaint has consented to disclose his name. ]

<sup>5</sup>[**119. Act to have effect notwithstanding anything contained in Act 37 of 1970.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Contract Labour (Regulation and Abolition) Act, 1970<sup>6</sup>[or any other law for the time being in force.]]

**120. Repeal and savings.**—The enactments set out in the Table appended to this section are hereby repealed:

Provided that anything done under the said enactments which could have been done under this Act if it had then been in force shall be deemed to have been done under this Act.

*TABLE.*—[*Enactments repealed.*] *Rep. by the Repealing and Amending Act, 1950 (35 of 1950), s. 2 and the First Schedule (w.e.f. 10-4-1950.)*

---

1. Section 115 renumbered as sub-section (1) thereof by Act 20 of 1987, s. 42 (w.e.f. 1-12-1987).

2. Subs. by s. 42, *ibid.*, for “three months” (w.e.f. 1-12-1987).

3. Ins. by s. 42, *ibid.* (w.e.f. 1-12-1987).

4. Ins. by s. 43, *ibid.* (w.e.f. 1-12-1987).

5. Ins. by Act 94 of 1976, s. 44 (w.e.f. 26-10-1976).

6. Ins. by Act 20 of 1987, s. 44 (w.e.f. 1-12-1987).

<sup>1</sup>[THE FIRST SCHEDULE]

[See section 2 (cb)]

LIST OF INDUSTRIES INVOLVING HAZARDOUS PROCESSES

1. Ferrous Metallurgical industries
  - Integrated Iron and Steel
  - Ferro-alloys
  - Special Steels
2. Non-ferrous Metallurgical Industries
  - Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium
3. Foundries (ferrous and non-ferrous)
  - Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting
4. Coal (including coke) industries
  - Coal Lignite, coke, etc.
  - Fuel Gases (including Coal Gas, Producer Gas, Water Gas)
5. Power Generating Industries
6. Pulp and paper (including paper products) industries
7. Fertiliser Industries
  - Nitrogenous
  - Phosphatic
  - Mixed
8. Cement Industries
  - Portland Cement (including slag cement, puzzolona cement and their products)
9. Petroleum industries
  - Oil Refining
  - Lubricating Oils and Greases
10. Petro-chemical Industries
11. Drugs and Pharmaceutical Industries
  - Narcotics, Drugs and Pharmaceutical
12. Fermentation Industries (Distilleries and Breweries)
13. Rubber (Synthetic Industries)
14. Paints and Pigment Industries
15. Leather Tanning Industries
16. Electroplating Industries

---

1. Ins. by Act 20 of 1987, s. 45 (w.e.f. 1-12-1987).

## 17. Chemical Industries

- Coke Oven By-products and Coal tar Distillation products
  - Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon dioxide, hydrogen, sulphur dioxide, nitrous oxide halogenated hydrocarbon, ozone, etc.)
  - Industrial Carbon
  - Alkalies and Acids
  - Chromates and dichromates
  - Leads and its compounds
  - Electro chemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)
  - Electro thermal products (artificial abrasive, calcium carbide)
  - Nitrogenous compounds (cyanides, cyanamides, and other nitrogenous compounds)
  - Phosphorous and its compounds
  - Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)
  - Explosives (including industrial explosives and detonators and fuses)
18. Insecticides, Fungicides, Herbicides and other Pesticides Industries
19. Synthetic Resin and Plastics
20. Man-made Fiber (Cellulosic and non-cellulosic) industry
21. Manufacture and repair of electrical accumulators
22. Glass and Ceramics
23. Grinding or glazing of metals
24. Manufacture, handling and processing of asbestos and its products
25. Extraction of oils and fats from vegetable and animal sources
26. Manufacture, handling and use of benzene and substances containing benzene
27. Manufacturing processes and operations involving carbon disulphide
28. Dyes and Dyestuff including their intermediates
29. Highly flammable liquids and gases.

THE SECOND SCHEDULE

(See section 41 F)

PERMISSIBLE LEVELS OF CERTAIN CHEMICAL SUBSTANCES IN WORK ENVIRONMENT

Substance	Permissible limits of exposure			
	Time-weighted average concentration (8 hrs)		Short-term exposure limit (15 min)	
	ppm	Mg/m <sup>3</sup>	ppm	Mg/m <sup>3</sup>
Acetaldehyde	100	180	150	270
Acetic acid	10	25	15	37
Acetone	750	1780	1000	2375
Acrolein	0.1	0.25	0.3	0.8
Acrylonitrile-Skin (S.C.)	2	4.5	..	..
Aldrin-skin	..	0.25	..	0.75
Allychloride	1	3	2	6
Ammonia	25	18	35	27
Aniline-Skin	2	10	..	..
Anisidine (o-,p-isomers) Skin	0.1	0.5	..	..
Arsenic A soluble compounds (as As)	..	0.2	..	..
Benzene (S.C.)	05	1.5	25	7.5
Beryllium & Compound (as Be) (S.C.)	..	0.002	..	..
Boron trifluoride-C	1	3	..	..
Bromine	0.1	0.7	0.3	2
Butane	800	1900	..	..
2-Butanone (Methyl-ethyl Ketone-MEK)	200	590	300	835
n-Butyl acetate	150	710	200	950
n-Butyle alcohol-Skin-C	50	150	..	..
sec/tert. Butylacetate	200	950	..	..
Butyl mercaptan	0.5	1.5	..	..
Cadmium Dusts and salts (as Cd)	..	0.05	..	..
Calcium oxide	..	2	..	..
Carbaryl (Sevin)	..	5	..	..
Carbofuran (Furadan)	..	0.1	..	..
Carbon disulphade-Skin	10	30	..	..

	ppm	Mg/m <sup>3</sup>	ppm	Mg/m <sup>3</sup>
Carbon monoxide	50	55	400	440
Carbon tetrachloride-Skin (S.C.)	5	30	..	..
Chlordane-Skin	..	0.5	..	..
Chlorine	1	3	3	9
Chlorobenzene (Monochlorobenzene)	75	350	..	..
Chloroform (S.C.)	10	50	..	..
bis (Chloromethyl) ether (H.C.)	0.001	0.005	..	..
Chromic acid and chromates (as Cr) (Water Soluble)	..	0.05	..	..
Chromous salts (as Cr)	..	0.05	..	..
Copper Fume	..	0.2	..	..
Cotton dust, raw	..	0.2	..	0.6
Crosol, all isomers—Skin	5	22	..	..
Cyanides (as CN)—Skin	..	5	..	..
Cyanogen	10	20	..	..
DDT (Dichlorodiphenyltrichloroethane)	..	1	..	3
demeron-Skin	0.01	0.1	0.03	0.3
Diazinon-Skin	..	0.1	..	0.3
Dibutylphthalale	..	5	..	10
Dichlorvos (DDVP)—Skin	0.1	1	0.3	3
Dieldrin—Skin	..	0.25	..	0.75
Dinitrobenzene (all isomers)—Skin	0.15	1	0.5	3
Dinitrotolune-Skin	..	1.5	..	5
Diphenyl-(Biphenyl)	0.2	1.5	0.6	4
Endosulfan (Thiodan)—Skin	..	0.1	..	0.4
Endrin—Skin	..	0.1	..	0.3
Ethyl acetate	400	1400	..	..
Ethyl alcohol	1000	1900	..	..
Ethylamine	10	18	..	..
Fluorides (as F)	..	2.5	..	..
Fluorine	1	2	2	4
Formaldehyde (S.C.)	1.0	1.5	2	3
Formic acid	5	9	..	..
Gasoline	300	900	500	1500
Hydrazine—Skin (S.C.)	0.1	0.1	..	..
Hydrogen chloride—C	5	7	..	..

	ppm	Mg/m <sup>3</sup>	ppm	Mg/m <sup>3</sup>
Hydrogen cyanide—Skin—C	10	10	..	..
Hydrogen fluoride (as F)—C	3	2.5	..	..
Hydrogen peroxide	1	1.5	..	..
Hydrogen sulphide	10	14	15	21
Iodine—C	0.1	1	..	..
Iron-Oxide Fume (Fe <sub>2</sub> O <sub>3</sub> ) (as Fe)	..	5	..	..
Isoamyl acetate	100	525	..	..
Isoamyl alcohol	100	360	125	4500
Isobutyl alcohol	50	150	..	..
Lead, inorg, dusts and fumes (as Pb)	..	0.15	..	..
Lindane-Skin	..	0.5	..	..
Malathion-Skin	..	10	..	..
Manganese dust and compounds (as Mn)—C	..	5	..	..
Manganese fume (as Mn)	..	1	..	3
Mercury (as Hg)—Skin—				
(i) Alkyl compounds	..	0.01	..	0.03
(ii) All forms except alkyl vapour	..	0.05	..	..
(iii) Aryl and inorganic compounds	..	0.1	..	..
Methyl alcohol (Methanol)—Skin	200	260	250	310
Methyl Cellosolve (2-Methoxy-ethanol) Skin	5	16	..	..
Methyl isobutyl ketone	50	205	75	300
Methyl isocyanate-Skin	0.02	0.05	..	..
Napthalene	10	50	15	75
Nickel carbonyl (as Ni)	0.05	0.35	..	..
Nitric acid	2	5	4	10
Nitric oxide	25	30	..	..
Nitrobenzene—Skin	1	5	..	..
Nitrogen dioxide	3	6	5	10
Oil mist-mineral	..	5	..	10
Ozone	0.1	0.2	0.3	0.6
Parathion—Skin	..	0.1	..	..
Phenol—Skin	5	19	..	..
Phorate (Thimet)—Skin	..	0.05	..	0.2
Phosgene (Carbonyl chloride)	0.1	0.4	..	..
Phosphine	0.3	0.4	1	1

	ppm	Mg/m <sup>3</sup>	ppm	Mg/m <sup>3</sup>
Phosphoric acid	..	1	..	3
Phosphorus (yellow)	..	0.1	..	..
Phosphorus pentachloride	0.1	1	..	..
Phosphorus trichloride	0.2	1.5	0.5	3
Picric acid—Skin	..	0.1	..	0.3
Pyridine	5	15	..	..
Silane (Silicon tetrahydride)	5	7	..	..
Sodium hydroxide—C	..	2	..	..
Styrene, monomer (Phenylethylene)	50	215	100	425
Sulphur dioxide	2	5	5	10
Sulphur hexafluoride	1000	6000	..	..
Sulphuric acid	..	1	..	..
Tetraethyl lead (as Pb)—Skin	..	0.1	..	..
Toluene (Toluol)	100	375	150	560
O—Toluidinz—Skin (S.C.)	2	9	..	..
Tributyl phosphate	0.2	2.5	..	..
Trichloroethylene	50	270	200	1080
Uranium, natural (as U)	..	0.2	..	0.6
Vinyl chloride (H.C.)	5	10	..	..
Welding fumes	..	5	..	..
Xylene (o-, m-, p-isomers)	100	435	150	655
Zinc oxide—				
(i) Fume	..	5.0	..	10
(ii) Dust (Total dust)	..	10.0	..	..
Zirconium compounds (as Zr)	..	5	..	10

C denotes ceiling limit

\*Not more than 4 times a day with at least 60 min. interval between successive exposures.

Substance	Permissible (8 hours)	Time- weighted average	concentration
(i) Silica			
(a) Crystalline			
(b) Quartz			
(1) In term of dusts count	10600		mppcm
	% Quartz+10		



Substance	Permissible (8 hours)	Time- weighted average	concentration
(2) In terms of respirable dust	10		mg/m <sup>3</sup>
	% respirable quartz+2		
(3) In terms of total dust	10		mg/m <sup>3</sup>
	% Quartz+3		
(ii) Cristobalite	Half the limits given against quartz.		
(iii) Tridymite	Half the limits given against quartz.		
(iv) Silica, fused	Same limits as for quartz.		
(v) (a) Tripoli	Same limit as in formula in item 2 given against quartz.		
(b) Amorphous	705 mppcm.]		

<sup>1</sup>[THE THIRD SCHEDULE]

(See sections 89 and 90)

LIST OF NOTIFIABLE DISEASES

1. Lead poisoning, including poisoning by any preparation or compound of lead or their sequelae.
2. Lead-tetra-ethyle poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including, poisoning by any of its homologues, their nitro or amide derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogen derivatives of the hydrocarbons of the aliphatic series.
14. Pathological manifestations due to—
  - (a) radium or other radio-active substances;
  - (b) X-ray.<sup>4</sup>
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.
- <sup>2</sup>[18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.
19. Byssionosis.
20. Asbestosis.
21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.
22. Noise induced hearing loss (exposure to high noise levels).]
- <sup>3</sup>[23. Beryllium poisoning.
24. Carbon monoxide poisoning.
25. Coal miners' pneumoconiosis.
26. Phosgene poisoning.
27. Occupational cancer.
28. Isocyanates poisoning.

---

1. The existing Schedule renumbered as the Third Schedule by Act 20 of 1987, s. 46 (w.e.f. 1-12-1987).

2. Ins. by Act 94 of 1976, s. 45 (w.e.f. 26-10-1976).

3. Ins. by Act 20 of 1987, s. 46 (w.e.f. 1-12-1987).

29. Toxic nephritis.]

## STATE AMENDMENTS

### Maharashtra

**Addition of FOURTH SCHEDULE to 63 of 1948.**—After the THIRD SCHEDULE appended to the principal Act, the following SCHEDULE shall be added, namely:—

#### “THE FOURTH SCHEDULE

(See section 92A)

#### *List of Compoundable offences*

Serial number	Section and rules framed thereunder and orders issued thereunder	Nature of offence
(1)	(2)	(3)
1.	Section 11 –Cleanliness.	Not maintaining cleanliness as per the provisions.
2.	Section 18-Drinking water.	Not providing and maintaining arrangements for drinking water as per the provisions.
3.	Section 19-Latrines and urinals	Not providing latrine and urinal accommodation as per the provisions.
4.	Section 20 - Spittoons.	(a) Not providing the spittoons as per the provisions. (b) Spitting in contravention of sub-section (3) of section 20.
5.	Section 42 - Washing facilities.	Not providing and maintaining washing facilities as per the provisions.
6.	Section 43 - Facilities for storing and drying of wet clothing.	Not providing facilities as per the provisions.
7.	Section 44 - Facilities for sitting.	Not providing facilities as per the provisions.
8.	Sub-sections (1), (2) and (3) of section 45 - First-aid appliances.	Not providing and maintaining first-aid appliances as per the provisions.
9.	Section 46 - Canteens.	Not providing and maintaining canteen as per the provisions.
10.	Section 47 - Shelters, rest rooms and lunch rooms.	Not providing and maintaining shelters, rest rooms and lunch rooms as per the provisions.

11.	Section 48 - Creches.	Not providing and maintaining creches as per the provisions.
12.	Section 50 - Power to make rules to supplement Chapter V.	Not complying with the rules framed under section 50.
13.	Sub-section (2) of section 53- Compensatory Holidays.	Not displaying the notice and not maintaining the register for compensatory holiday.
14.	Sub-section (5) of section 59 - Extra wages for overtime.	Not maintaining the prescribed registers.
15.	Section 60 - Restriction on double employment.	Allowing a worker a double employment on any day.
16.	Section 61 - Notice of periods of work for adults.	Not complying with the provisions.
17.	Section 62 - Register of adult workers.	Not maintaining register as per the provisions.
18.	Section 63 - Hours of work to correspond with notice under section 61.	Not complying with the provisions.
19.	Section 64 - Power to make exempting rules.	Not complying with the rules framed under section 64.
20.	Section 65 - Power to make exempting orders.	Not complying with the orders issued under section 65.
21.	Section 79 - Annual leave with wages.	Not complying with the provisions.
22.	Section 80 - Wages during leave period.	Not complying with the provisions.
23.	Section 81 - Payment in advance in certain cases.	Not complying with the provisions.
24.	Section 82 - Mode of recovery of unpaid wages.	Not complying with the provisions.
25.	Section 83 - Power to make rules.	Not maintaining registers as per rules and not complying with the provisions.
26.	Section 84 - Power to exempt factories.	Not complying with the conditions specified in the exempting order.
27.	Section 93 - Liability of owner of premises in certain circumstances.	Not complying with the provisions contained in sub-section (1) and clauses (i) and (vi) of sub-section (3).
28.	Section 97 - Offences by workers.	Not complying with the provisions.
29.	Section 108-Display of notices.	Not complying with the provisions.
30.	Section 110>Returns.	Not complying with the provisions.
31.	Section 111 - Obligation of workers.	Not complying with the provisions.
32.	Section 111A - Right of workers, etc.	Denial of rights of workers.

33.	Section 114 - No charge for facilities and conveniences.	Demanding charge from worker for providing any facility under the Act.".]
-----	--	---

---

[*Vide* Maharashtra Act 40 of 2015, s. 9].

THE MINES ACT, 1952  
—  
ARRANGEMENT OF SECTIONS  
—

CHAPTER I  
PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Act not to apply in certain cases.
4. References to time of day.

CHAPTER II

INSPECTORS AND CERTIFYING SURGEONS

5. Chief Inspector and Inspectors.
6. Functions of Inspectors.
7. Powers of Inspectors of Mines.
8. Powers of special officer to enter, measure, etc.
9. Facilities to be afforded to Inspectors.
- 9A. Facilities to be provided for occupational health survey.
10. Secrecy of information obtained.
11. Certifying surgeons.

CHAPTER III

COMMITTEES

12. Committees.
13. Functions of the Committee.
14. Powers, etc., of the Committees.
15. Recovery of expenses.

CHAPTER IV

MINING OPERATIONS AND MANAGEMENT OF MINES

16. Notice to be given of mining operations.
17. Managers.
18. Duties and responsibilities of owners, agents and managers.

CHAPTER V

PROVISIONS AS TO HEALTH AND SAFETY

19. Drinking water.

## SECTIONS

20. Conservancy.
21. Medical appliances.
22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.
- 22A. Power to prohibit employment in certain cases.
23. Notice to be given of accidents.
24. Power of Government to appoint Court of inquiry in cases of accidents.
25. Notice of certain diseases.
26. Power to direct investigation of causes of disease.
27. Publication of reports.

## CHAPTER VI

### HOURS AND LIMITATION OF EMPLOYMENT

28. Weekly day of rest.
29. Compensatory days of rest.
30. Hours of work above ground.
31. Hours of work below ground.
32. Night shift.
33. Extra wages for overtime.
34. Prohibition of employment of certain persons.
35. Limitation of daily hours of work including overtime work.
36. Notices regarding hours of work.
37. Supervising Staff.
38. Exemption from provisions regarding employment.
39. Power to make exempting rules.
40. Employment of persons below eighteen years of age.
41. [*Omitted.*].
42. [*Omitted.*].
43. Power to require medical examination.
44. [*Omitted.*].
45. Prohibition of the presence of persons below eighteen years of age in a mine.
46. Employment of women.
47. [*Omitted.*].

## SECTIONS

48. Registers of persons employed.

### CHAPTER VII LEAVE WITH WAGES

49. Application of Chapter.

50. Leave defined.

51. Calendar year defined.

52. Annual leave with wages.

53. Wages during leave period.

54. Payment in advance in certain cases.

55. Mode of recovery of unpaid wages.

56. Power to exempt mines.

### CHAPTER VIII REGULATIONS, RULES AND BYE-LAWS

57. Power of Central Government to make regulations.

58. Power of Central Government to make rules.

59. Prior publication of regulation and rules.

60. Power to make regulations without previous publication.

61. Bye-laws.

61A. Laying of regulations, rules and bye-laws before Parliament.

62. Posting up of abstracts from Act, regulations, etc.

### CHAPTER IX PENALTIES AND PROCEDURE

63. Obstruction.

64. Falsification of records, etc.

65. Use of false certificates of fitness.

66. Omission to furnish plans, etc.

67. Contravention of provisions regarding employment of labour.

68. Penalty for employment of persons below eighteen years of age.

69. Failure to appoint manager.

70. Notice of accidents.

71. Owner, etc., to report to Chief Inspector in certain cases.

72. Obligation of persons employed in a mine.

72A. Special Provision for contravention of certain regulations.



## SECTIONS

- 72B. Special provision for contravention of orders under section 22.
- 72C. Special provision for contravention of law with dangerous results.
- 73. General provision for disobedience of orders.
- 74. Enhanced penalty after previous conviction.
- 75. Prosecution of owner, agent or manager.
- 76. Determination of owner in certain cases.
- 77. Exemption of owner, agent or manager from liability in certain cases.
- 78. Power of court to make orders.
- 79. Limitation of prosecutions.
- 80. Cognizance of offences.
- 80A. [*Omitted.*].
- 81. Reference to Committee in lieu of prosecution in certain cases.

## CHAPTER X

### MISCELLANEOUS

- 82. Decision of question whether a mine is under this Act.
- 83. Power to exempt from operation of Act, regulations, etc.,
- 84. Power to alter or rescind orders.
- 85. Application of Act to mines belonging to Government.
- 85A. Persons required to give notice, etc., legally bound to do so.
- 85B. Signing of returns, notices, etc.
- 85C. No fee or charge to be realised for facilities and conveniences.
- 86. Application of certain provisions of Act 63 of 1948 to mines.
- 87. Protection of action taken in good faith.
- 88. [*Repealed.*].

# THE MINES ACT, 1952

ACT NO. 35 OF 1952<sup>1</sup>

[15th March, 1952.]

An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.

BE it enacted by Parliament as follows:—

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Mines Act, 1952.

(2) It extends to the whole of India<sup>2</sup> \* \* \*

(3) It shall come into force on such date<sup>3</sup> or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States but not later than 31st December, 1953.

**2. Definitions.**—<sup>4</sup>[(1)] In this Act, unless the context otherwise requires,—

<sup>5</sup>\* \* \* \* \*

(b) “adult” means a person who has completed his eighteenth year;

<sup>6</sup>[(c) “agent”, when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, takes part in the management, control, supervision or direction of the mine or of any part thereof;]

(d) Chief Inspector means the Chief Inspector of Mines appointed under this Act;

<sup>7</sup>[(e) “Committee” means a committee constituted under section 12;]

(f) “day” means a period of twenty-four hours beginning at midnight;

(g) “district magistrate” means, in a presidency-town, the person appointed by the Central Government to perform the duties of a district magistrate under this Act in that town;

<sup>8</sup>[(h) a person is said to be “employed” in a mine who works as the manager or who works under appointment by the owner, agent or manager of the mine or with the knowledge of the manager, whether for wages or not—

(i) in any mining operation (including the concomitant operations of handling and transport of minerals up to the point of despatch and of gathering sand and transport thereof to the mine);

(ii) in operations or services relating to the development of the mine including construction of plan therein but excluding construction of buildings, roads, wells and any building work not directly connected with any existing or future mining operations;

---

1. This Act has been extended to Goa, Daman and Diu with modifications by Reg. 12 of 1962, s.3 and The Schedule and to the Union territory of Pondicherry by Act 26 of 1968, s. 3 and The Schedule.

2. The words “except the State of Jammu and Kashmir” omitted by Act 25 of 1968, s. 2 and The Schedule. (w.e.f. 15-8-1968).

3. 1st July, 1952, *vide* Notification No. S.R.O. 967, dated 27th May, 1952, Gazette of India 1952, Part. II, sec.3.

4. Section 2renumbered as sub-section (1) thereof by Act 62 of 1959, s. 2 (w.e.f.16-1-1960).

5. Omitted by Act 42 of 1983, s. 2 (w.e.f. 31-5-1984).

6. Subs. by s.2, *ibid.*, for clause (c) (w.e.f.31-5-1984).

7. Subs. by s.2, *ibid.*, for clause (e) (w.e.f.31-5-1984).

8. Subs. by s.2, *ibid.*, for clause (h) (w.e.f. 31-5-1984).

(iii) in operating, servicing, maintaining or repairing any part of any machinery used in or about the mine;

(iv) in operations, within the premises of the mine, of loading for despatch of minerals;

(v) in any office of the mine;

(vi) in any welfare, health, sanitary or conservancy, services required to be provided under this Act, or watch and ward, within the premises of the mine excluding residential area; or

(vii) in any kind of work whatsoever which is preparatory or incidental to, or connected with, mining operations;]

(i) “Inspector” means an Inspector of Mines appointed under this Act, and includes a district magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

<sup>1</sup>\* \* \* \* \*

<sup>2</sup>[(j) “mine” means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes—

(i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oilfields;

(ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;

(iii) all levels and inclined planes in the course of being driven;

(iv) all open cast workings;

(v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;

(vii) all protective works being carried out in or adjacent to a mine;

(viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;

(ix) all power stations, transformer sub-stations, convertor stations, rectifier stations and accumulator storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;

(x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;

(xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;]

---

1. Omitted by Act 42 of 1983, s. 2 (w.e.f. 31-5-1984).

2. Subs. by s.2, *ibid.* for clause (j) (w.e.f 31-5-1984).

(*jj*) “minerals” means all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulicizing, quarrying or by any other operation and includes mineral oils (which in turn include natural gas and petroleum);

<sup>1</sup>\* \* \* \* \*

(*k*) “office of the mine” means an office at the surface of the mine concerned;

<sup>2</sup>[(*kk*) “open cast working” means a quarry, that is to say, an excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, not being a shaft or an excavation which extends below superjacent ground;]

(*l*) “owner”, when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver<sup>3\*\*\*</sup> but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but <sup>4</sup>[any contractor or sub-lessee] for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(*m*) “prescribed “ means prescribed by rules, regulations or bye-laws, as the case may be;

<sup>5</sup>[(*n*) “qualified medical practitioner” means a medical practitioner who possesses any recognised medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956) and who is enrolled on a State medical register as defined in clause (*k*) of that section;]

(*o*) “regulations”, “rules” and “bye-laws” mean respectively regulations, rules and bye-laws made under this Act;

(*p*) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a “relay”<sup>6</sup>[and each of such periods is called a “shift”];

<sup>7</sup>[(*pp*) “reportable injury” means any injury other than a serious bodily injury which involves, or in all probability will involve, the enforced absence of the injured person from work for a period of seventy-two hours or more;]

<sup>8</sup>[(*q*) “serious bodily injury” means any injury which involves, or in all probability will involve, the permanent loss of any part or section of a body or the use of any part or section of a body, or the permanent loss of or injury to the sight or hearing or any permanent physical incapacity or the fracture of any bone or one or more joints or bones of any phalanges of hand or foot;

(*r*) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Inspector or an Inspector.]

---

1. Clause (*jjj*) omitted by Act 42 of 1983, s. 2 (w.e.f. 31-5-1984).

2. Ins. by Act 62 of 1959, s. 2 (w.e.f. 16-1-1960).

3. Certain words omitted by Act 42 of 1983, s. 2 (w.e.f. 31-5-1984).

4. Subs. by s. 2, *ibid.*, for “any contractor” (w.e.f. 31-5-1984).

5. Subs. by s. 2, *ibid.*, for clause (*n*) (w.e.f. 31-5-1984).

6. Added by Act 62 of 1959, s. 2 (w.e.f. 16-1-1960).

7. Ins. by Act 42 of 1983, s. 2 (w.e.f. 31-5-1984).

8. Subs. by s. 2, *ibid.*, for clauses (*q*) and (*r*) (w.e.f. 31-5-1984).

<sup>1</sup>[(2) A person working or employed in or in connection with a mine is said to be working or employed—

(a) “below ground” if he is working or employed—

(i) in a shaft which has been or is in the course of being sunk; or

(ii) in any excavation which extends below superjacent ground; and

(b) “above ground” if he is working in an open cast working or in any other manner not specified in clause (a).]

<sup>2</sup>**[3. Act not to apply in certain cases.—**(1) The provisions of this Act, except those contained in <sup>3</sup>[sections 7,8,9,40,45 and 46] shall not apply to—

(a) any mine or part thereof in which excavation is being made for prospecting purposes only and not for the purpose of obtaining minerals for use or sale:

Provided that—

(i) not more than twenty persons are employed on any one day in connection with any such excavation;

(ii) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres or, in the case of an excavation for coal, fifteen metres; and

(iii) no part of such excavation extends below superjacent ground; or

(b) any mine engaged in the extraction of kankar, murrum, laterite, boulder, gravel, shingle, ordinary sand (excluding moulding sand, glass sand and other mineral sands), ordinary clay (excluding kaolin, china clay, white clay or fire clay), building stone, <sup>4</sup>[slate], road metal, earth, fullers earth, <sup>4</sup>[, marl, chalk] and lime stone:

Provided that—

(i) the workings do not extend below superjacent ground; or

(ii) where it is an open cast working—

(a) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres;

(b) the number of persons employed on any one day does not exceed fifty; and

(c) explosives are not used in connection with the excavation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it is satisfied that, having regard to the circumstances obtaining in relation to a mine or part thereof or group or class of mines, it is necessary or desirable so to do, by notification in the Official Gazette, declare that any of the provisions of this Act, not set out in sub-section (1), shall apply to any such mine or part thereof or group or class of mines or any class of persons employed therein.

(3) Without prejudice to the provisions contained in sub-section (2), if at any time any of the conditions specified in the proviso to clause (a) or clause (b) of sub-section (1) is not fulfilled in relation to any mine referred to in that sub-section, the provisions of this Act not set out in sub-section (1), shall become immediately applicable, and it shall be the duty of the owner, agent or manager of the mine to inform the prescribed authority in the prescribed manner and within the prescribed time about the non-fulfilment.]

---

1. Ins. by Act 62 of 1959, s. 2 (w.e.f. 16-1-1960).

2. Subs. by s. 3, *ibid.*, for s. 3 (w.e.f. 16-1-1960).

3. Subs. by Act 42 of 1983, s. 3, for “sections 7, 8, 9, 44, 45 and 46” (w.e.f. 31-5-1984).

4. Ins. by s. 3, *ibid.* (w.e.f. 31-5-1984).

**4. References to time of day.**—In this Act, references to time of day are references to Indian standard time, being five and a half hours ahead of Greenwich mean time:

Provided that, for any area in which Indian standard time is not ordinarily observed, the Central Government may make rules—

- (a) specifying the area;
- (b) defining the local mean time ordinarily observed therein; and
- (c) permitting such time to be observed in all or any of the mines situated in the area.

## CHAPTER II

### INSPECTORS AND CERTIFYING SURGEONS

**5. Chief Inspector and Inspectors.**—(1)The Central Government may, by notification in the Official Gazette, appoint such a person as possesses the prescribed qualifications to be Chief Inspector of Mines for all the territories to which this Act extends and such persons as possess the prescribed qualifications to be Inspectors of Mines subordinate to the Chief Inspector.

(2) No person shall be appointed to be Chief Inspector or an Inspector, or having been appointed shall continue to hold such office, who is or becomes directly or indirectly interested in any mine or mining rights in India.

(3) The district magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a district magistrate to exercise any of the powers conferred by <sup>1</sup>[section 22 or section 22A] or section 61.

(4)The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

<sup>2</sup>**6. Functions of Inspectors.**—(1)The Chief Inspector may, with the approval of the Central Government and subject to such restrictions or conditions as he may think fit to impose, by order in writing, authorise any Inspector named or any class of Inspectors specified in the order to exercise such of the powers of the Chief Inspector under this Act (other than those relating to appeals) as he may specify.

(2)The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named or any class of Inspectors specified in the order of any power conferred on Inspectors under this Act.

(3)Subject to the other provisions contained in this section, the Chief Inspector shall declare the local area or areas within which or the group or class of mines with respect to which Inspectors shall exercise their respective powers.]

**7. Powers of Inspectors of Mines.**—(1)The Chief Inspector and any Inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night:

Provided that the power conferred by this clause shall not be exercised in such a manner as unreasonably to impede or obstruct the working of any mine;

---

1. Subs. by Act 42 of 1983, s. 4, for “section 22” (w.e.f. 31-5-1984).

2. Subs. by Act 62 of 1959, s. 4, for s. 6 (w.e.f. 16-1-1960).

(c) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the persons employed in the mine, and take whether on the precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed by regulations made by the Central Government in' this behalf:

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

(2) The Chief Inspector and any Inspector may, if he has reason to believe, as a result of any inspection, examination or inquiry under this section, that an offence under this Act has been or is being committed, search any place and take possession <sup>1</sup>[of any material or any plan, section, register or other record] appertaining to the mine, and the provisions of the <sup>2</sup>[Code of Criminal Procedure, 1973 (2 of 1974)] shall so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under <sup>3</sup>[section 94] of that Code.

**8. Powers of special officer to enter, measure, etc.**—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may, for the purpose of surveying, leveling or measuring any mine <sup>4</sup>[or any output therefrom], after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof <sup>4</sup>[or any output therefrom] at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

**9. Facilities to be afforded to Inspectors.**—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

<sup>5</sup>**[9A. Facilities to be provided for occupational health survey.**—(1) The Chief Inspector or an Inspector or other officer authorised by him in writing in this behalf may, at any time during the normal working hours of the mine or at any time by day or night as may be necessary, undertake safety and occupational health survey in a mine after giving notice in writing to the manager of the mine; and the owner, agent or manager of the mine shall afford all necessary facilities (including facilities for the examination and testing of plant and machinery, for the collection of samples and other data pertaining to the survey and for the transport and examination of any person employed in the mine chosen for the survey) to such Inspector or officer.

(2) Every person employed in a mine who is chosen for examination in any safety and occupational health survey under sub-section (1) shall present himself for such examination and at such place as may be necessary and shall furnish all information regarding his work and health in connection with the said survey.

(3) The time spent by any person employed in a mine who is chosen for examination in the safety and occupational health survey, shall be counted towards his working time, so however that any overtime shall be paid at the ordinary rate of wages.

---

1. Subs. by Act 62 of 1959, s. 5, for "of any register or other record" (w.e.f. 16-1-1960).

2. Subs by Act 42 of 1983, s. 5, for "Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 31-5-1984).

3. Subs. by s. 5, *ibid.*, for "section 98" (w.e.f. 31-5-1984).

4. Ins. by s. 6, *ibid.* (w.e.f. 31-5-1984).

5. Ins. by s. 7, *ibid.* (w.e.f. 31-5-1984).

*Explanation.*—For the purposes of this sub-section, “ordinary rate of wages” means the basic wages *plus* any dearness allowance and underground allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and edible oils as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus (other than a bonus given as incentive for production) or any compensation accruing through the provision of amenities such as free housing, free supply of coal, medical and educational facilities, sickness allowance, supply of kerosene oil, baskets, tools and uniforms.

(4) Any person who, on examination under sub-section (2), is found medically unfit to discharge the duty which he was discharging in a mine immediately before such presentation shall be entitled to undergo medical treatment at the cost of the owner, agent and manager with full wages during the period of such treatment.

(5) If, after the medical treatment, the person referred to in sub-section (4) is declared medically unfit to discharge the duty which he was discharging in a mine immediately before presenting himself for the said examination and such unfitness is directly ascribable to his employment in the mine before such presentation, the owner, agent and manager shall provide such person with an alternative employment in the mine for which he is medically fit:

Provided that where no such alternative employment is immediately available, such person shall be paid by the owner, agent and manager disability allowance determined in accordance with the rates prescribed in this behalf:

Provided further that where such person decides to leave his employment in the mine, he shall be paid by the owner, agent and manager a lump sum amount by way of disability compensation determined in accordance with the rates prescribed in this behalf.

(6) The rates under the provisos to sub-section (5) shall be determined having regard to the monthly wages of the employees, the nature of disabilities and other related factors.]

**10. Secrecy of information obtained.**—(1) All copies of, and extracts from, registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection <sup>1</sup>[or survey] of any mine under this Act or acquired by any person authorised under section 8 <sup>1</sup>[or section 9A] in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(2) Nothing in sub-section (1) shall apply to the disclosure of any such information (if so required) to—

(a) any Court;

<sup>2</sup>[(b) a Committee or court of inquiry constituted or appointed under section 12 or section 24 as the case may be;]

(c) an official superior or the owner, agent or manager of the mine concerned;

(d) a Commissioner for workmen’s compensation appointed under the Workmen’s Compensation Act, 1923 (8 of 1923);

<sup>3</sup>[(e) the Controller, Indian Bureau of Mines;

(f) any registered or recognised trade union;

---

1. Ins. by Act 42 of 1983, s. 8 (w.e.f. 31-5-1984).

2. Subs. by s. 8, *ibid.*, for clause (b) (w.e.f. 31-5-1984).

3. Subs. by s. 8, *ibid.*, for clause (e) (w.e.f. 31-5-1984).



(g) such other officer, authority or organisation as may be specified in this behalf by the Central Government.]

(3) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (1) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) No court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

**11. Certifying surgeons.**—(1) The Central Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(2) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

<sup>1</sup>\* \* \* \* \*

(b) the examination of persons engaged in a mine in such dangerous occupations or processes as may be prescribed;

(c) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;

<sup>1</sup>\* \* \* \* \*

### CHAPTER III

#### <sup>2</sup>[COMMITTEES]

**12. Committees.**—(1) The Central Government shall, with effect from such date as that Government may, by notification in the Official Gazette, specify in this behalf, constitute for the purposes of this Act, a Committee consisting of—

(a) a person in the service of the Government, not being the Chief Inspector or an Inspector, appointed by the Central Government to act as Chairman;

(b) the Chief Inspector of Mines;

(c) two persons to represent the interests of miners appointed by the Central Government;

(d) two persons to represent the interests of owners of mines appointed by the Central Government;

1. Omitted by Act 42 of 1983, s. 9 (w.e.f. 31-5-1984).

2. Subs. by s. 10, *ibid.*, for the heading “MINING BOARDS AND COMMITTEES” (w.e.f. 31-5-1984).

(e) two qualified mining engineers not directly employed in the mining industry, appointed by the Central Government:

Provided that one at least of the persons appointed under clause (c) shall be for representing the interests of workers in coal mines and one at least of the persons appointed under clause (d) shall be for representing the interests of owners of coal mines.

(2) Without prejudice to the generality of sub-section (1), the Central Government may constitute one or more Committees to deal with specific matters relating to any part of the territories to which this Act extends or to a mine or a group of mines and may appoint members thereof and the provisions of sub-section (1) (except the proviso thereto) shall apply for the constitution of any Committee under this sub-section as they apply for the constitution of a Committee under that sub-section.

(3) No act or proceeding of a Committee shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

**13. Functions of the committee.**—(1)The Committee constituted under sub-section (1) of section 12 shall—

(a) consider proposals, for making rules and regulations under this Act and make appropriate recommendations to the Central Government;

(b) enquire into such accidents or other matters as may be referred to it by the Central Government from time to time and make reports thereon; and

(c) subject to the provisions of sub-section (2), hear and decide such appeals or objections against notices or orders under this Act or the regulations, rules or bye-laws thereunder, as are required to be referred to it by this Act or as maybe prescribed.

(2) The Chief Inspector shall not take part in the proceedings of the Committee with respect to any appeal or objection against an order or notice made or issued by him or act in relation to any matter pertaining to such appeal or objection as a member of the Committee.

**14. Powers, etc., of the committees.**—(1)A Committee constituted under section 12 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purposes of discharging its functions under this Act.

(2) A Committee constituted under section 12 shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) compelling the production of documents; and

(d) such other matters as may be prescribed.]

**15. Recovery of expenses.**—The Central Government may direct that the expenses of any inquiry conducted by <sup>1</sup>[a Committee constituted under section12] shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the magistrate's jurisdiction belonging to such owner or agent:

Provided that the owner or his agent has not paid the amount within six weeks from the date of receiving the notice from the Central Government or the Chief Inspector of Mines.

---

1. Subs. by Act 42 of 1983, s. 11, for certain words (w.e.f. 31-5-1984).

## CHAPTER IV

### MINING OPERATIONS AND MANAGEMENT OF MINES

**16. Notice to be given of mining operations.**—(1) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the <sup>1</sup>[Controller], Indian Bureau of Mines and the district magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

<sup>2</sup>**[17. Managers.**—(1) Save as may be otherwise prescribed, every mine shall be under a sole manager who shall have the prescribed qualification and the owner or agent of every mine shall appoint a person having such qualification to be the manager:

Provided that the owner or agent may appoint himself as manager if he possesses the prescribed qualifications.

(2) Subject to any instructions given to him by or on behalf of the owner or agent of the mine, the manager shall be responsible for the overall management, control, supervision and direction of the mine and all such instructions when given by the owner or agent shall be confirmed in writing forthwith.

(3) Except in case of an emergency, the owner or agent of a mine or anyone on his behalf shall not give, otherwise than through the manager, instructions affecting the fulfilment of his statutory duties, to a person, employed in a mine, who is responsible to the manager.

**18. Duties and responsibilities of owners, agents and managers.**—(1) The owner and agent of every mine shall each be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and orders made thereunder.

(2) The responsibility in respect of matters provided for in the rules made under clauses (d), (e) and (p) of section 58 shall be exclusively carried out by the owner and agent of the mine and by such person (other than the manager) whom the owner or agent may appoint for securing compliance with the aforesaid provisions.

(3) If the carrying out of any instructions given under sub-section (2) or given otherwise than through the manager under sub-section (3) of section 17, results in the contravention of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder, every person giving such instructions shall also be liable for the contravention of the provisions concerned.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the owner, agent and manager of every mine shall each be responsible to see that all operations carried on in connection with the mine are conducted in accordance with the provisions of this Act and of the regulations, rules, bye-laws and orders made thereunder.

(5) In the event of any contravention by any person whatsoever of any of the provisions of this Act or of the regulations, rules, bye-laws or orders made thereunder except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention:—

(i) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;

---

1. Subs. by Act 42 of 1983, s. 12, for "Director" (w.e.f. 31-5-1984).

2. Subs. by s. 13, *ibid.*, for sub-sections 17 and 18 (w.e.f. 31-5-1984).

(ii) the manager of the mine;

(iii) the owner and agent of the mine;

(iv) the person appointed, if any, to carry out the responsibility under sub-section (2):

Provided that any of the persons aforesaid may not be proceeded against if it appears on inquiry and investigation, that he is not *prima facie* liable.

(6) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Act or that a person to carry the responsibility under sub-section (2) has been appointed.]

## CHAPTER V

### PROVISIONS AS TO HEALTH AND SAFETY

**19. Drinking Water.**—<sup>1</sup>[(1) In every mine effective arrangements shall be made to provide and maintain at suitable points conveniently situated a sufficient supply of cool and wholesome drinking water for all persons employed therein:

Provided that in the case of persons employed below ground the Chief Inspector may, in lieu of drinking water being provided and maintained at suitable points, permit any other effective arrangements to be made for such supply.]

(2) All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within <sup>2</sup>[six meters] of any washing place, urinal or latrine unless a shorter distance is approved in writing by the Chief Inspector.

(3) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (1) and (2) and for the examination by prescribed authorities of the supply and distribution of drinking water.

**20. Conservancy.**—(1) There shall be provided, separately for males and females in every mine, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(2) All latrines and urinals provided under sub-section (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(3) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

<sup>3</sup>**21. Medical appliances.**—(1) In every mine there shall be provided and maintained so as to be readily accessible during all working hours such number of first-aid boxes or cupboards equipped with such contents as may be prescribed.

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

(3) Every first-aid box or cupboard shall be kept in the charge of a responsible person who is trained in such first-aid treatment as may be prescribed and who shall always be readily available during the working hours of the mine.

---

1. Subs. by Act 62 of 1959, s. 10, for sub-section (1) (w.e.f. 16-1-1960).

2. Subs. by Act 42 of 1983, s. 14, for "twenty feet" (w.e.f. 31-5-1984).

3. Subs. by Act 62 of 1959, s. 11, for sections 21 and 22 (w.e.f. 16-1-1960).

(4)In every mine there shall be made so as to be readily available such arrangements as may be prescribed for the conveyance to hospitals or dispensaries of persons who, while employed in the mine, suffer bodily injury or become ill.

(5)In every mine wherein more than one hundred and fifty persons are employed, there shall be provided and maintained a first-aid room of such size with such equipment and in the charge of such medical and nursing staff as may be prescribed.

**22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.**—(1) If, in respect of any matter for which no express provision is made by or under this Act, it appears to the Chief Inspector or an Inspector that any mine or part thereof or any matter, thing or practice in or connected with the mine, or with the control, supervision, management or direction thereof, is dangerous to human life or safety or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine and shall state in the notice the particulars in respect of which he considers the mine or part thereof the matter, thing or practice to be dangerous or defective and require the same to be remedied within such time and in such manner as he may specify in the notice.

(1A) Where the owner, agent or manager of mine fails to comply with the terms of a notice given under sub-section (1) within the period specified therein, the Chief Inspector or the Inspector, as the case may be, may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for securing compliance with the terms of the notice.

(2)Without prejudice to the provisions contained in sub-section (1), the Chief Inspector or the Inspector, as the case may be, may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars or blocks of minerals in any mine or part thereof, if, in his opinion, such operation is likely to cause the crushing of pillars or blocks of minerals or the premature collapse of any part of the workings or otherwise endanger the mine or the life or safety of persons employed therein or if, in his opinion, adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by fire or flooding.

(3)If the Chief Inspector, or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector, is of opinion that there is urgent and immediate danger to the life or safety of any person employed in any mine or part thereof, he may, by order in writing containing a statement of the grounds of his opinion, prohibit, <sup>1</sup>[until he is satisfied that the danger is removed], the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

<sup>2</sup>[(3A) Every person whose employment is prohibited under sub-section (1A) or sub-section (3) shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition in employment and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may instead of paying such full wages provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited.]

(4)Where a notice has been given under sub-section (1) or an order made under sub-section (1A), sub-section (2) or sub-section (3) by an Inspector, the owner, agent or manager of the mine may,

---

1. Subs. by Act 42 of 1983, s. 15, for “until the danger is removed” (w.e.f. 31-5-1984).

2. Ins. by s. 15, *ibid.* (w.e.f. 31-5-1984).

within ten days after the receipt of the notice or order, as the case may be, appeal against the same to the Chief Inspector who may confirm, modify or cancel the notice or order.

(5)The Chief Inspector or the Inspector sending a notice under sub-section (1) or making an order under sub-section (1A), sub-section (2) or sub-section (3) and the Chief Inspector making an order (other than an order of cancellation in appeal) under sub-section (4) shall forthwith report the same to the Central Government.

(6)If the owner, agent or manager of the mine objects to a notice sent under sub-section (1) by the Chief Inspector or to an order made by the Chief Inspector under sub-section (1A) or sub-section (2) or sub-section (3) or sub-section (4), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision on appeal, as the case may be, send his objection in writing stating the grounds thereof to the Central Government <sup>1</sup>[which shall, ordinarily within a period of two months from the date of receipt of the objection, refer] the same to a Committee.

(7)Every notice under sub-section (1), or order under sub-section (1A), sub-section (2), sub-section (3) or sub-section (4), to which objection is made under sub-section (6), shall be complied with, pending the receipt at the mine of the decision of the Committee:

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a <sup>2</sup>[notice] under sub-section (1), pending its decision on the objection.

(8)Nothing in this section shall affect the powers of a magistrate under section 144 of the <sup>3</sup>[Code of Criminal Procedure, 1898 (5 of 1898).]

<sup>4</sup>[**22A. Power to prohibit employment in certain cases.**—(1)Where in respect of any matter relating to safety for which express provision is made by or under this Act, the owner, agent or manager of a mine fails to comply with such provisions, the Chief Inspector may give notice in writing requiring the same to be complied with within such time as he may specify in the notice or within such extended period of time as he may, from time to time, specify thereafter.

(2) Where the owner, agent or manager fails to comply with the terms of a notice given under sub-section (1) within the period specified in such notice or, as the case may be, within the extended period of time specified under that sub-section, the Chief Inspector may, by order in writing, prohibit the employment in or about the mine or any part thereof of any person whose employment is not, in his opinion, reasonably necessary for securing compliance with the terms of the notice.

(3) Every person whose employment is prohibited under sub-section (2), shall be entitled to payment of full wages for the period for which he would have been, but for the prohibition, in employment, and the owner, agent or manager shall be liable for payment of such full wages of that person:

Provided that the owner, agent or manager may, instead of paying such full wages, provide such person with an alternative employment at the same wages which such person was receiving in the employment which was prohibited under sub-section (2).

(4) The provisions of sub-sections (5), (6) and (7) of section 22 shall apply in relation to a notice issued under sub-section (1) or an order made under sub-section (2) of this section as they apply in relation to a notice under sub-section (1) or an order under sub-section (1A) of that section.]

---

1. Subs. by Act 42 of 1983, s. 15, for “which shall refer” (w.e.f. 31-5-1984).

2. Subs. by s. 15, *ibid.*, for “requisition” (w.e.f. 31-5-1984).

3. See now the Code of Criminal Procedure, 1973 (2 of 1974).

4. Ins. by Act 42 of 1983, s. 16 (w.e.f. 31-5-1984).

**23. Notice to be given of accidents.**—<sup>1</sup>[(*I*)Whenever there occurs in or about a mine—

- (a) an accident causing loss of life or serious bodily injury, or
- (b) an explosion, ignition, spontaneous heating, outbreak of fire or irruption or inrush of water or other liquid matter, or
- (c) an influx of inflammable or noxious gases, or
- (d) a breakage of ropes, chains or other gear by which persons or materials are lowered or raised in a shaft or an incline, or
- (e) an overwinding of cages or other means of conveyance in any shaft while persons or materials are being lowered or raised, or
- (f) a premature collapse of any part of the working, or
- (g) any other accident which may be prescribed,

the owner, agent or manager of the mine shall give notice of the occurrence to such authority in such form and within such time as may be prescribed, and he shall simultaneously post one copy of the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials, and shall ensure that the notice is kept on the board for not less than fourteen days from the date of such posting.]

<sup>2</sup>[(*IA*) Whenever there occurs in or about a mine an accident causing reportable injury to any person, the owner agent or manager of the mine shall enter in a register such occurrence in the prescribed form and copies of such entries shall be furnished to the Chief Inspector once in a quarter.]

(2) Where a notice given under sub-section (*I*) relates to an accident causing loss of life, the authority shall make an inquire into the occurrence within two months of the receipt of the notice and, if the authority is not the Inspector, he shall cause the Inspector to make an inquiry within the said period.

<sup>3</sup>[(3) The Central Government may, by notification in the Official Gazette, direct that accidents other than those specified in sub-sections (*I*) and (*IA*) which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding twenty-four hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (*I*) or sub-section (*IA*), as the case may be.]

(4) A copy of the entries in the register referred to in sub-section (3) shall be sent by the owner, agent, or manager of the mine, <sup>4</sup>[on or before the 20th day of January in the year following that to which the entries relate], to the Chief Inspector.

<sup>2</sup>[(5) Whenever there occurs in or about a mine an accident causing loss of life or serious bodily injury to any person, the place of accident shall not be disturbed or altered before the arrival or without the consent of the Chief Inspector or the Inspector to whom notice of the accident is required to be given under sub-section (*I*) of section 23, unless such disturbance or alteration is necessary to prevent any further accident, to remove bodies of the deceased, or to rescue any person from danger, or unless discontinuance of work at the place of accident would seriously impede the working of the mine:

Provided that where the Chief Inspector or the said Inspector fails to inspect the place of accident within seventy-two hours of the time of the accident, work may be resumed at the place of the accident.]

---

1. Subs. by Act 62 of 1959, s. 12, for sub-section (*I*) (w.e.f. 16-1-1960).

2. Ins. by Act 42 of 1983, s. 17 (w.e.f. 31-5-1984).

3. Subs. by s. 17, *ibid.*, for sub-section (3) (w.e.f. 31-5-1984).

4. Subs. by Act 62 of 1959, s. 12, for certain words (w.e.f. 16-1-1960).

**24. Power of Government to appoint Court of inquiry in cases of accidents.**—<sup>1</sup>[(1)When any accident of the nature referred to in any of the clauses of sub-section (1) of section 23 occurs in or about a mine, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint one or more persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.]

(2) The person appointed to hold any such inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects <sup>2</sup>\* \* \*.

(3) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(4) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

**25. Notice of certain diseases.**—(1)Where any person employed in mine contracts any disease notified by the Central Government in the Official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (1), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—

(a) the name and address of the patient,

(b) the disease from which the patient is or is believed to be suffering, and

(c) the name and address of the mine in which the patient is or was last employed.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (1), the Chief Inspector shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

**26. Power to direct investigation of causes of disease.**—(1)The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (1) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The provisions of sub-sections (2) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section

---

1. Subs. by Act 62 of 1959, s. 13, for sub-section (1) (w.e.f. 16-1-1960).

2. Certain words omitted by s. 13, *ibid.* (w.e.f. 16-1-1960).



**27. Publication of reports.**—The Central Government may cause any report submitted by a Committee under <sup>1</sup>[section 12] or any report of extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of inquiry under section 24 to be published at such time and in such manner as it may think fit.

## CHAPTER VI

### HOURS AND LIMITATION OF EMPLOYMENT

**28. Weekly day of rest.**—No person shall be allowed to work in a mine on more than six days in any one week.

**29. Compensatory days of rest.**—(1) Where in pursuance of action under section 38 or as a result of exempting any mine or the persons employed therein from the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(2) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (1) shall be allowed.

**30. Hours of work above ground.**—(1) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day:

<sup>2</sup>[Provided that, subject to the previous approval of the Chief Inspector, the daily maximum hours specified in this sub-section may be exceeded in order to facilitate the change of shifts.]

(2) The periods of work of any such adult shall be so arranged that, along with his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

<sup>3</sup>[Provided that the Chief Inspector may, for reasons to be recorded in writing and subject to such conditions as he may deem fit to impose, permit the spread-over to extend over a period not exceeding fourteen hours in any day.]

<sup>4</sup>[(3) Persons belonging to two or more shifts shall not be allowed to do work of the same kind above ground at the same time:

Provided that, for the purposes of this sub-section, persons shall not be deemed to belong to separate shifts by reason only of the fact that they receive their intervals for rest at different times.]

<sup>5</sup>[**31. Hours of work below ground.**—(1) No adult employed below ground in a mine shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day:

Provided that, subject to the previous approval of the Chief Inspector, the daily maximum hours specified in this sub-section may be exceeded in order to facilitate the change of shifts.

(2) No work shall be carried on below ground in any mine except by a system of shifts so arranged that the period of work for each shift is not spread-over more than the daily maximum hours stipulated in sub-section (1).

(3) No person employed in a mine shall be allowed to be present in any part of a mine below ground except during the periods of work shown in respect of him in the register maintained under sub-section (4) of section 48.]

---

1. Subs. by Act 42 of 1983, s. 18, for “section 13” (w.e.f. 31-5-1984).

2. The proviso added by Act 62 of 1959, s. 14 (w.e.f. 16-1-1960).

3. Subs. by s. 14, *ibid.*, for the proviso (w.e.f. 16-1-1960).

4. Subs. by s. 14, *ibid.*, for sub-section (3) (w.e.f. 16-1-1960).

5. Subs. by s. 15, *ibid.*, for section 31 (w.e.f. 16-1-1960).

<sup>1</sup>[**32.Night shift.**—Where a person employed in a mine works on a shift which extends beyond midnight—

(a) for the purposes of sections 28 and 29, a weekly day of rest shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.]

**33. Extra wages for overtime.**—<sup>2</sup>[(1)Where in a mine a person works above ground for more than nine hours in any day, or works below ground for more than eight hours in any day or works for more than forty-eight hours in any week whether above ground or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages, the period of overtime work being calculated on a daily basis or weekly basis, whichever is more favourable to him; and]

<sup>3</sup>[(2) Where any person employed in a mine is paid on piece-rate basis, the time-rate shall be taken as equivalent to the daily average of his full-time earnings for the days on which he actually worked during the week immediately preceding the week in which overtime work has been done, exclusive of any overtime, and such time-rate shall be deemed to be the ordinary rate of wages of such person:

Provided that if such person has not worked in the preceding week on the same or identical job, the time-rate shall be based on the average for the days he has worked in the same week excluding the overtime or on the daily average of his earnings in any preceding week, whichever is higher.

*Explanation.*—For the purposes of this section, “ordinary rate of wages” shall have the same meaning as in the *Explanation* to sub-section (3) of section 9A.]

(4) The Central Government may prescribe the registers to be maintained in a mine for the purpose of securing compliance with the provisions of this section.

<sup>4</sup>[**34.Prohibition of employment of certain persons.**—No person shall be required or allowed to work in a mine if he has already been working in any other mine within the preceding twelve hours.]

<sup>5</sup>[**35.Limitation of daily hours of work including overtime work.**—Save in respect of cases falling within clause (a) and-clause (e) of section 39, no person employed in a mine shall be required or allowed to work in the mine for more than ten hours in any day inclusive of overtime.]

**36.Notices regarding hours of work.**—(1)The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mineand, if it is proposedto work by a system of relays, the time of the commencement and of the end of work for each relay.

(2) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) The notice referred to in sub-section (1) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

---

1. Subs. by Act 62 of 1959, s. 16, for section 32 (w.e.f. 16-1-1960).

2. Subs. by s. 17, *ibid.*, for sub-section (1) (w.e.f. 16-1-1960).

3. Subs. by Act 42 of 1983, s. 19, for “sub-sections (2) and (3)” (w.e.f. 31-5-1984).

4. Subs. by Act 62 of 1959, s. 18, for section 34 (w.e.f. 16-1-1960).

5. Subs. by s. 19, *ibid.*, for section 35 (w.e.f. 16-1-1960).

(4) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(5) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (1).

**37. Supervising staff.**—Nothing in section 28, section 30, section 31, section 34 or <sup>1</sup>[sub-section (5) of section 36], shall apply to persons who may by rules be defined to be, persons, holding positions of supervision or management or employed in a confidential capacity.

**38. Exemption from provisions regarding employment.**—(1) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of break-down of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 <sup>2</sup>[and section 22A] and in accordance with the rules under section 39, permit persons to be employed in contravention of section 28, section 30, section 31, section 34 or <sup>1</sup>[sub-section (5) of section 36], on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section the manager may take the action permitted by this section, although the production of <sup>3</sup>[mineral] would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(2) Every case in which action has been taken by the manager under sub-section (1), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

<sup>4</sup>[**39. Power to make exempting rules.**—<sup>5</sup>[The central government] may make rules<sup>5</sup> providing for the exemption to such extent, in such circumstances and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or sub-section (5) of section 36—

(a) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;

(b) of all or any of the persons so employed, in case of an accident, actual or apprehended;

(c) of all or any of the persons engaged in work of a preparatory or complementary nature, which must necessarily be carried on for the purpose of avoiding serious interference with the ordinary working of the mine;

(d) of all or any of the persons engaged in urgent repairs; and

(e) of all or any of the persons employed in any work which for technical reasons must be carried on continuously.]

<sup>6</sup>[**40. Employment of persons below eighteen years of age.**—(1) After the commencement of the the Mines (Amendment) Act, 1983 (42 of 1983), no person below eighteen years of age shall be allowed to work in any mine or part thereof.

---

1. Subs. by Act 42 of 1953, s. 4 and the Third Schedule, for “sub-section (4) of section 36”.

2. Ins. by Act 42 of 1983, s.20 (w.e.f.31-5-1984).

3. Subs. by Act 62 of 1959, s. 20, for “coal” (w.e.f. 16-1-1960).

4. Subs. by s. 21, *ibid.*, for section 39 (w.e.f. 16-1-1960).

5. Subs. by Act 42 of 1983, s. 21, for certain words (w.e.f. 31-5-1984).

6. Subs. by s. 22, *ibid.*, for section 40 (w.e.f. 31-5-1984).

(2) Notwithstanding anything contained in sub-section (1), apprentices and other trainees, not below sixteen years of age, may be allowed to work, under proper supervision, in a mine or part thereof by the manager:

Provided that in the case of trainees, other than apprentices, prior approval of the Chief Inspector or an Inspector shall be obtained before they are allowed to work.

*Explanation.*—In this section and in section 43, “apprentice” means an apprentice as defined in clause (a) of section 2 of the Apprentices Act, 1961 (52 of 1961).]

**41.** [*Certificate of fitness.*] Omitted by the Mines (Amendment) Act 1983(42 of 1983), s. 23 (w.e.f. 31-5-1984).

**42.** [*Effect of certificate of fitness granted to adolescents.*] Omitted by s. 23, *ibid.* (w.e.f. 31-5-1984).

<sup>1</sup>**[43. Power to require medical examination.**—(1)Where an Inspector is of opinion that any person employed in a mine otherwise than as an apprentice or other trainee is not an adult or that any person employed in a mine as an apprentice or other trainee is either below sixteen years of age or is no longer fit to work, the Inspector may serve on the manager of the mine a notice requiring that such person shall be examined by a certifying surgeon and such person shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been certified that he is an adult or, if such person is an apprentice or trainee, that he is not below sixteen years of age and is fit to work.

(2)Every certificate granted by a certifying surgeon on a reference under sub-section (1), shall, for the purpose of this Act, be conclusive evidence of the matters referred therein.]

**44.**[*Working hours for adolescents notcertified to be fit for work as adults.*] Omitted by the Mines (Amendment) Act1983 (42 of 1983),s. 25 (w.e.f.31-5-1984).

<sup>2</sup>**[45. Prohibition of the presence of persons below eighteen years of age in a mine.**—Subject to the provisions of sub-section (2) of section 40, after such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, no person below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.]

<sup>3</sup>**[46. Employment of women.**—(1)No woman shall, notwithstanding anything contained in any other law, be employed—

(a) in any part of a mine which is below ground;

(b) in any mine above ground except between the hours of 6 A.M. and 7 P.M.

(2) Every woman employed in a mine above ground shall be allowed an interval of not less than eleven hours between the termination of employment on any one day and the commencement of the next period of employment.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, by notificationin the Official Gazette, vary the hours of employment above ground of women in respect of any mine or class or description of mine, so however that no employment of any woman between the hours of 10 P.M. and 5 A.M. is permitted thereby.]

**47.** [*Disputes as to age.*] Omitted by the Mines (Amendment) Act, 1959 (62 of 1959), s. 28 (w.e.f. 16-1-1960).

---

1. Subs. by Act 42 of 1983, s. 24, for section 43 (w.e.f. 31-5-1984).

2. Subs. by s. 26, *ibid.*, for section 45 (w.e.f. 31-5-1984).

3. Subs. by Act 62 of 1959, s. 27, for section 46 (w.e.f. 16-1-1960).

**48. Registers of persons employed.**—<sup>1</sup>[(1)For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

(a) the name of the employee with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;

(b) the age and sex of the employee;

(c) the nature of employment (whether above ground or below ground, and if above ground, whether in open cast workings or otherwise) and the date of commencement thereof;

<sup>2</sup>\* \* \* \* \*

(e) such other particulars as may be prescribed; and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.]

(2) The entries in the register prescribed by sub-section (1) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(3) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

<sup>3</sup>[(4) For every mine other than a mine which, for any special reason to be recorded, is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine—

(a) below ground;

(b) above ground in open cast workings; and

(c) above ground in other cases—

(i) the name of the employee;

(ii) the class or kind of his employment;

(iii) where work is carried on by a system of relays, the shift to which he belongs and the hours of the shift.]

(5) The register of persons employed below ground referred to in sub-section (4) shall show at any moment the name of every person who is then present below ground in the mine.

<sup>4</sup>[(6) No person shall enter any open cast working or any working below ground unless he has been permitted by the manager or is authorised under this Act or any other law to do so.]

## CHAPTER VII

### LEAVE WITH WAGES

<sup>5</sup>[**49.Application of Chapter.**—The provisions of this Chapter shall not operate to the prejudice of any right to which a person employed in a mine may be entitled under any other law or under the terms of any award, agreement or contract of service:

---

1. Subs. by Act 62 of 1959, s. 29, for sub-section (1) (w.e.f. 16-1-1960)

2. Omitted by Act 42 of 1983, s. 27 (w.e.f. 31-5-1984).

3. Subs. by Act 62 of 1959, s. 29, for sub-section (4) (w.e.f. 16-1-1960).

4. Ins. by s. 29, *ibid.* (w.e.f. 16-1-1960).

5. Subs by s. 30, *ibid.*, for sections 49 to 56 (w.e.f. 16-1-1960).

<sup>1</sup>[Provided that if such award, agreement or contract of service, provides for a longer annual leave with wages than that provided in this Chapter, the quantum of leave, which the person employed shall be entitled to, shall be in accordance with such award, agreement or contract of service, but leave shall be regulated in accordance with the provisions of sections 50 to 56 (both inclusive) with respect to matters not provided for in such award, agreement or contract of service.]

**50. Leave defined.**—For the purposes of this Chapter, leave shall not include weekly days of rest or holidays for festivals or other similar occasions whether occurring during or at either end of the period of leave.

**51. Calendar year defined.**—For the purposes of this Chapter, a calendar year shall mean the period of twelve months beginning with the first day of January in any year.

**52. Annual leave with wages.**—(1) Every person employed in a mine who has completed a calendar year's service therein shall be allowed, during the subsequent calendar year, leave with wages, calculated,—

(a) in the case of a person employed below ground, at the rate of one day for every <sup>2</sup>[fifteen days] of work performed by him, and

(b) in any other case, at the rate of one day for every twenty days of work performed by him.

(2) A calendar year's service referred to in sub-section (1) shall be deemed to have been completed,—

(a) in the case of a person employed below ground in a mine, if he has during the calendar year put in not less than one hundred and ninety attendances at the mine; and

(b) in the case of any other person, if he has during the calendar year put in not less than two hundred and forty attendances at the mine.

*Explanation.*—For the purpose of this sub-section—

(a) any days of lay-off by agreement or contract or as permissible under the standing order;

(b) in the case of a female employee, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be the days on which the employee has worked in a mine for the purpose of computation of the attendances, but he shall not earn leave for these days.

(3) A person whose service commences otherwise than on the first day of January shall be entitled to leave with wages in the subsequent calendar year at the rates specified in sub-section (1), if—

(a) in the case of a person employed below ground in a mine, he has put in attendances for not less than one-half of the total number of days during the remainder of the calendar year; and

(b) in any other case, he has put in attendances for not less than two-thirds of the total number of days during the remainder of the calendar year.

(4) Any leave not taken by a person to which he is entitled in any one calendar year under sub-section (1) or sub-section (3) shall be added to the leave to be allowed to him under sub-section (1) during the succeeding calendar year:

Provided that the total number of days of leave which may be accumulated by any such person shall not at any one time exceed thirty days in all:

Provided further that any such person who has applied for leave with wages but has not been given such leave in accordance with sub-section (6) shall be entitled to carry forward the unavailed leave without any limit.

---

1. Subs. by Act 42 of 1983, s. 28, for the proviso (w.e.f. 31-5-1984).

2. Subs. by s. 29, *ibid.*, for "sixteen days" (w.e.f. 31-5-1984).

(5) Any such person may apply in writing to the manager of the mine not less than fifteen days before the day on which he wishes his leave to begin, for all leave or any portion thereof then allowable to him under sub-sections (1), (3) and (4):

Provided that the number of times in which leave may be taken during any one calendar year shall not exceed three.

(6) An application for such leave made in accordance with sub-section (5) shall not be refused unless the authority empowered to grant the leave is of opinion that owing to the exigencies of the situation the leave should be refused.

(7) If a person employed in a mine wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (5).

(8) If the employment of a person employed in a mine is terminated by the owner, agent or manager of the mine before he has taken the entire leave to which he is entitled up to the day of termination of his employment, or if such person having applied for and having not been granted such leave, quits his employment before he has taken the leave, the owner, agent or manager of the mine shall pay him the amount payable under section 53, in respect of the leave not taken, and such payment shall be made, where the employment of the person is terminated by the owner, agent or manager, before the expiry of the second working day after such termination, and where a person himself quits his employment, on or before the next pay day.

(9) The unavailed leave of a person employed in a mine shall not be taken into consideration in computing the period of any notice required to be given before the termination of his employment.

<sup>1</sup>[(10) Where a person employed in a mine is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, he or his heirs or his nominee, as the case may be, shall be entitled to wages in lieu of leave due to him calculated at the rate specified in sub-section (1), if,—

(a) in the case of a person employed below ground in a mine, he has put in attendance for not less than one-half of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death; and

(b) in any other case, he has put in attendance for not less than two-thirds of the total number of days from the date of his employment to the date of his discharge or dismissal or quitting of employment or superannuation or death,

and payment of such wages shall be made by the owner, agent or manager of the mine at the rate specified in section 53, where the person is discharged or dismissed from service or quits employment or is superannuated, before the expiry of the second working day after such discharge, dismissal, quitting of employment or superannuation, as the case may be, and where the person employed dies while in service, within a period of two months of his death.]

*Explanation.*—For the purposes of <sup>2</sup>[sub-sections (1),(3) and (10)] any fraction of leave of half a day or more shall be treated as one full day and fraction of less than half a day shall be omitted.

**53. Wages during leave period.**—For the leave allowed to a person employed in a mine under section 52, he shall be paid at a rate equal to the daily average of his total full-time earnings for the days on which he was employed during the month immediately preceding his leave, exclusive of any over-time wages and bonus but inclusive of any dearness allowance and compensation in cash including such compensation, if any, accruing through the free issue of foodgrains and other articles as persons employed in the mine may, for the time being, be entitled to:

---

1. Ins. by Act 42 of 1983, s. 29 (w.e.f. 31-5-1984).

2. Subs. by Act 42 of 1983, s. 29, for “sub-sections (1) and (3)” (w.e.f. 31-5-1984).

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average of the total full-time earnings of all persons similarly employed for the same month.

**54.Payment in advance in certain cases.**—Any person employed in a mine who has been allowed leave for not less than four days, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

**55.Mode of recovery of unpaid wages.**—Any sum required to be paid by the owner, agent or manager of a mine under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (4 of 1936).

**56.Power to exempt mines.**—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.]

## CHAPTER VIII

### REGULATIONS, RULES AND BYE-LAWS

**57. Power of Central Government to make regulations.**—The Central Government may, by notification in the Official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:—

(a) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;

(b) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(c) for prescribing the duties of owners, agents and managers of mines and of persons acting under them, and for prescribing the <sup>1</sup>[qualifications (including age) of agents and managers] of mines and of persons acting under them;

(d) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

(e) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(f) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(g) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualifications ;

<sup>2</sup>[(h) for providing for inquiries to be made under this Act, including any inquiry relating to misconduct or incompetence on the part of any person holding a certificate under this Act and for the suspension or cancellation of any such certificate and for providing, wherever necessary, that the person appointed to hold an inquiry shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects;]

(i) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (4 of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;

---

1. Subs. by Act 62 of 1959, s. 31, for “qualifications of managers” (w.e.f. 16-1-1960).

2. Subs. by s. 31, *ibid.*, for clause (h) (w.e.f. 16-1-1960).



<sup>1</sup>[(j) for prohibiting, restricting or regulating the employment of <sup>2\*\*\*</sup> women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person;]

(k) for providing for the safety of the persons employed in a mine, their means of entrance thereto and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(l) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

<sup>3</sup>[(m) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction or reduction of pillars or blocks of minerals and the maintenance of sufficient barriers between mine and mine;

(n) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings in the vicinity of the sea or any lake or river or any other body of surface water, whether natural or artificial, or of any public road or building, and for requiring due precaution to be taken against the irruption or inrush of water or other liquid matter into, outbreak of fire in or premature collapse of, any workings;]

(o) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

<sup>4</sup>[(p) for regulating, subject to the provisions of the Indian Electricity Act, 1910 (9 of 1910), and of any rules made thereunder, the generation, storage, transformation, transmission and use of electricity in mines and for providing for the care and the regulation of the use of all electrical apparatus and electrical cables in mines and of all other machinery and plant therein;]

(q) <sup>5</sup>[for regulating the use of machinery in mines, for providing for the safety of persons employed on or near such machinery and on haulage roads] and for restricting the use of certain classes of locomotives underground;

(r) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(s) for providing against explosions or ignitions <sup>6</sup>[of inflammable gas or dust] or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of <sup>6</sup>[workings] or to result in or to aggravate the collapse of <sup>6</sup>[workings] or irruptions of water or ignitions in mines;

(t) <sup>7</sup>[for prescribing under clause (g) of sub-section (1) of section 23, the types of accidents and for prescribing the notices] of accidents and dangerous occurrences and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents and managers of mines, and for prescribing the forms of such

---

1. Subs. by Act 62 of 1959, s. 31, for clause (j) (w.e.f. 16-1-1960).

2. The words "adolescents and" omitted by Act 42 of 1983, s. 30 (w.e.f. 31-5-1984).

3. Subs. by Act 62 of 1959, s. 31, for clauses (m) and (n) (w.e.f. 16-1-1960).

4. Subs. by s. 31, *ibid.*, for clause (p) (w.e.f. 16-1-1960).

5. Subs. by Act 42 of 1983, s. 30, for certain words (w.e.f. 31-5-1984).

6. Ins. by Act 62 of 1959, s. 31 (w.e.f. 16-1-1960).

7. Subs. by s. 31, *ibid.*, for "for prescribing the notices" (w.e.f. 16-1-1960).

notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

<sup>1</sup>[(u) <sup>2</sup>[for requiring owners, agents and managers of mines to have fixed boundaries for the mines, for prescribing the plans and sections and field notes connected therewith to be kept by them] and the manner and places in which such plans, sections and field notes are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector; and for requiring the making of fresh surveys and plans by them, and in the event of non-compliance, for having the survey made and plans prepared through any other agency and for the recovery of expenses thereof in the same manner as an arrear of land revenue;]

(v) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines <sup>3</sup>[for dealing effectively with the situation];

(w) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16;

(x) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within <sup>4</sup>[forty-five metres] of any railway subject to the provisions of the Indian Railways Act, 1890 (9 of 1890), or of any <sup>5</sup>[public roads or other works, as the case may be, which are maintained by the Government or any local authority];

(y) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (9 of 1890);

<sup>6</sup>[(yy) for requiring protective works to be constructed by the owner, agent or manager of a mine before the mine is closed, and in the event of non-compliance, for getting such works executed by any other agency and for recovering the expenses thereof from such owner in the same manner as an arrear of land revenue;]

(z) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet, whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public; and

(zz) any other matter which has to be or may be prescribed.

**58. Power of Central Government to make rules.**—The Central Government may, by notification in the Official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

<sup>7</sup>[(a) for providing the term of office and other conditions of service of, and the manner of filling vacancies among, the members of a Committee and for regulating the procedure to be followed by a committee for transacting its business;]

(b) for prescribing the form of the register referred to in sub-section (3) of section 23;

(c) for providing for the appointment of Courts of inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for

---

1. Subs. by Act 62 of 1959, s. 31, for clause (u) (w.e.f. 16-1-1960).

2. Subs. by Act 42 of 1983, s. 30, for certain words (w.e.f. 31-5-1984).

3. Ins. by s. 30, *ibid.* (w.e.f. 31-5-1984).

4. Subs. by s. 30, *ibid.*, for “fifty yards” (w.e.f. 31-5-1984).

5. Subs. by Act 62 of 1959, s. 31, for certain words (w.e.f. 16-1-1960).

6. Ins. by s. 31, *ibid.* (w.e.f. 16-1-1960).

7. Subs. by Act 42 of 1983, s. 31, for clause (a) (w.e.f. 31-5-1984).

the recovery of the expenses of such Courts <sup>1</sup>[including any other expenses connected with the inquiry <sup>2</sup>[in the same manner as an arrear of land revenue]] from the manager,owner or agent of the mine concerned;

<sup>2</sup>[(cc) for providing for inspection of mines to be carried out on behalf of the persons employed therein by a technical expert (not less than an overman in status), the facilities therefor, the frequency at which and the manner in which such inspections are to be carried out and the manner in which reports of such inspections are to be made:]

(d) for requiring the maintenance in mines wherein any women are employed or were employed on any day of the preceding twelve months of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women employed in the mine the number and standards of such rooms, and the nature and extent of the amenities to be provided and the supervision to be exercised therein;

(e) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;

(f) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking water <sup>3\*\*\*</sup>;

<sup>1</sup>[(ff) for providing for the supply and maintenance of medical appliances and comforts and for prescribing the contents and number of first-aid boxes and cupboards, the training in first-aid work, the size and equipment of first-aid rooms and staff in charge thereof and the arrangements for conveyance of injured persons to hospitals or dispensaries;

(fff) for requiring the imparting of practical instruction to, or the training of, persons employed or to be employed in mines otherwise than in a position of supervision or management and for prescribing schemes for such instruction and training;]

(g) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;

(h) for prescribing the forms of notices required under section 36, and for requiring such notices to be posted also in specified languages;

(i) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(j) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

<sup>4</sup>\* \* \* \* \*

<sup>1</sup>[(kk) for requiring persons employed or seeking employment at mines to submit themselves for medical examination and for prohibiting on medical grounds the employment of any person at a mine either absolutely or in a particular capacity or in particular work;]

<sup>5</sup>[(l) for prescribing the form of registers required by section 48 and the maintenance and form of registers for the purposes of Chapter VII;]

---

1. Ins.by Act 62 of 1959, s. 32 (w.e.f. 16-1-1960).  
2. Ins. by Act 42 of 1983, s. 31 (w.e.f. 31-5-1984).  
3. Certain words omitted by Act 62 of 1959, s. 32 (w.e.f. 16-1-1960).  
4. Omitted by Act 42 of 1983, s. 31 (w.e.f. 31-5-1984).  
5. Subs. by Act 62 of 1959, s. 32, for clause (l) (w.e.f. 16-1-1960).

(m) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;

(n) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times, within which they are to be submitted;

(o) for requiring the provision and maintenance in mines, wherein more than <sup>1\*\*\*</sup> fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;

(p) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

(q) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified and for prescribing the qualifications and the terms and conditions of, and the duties to be performed by, such welfare officers;

<sup>2</sup>[(r) for requiring the establishment of rescue stations for specified mines or groups of specified mines or for all mines in a specified area and for prescribing how and by whom such stations shall be established;

(s) for providing for the management of rescue stations;

(sa) for providing for the standards of physical fitness and other qualifications of the persons constituting rescue brigades;

(sb) prescribing the places of residence of the persons constituting rescue brigades;]

(t) for prescribing the position, equipment, control, maintenance and functions of <sup>3\*\*\*</sup> rescue stations;

<sup>4</sup>[(u) for providing for the levy and collection of a duty of excise (at a rate not exceeding twenty-five paise per tonne) on coke and coal produced in and despatched from mines specified under clause (r), the creation of a rescue stations fund for such mines, the crediting to such fund of such sums of money as the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from out of the proceeds of such cess credited to the Consolidated Fund of India, the manner in which the money from such fund shall be utilised and the administration of such fund;]

(v) For providing for the formation, training, composition and duties of rescue brigades <sup>5\*\*\*</sup>; and generally for the conduct of rescue work in mines; <sup>6\*\*\*</sup>

<sup>7</sup>[(vv) for providing for the constitution of safety Committees for specified mine or groups of specified mines or for all mines in a specified area for promoting safety and for laying down the composition, manner of formation and functions of such safety Committees, and;]

(w) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

---

1. The words "one hundred and" omitted by Act 62 of 1959, s. 32 (w.e.f. 16-1-1960).

2. Subs. by Act 42 of 1983, s. 31, for clauses (r) and (s) (w.e.f. 31-5-1984).

3. The word "Central" omitted by s. 31, *ibid.* (w.e.f. 31-5-1984).

4. Subs. by s. 31, *ibid.*, for clause (u) (w.e.f. 31-5-1984).

5. Certain words omitted by s. 31, *ibid.* (w.e.f. 31-5-1984).

6. The word "and" omitted by s. 31, *ibid.* (w.e.f. 31-5-1984).

7. Ins. by s. 31, *ibid.* (w.e.f. 31-5-1984).

**59. Prior publication of regulation and rules.**—(1)The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

<sup>1</sup>\* \* \* \* \*

<sup>2</sup>[(4) No regulation or rule shall be made unless the draft thereof has been referred to the Committee constituted under sub-section (1) of section 12 and unless that Committee has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.]

(5) Regulations and rules shall be published in the Official Gazette and, on such publication, shall have effect as if enacted in this Act.

(6) The provisions of sub-sections (1), (2) and (4) shall not apply to the first occasion on which rules referred to in clause (d) or clause (e) of section 58 are made.

<sup>3</sup>\* \* \* \* \*

**60. Power to make regulations without previous publication.**—Notwithstanding anything contained in sub-sections (1), (2) and <sup>4</sup>[(4)] of section 59, regulations under <sup>5</sup>\*\*\* section 57 may be made without previous publication and without <sup>6</sup>\*\*\* reference to <sup>7</sup>[the Committee constituted under sub-section (1) of section 12], if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made <sup>8</sup>[shall be sent to the said Committee for information and] shall not remain in force for more than <sup>9</sup>[one year] from the making thereof.

**61. Bye-laws.**—(1)The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bylaws, not being inconsistent with this Act or any regulations or rules for the time being in force, <sup>10</sup>[governing the use of any particular machinery or the adoption of a particular method of working in the mine] as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(2) If any such owner, agent or manager—

(a) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

---

1. Omitted by Act 62 of 1959, s. 33 (w.e.f. 16-1-1960).

2. Subs. by Act 42 of 1983, s. 32, for sub-section (4) (w.e.f.31-5-1984).

3. Omitted by s.32, *ibid.* (w.e.f.31-5-1984).

4. Subs. by Act 62 of 1959, s. 34, for “(3)” (w.e.f. 16-1-1960).

5. The words, brackets and letters “clause (i) and clauses (k) to (s) excluding clause (1) of” omitted by s. 34, *ibid.* (w.e.f. 16-1-1960).

6. The word “previous” omitted by s. 34, *ibid.* (w.e.f. 16-1-1960).

7. Subs. by Act 42 of 1983, s. 33, for “Mining Boards” (w.e.f. 31-5-1984).

8. Ins. by s. 33, *ibid.* (w.e.f. 31-5-1984).

9. Subs. by Act 62 of 1959, s. 34, for “two years” (w.e.f. 16-1-1960).

10. Subs. by Act 42 of 1983, s. 34, for certain words (w.e.f. 31-5-1984).

(b) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient,

the Chief Inspector or Inspector may—

(i) propose a draft of such bye-laws as appear to him to be sufficient, or

(ii) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(3) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (2), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (1), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the <sup>1</sup>[Committee constituted under sub-section (1) of section 12].

(4) (a) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the <sup>1</sup>[Committee constituted under sub-section (1) of section 12] a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(b) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(c) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(d) Every objection shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(e) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in the form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

<sup>2</sup>**[61A.Laying regulations, rules and bye-laws before parliament.**—Every regulation made under section 57, every rule made under section 58 and every bye-law made under section 61 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

---

1. Subs. by Act 42 of 1983, s. 34, for certain words (w.e.f. 31-5-1984).

2. Ins. by s. 35, *ibid.* (w.e.f. 31-5-1984).

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, rule or bye-law or both Houses agree that the regulation, rule or bye-law should not be made, the regulation, rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation, rule or bye-law, as the case may be.]

**62. Posting up of abstracts from Act, regulations, etc.**—There shall be kept posted up at or near every Mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

## CHAPTER IX

### PENALTIES AND PROCEDURE

**63. Obstruction.**—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

**64. Falsification of records, etc.**—Whoever—

(a) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(b) knowingly uses as true any such counterfeit or false certificate, or

(c) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

<sup>1</sup>[(d) falsifies any plan, section, register or record, the maintenance of which is required by or under this Act or produces before any authority such false plan, section, register or record, knowing the same to be false, or]

(e) makes, gives or delivers any plan, return, notice, record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to <sup>2</sup>[one thousand rupees], or with both.

**65. Use of false certificates of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under <sup>3</sup>[section 43] a certificate granted to another person under that section, or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to <sup>4</sup>[two hundred] rupees, or with both.

---

1. Subs. by Act 62 of 1959, s. 35, for clause (d) (w.e.f. 16-1-1960).

2. Subs. by s. 35, *ibid.*, for “five hundred rupees” (w.e.f. 16-1-1960).

3. Subs. by Act 42 of 1983, s.36, for “section 40” (w.e.f. 31-5-1984).

4. Subs. by Act 62 of 1959, s. 36, for “fifty” (w.e.f. 16-1-1960).

**66.Omission to furnish plans, etc.**—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, <sup>1</sup>[section,] return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to <sup>2</sup>[one thousand] rupees.

**67.Contravention of provisions regarding employment of labour.**—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to <sup>3</sup>[one thousand] rupees, or with both <sup>4</sup>\*\*\*.

<sup>5</sup>[**68. Penalty for employment of persons below eighteen years of age.**—If a person below eighteen years of age is employed in a mine in contravention of section 40, the owner, agent or manager of such mine shall be punishable with fine which may extend to five hundred rupees.]

**69.Failure to appoint manager.**—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to <sup>6</sup>[two thousand and five hundred] rupees, or with both <sup>7</sup>\*\*\*  
<sup>7</sup>\*\*\*

**70. Notice of accidents.**—(1)Whoever in contravention of the provision of sub-section (1)of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it therefor the period specified shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2)Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**71.Owner, etc.,to report to Chief Inspector in certain cases.**— Where the owner, agent or manager of a mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the court report the result thereof to the Chief Inspector.

**72.Obligation of persons employed in a mine.**—No person employed in a mine shall—

(a) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein;

(b) wilfully and without reasonable cause do anything likely to endanger himself or others;

(c) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

<sup>8</sup>[**72A.Special Provision for contravention of certain regulations.**—Whoever contravenes any provision of any regulation or of any bye-law or of, any order made thereunder, relating to matters specified in clauses (d), (i), (m), (n), (o), (p), (r), (s) and (u) of section 57 shall be punishable with

---

1. Ins. by Act 62 of 1959, s. 37 (w.e.f. 16-1-1960).

2. Subs. by s. 37, *ibid.*, for “two hundred” (w.e.f. 16-1-1960).

3. Subs. by s. 38, *ibid.*, for “five hundred” (w.e.f. 16-1-1960).

4. Certain words omitted by s. 38, *ibid.* (w.e.f. 16-1-1960).

5. Subs. by Act 42 of 1983, s. 37, for section 68 (w.e.f. 31-5-1984).

6. Subs. by Act 62 of 1959, s. 39, for “five hundred” (w.e.f. 16-1-1960).

7. Certain words omitted by s. 39, *ibid.* (w.e.f. 16-1-1960).

8. Subs. by s. 40, *ibid.*, for sections 73 and 74 (w.e.f. 16-1-1960).



imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

**72B. Special provision for contravention of orders under section 22.**—Whoever continues to work a mine in contravention of any order issued under sub-section (1A), sub-section (2) or sub-section (3) of section 22 <sup>1</sup>[or under section (2) of section 22A] shall be punishable with imprisonment for a term which may extend two years, and shall also be liable to fine which may extend to five thousand rupees:

<sup>1</sup>[Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court such fine shall not be less than two thousand rupees.]

**72C. Special provision for contravention of law with dangerous results.**—(1) Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder [other than an order made under sub-section (1A) or sub-section (2) or sub-section (3) of section 22 <sup>2</sup>[or under sub-section (2) of section 22A]], shall be punishable—

(a) if such contravention results in loss of life, with imprisonment which may extend to two years, or with fine which may extend to five thousand rupees, or with both; or

(b) if such contravention results in serious bodily injury, with imprisonment which may extend to one year, or with fine which may extend to three thousand rupees, or with both; or

(c) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

<sup>2</sup>[Provided that in the absence of special and adequate reasons to the contrary to be recorded in writing in the judgment of the court, such fine in the case of a contravention referred to in clause (a) shall not be less than three thousand rupees.]

(2) Where a person having been convicted under this section is again convicted thereunder, he shall be punishable with double the punishment provided by sub-section (1).

(3) Any court imposing or confirming in appeal, revision or otherwise a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative:

Provided that at if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal.

**73. General provision for disobedience of orders.**—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

**74. Enhanced penalty after previous conviction.**—If any person who has been convicted for an offence punishable under any of the foregoing provisions (other than sections 72B and 72C) is again convicted for an offence committed within two years of the previous conviction and involving a contravention of the same provision, he shall be punishable for each subsequent conviction with double the punishment to which he would have been liable for the first contravention of such provision.]

**75. Prosecution of owner, agent or manager.**—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the district magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

---

1. Ins. by Act 42 of 1983, s. 38 (w.e.f.31-5-1984).

2. Ins. by s.39, *ibid.* (w.e.f.31-5-1984).

<sup>1</sup>[Provided that the Chief Inspector or the district magistrate or the Inspector as so authorised shall, before instituting such prosecution, satisfy himself that the owner, agent or manager had failed to exercise all due diligence to prevent the commission of such offence.]

<sup>2</sup>[Provided further that] in respect of an offence committed in the course of the technical direction and management of a mine, the district magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

<sup>3</sup>**[76.Determination of owner in certain cases.**—Where the owner of a mine is a firm or other association of individuals, all, or any of the partners or members thereof or where the owner of a mine is a company, all or any of the directors thereof or where the owner of a mine is a Government or any local authority, all or any of the officers or persons authorised by such Government or local authority, as the case may be, to manage the affairs of the mine, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

<sup>4</sup>[Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated,—

- (a) in the case of a firm, any of its partners or managers;
- (b) in the case of an association, any of its members or managers;
- (c) in the case of a company, any of its directors or managers,

who is resident, in each case in any place to which this Act extends and who is in each case either in fact in charge of the management of, or holds the largest number of shares in such firm, association or company, to assume the responsibility of the owner of the mine for the purposes of this Act, such partner, member, director or manager, as the case may be, shall, so long as he continues to so reside and be in charge or hold the largest number of shares as aforesaid, be deemed to be the owner of the mine for the purposes of this Act unless a notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or manager, as the may be, is received by the Chief Inspector.

*Explanation.*—Where a firm, association or company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this proviso in relation to different establishments or branches or units and the person so nominated shall, with respect only to the establishment, branch or unit in relation to which he has been nominated, be deemed to be the owner of the mine. ]]

**77.Exemption of owner,agent or manager from liability in certain cases.**—Where the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf <sup>5</sup>[and on his furnishing the known address of the actual offender] and on giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have that other person brought before the court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the Court—

- (a) that he has used due diligence to enforce the execution of the relevant provision of this Act, and
- (b) that the other person committed the offence in question without his knowledge, consent or connivance,

---

1. Ins. by Act 42 of 1983, s. 40 (w.e.f. 31-5-1984).  
2. Subs. by s. 40, *ibid.*, for “Provided that” (w.e.f. 31-5-1984).  
3. Subs. by Act 62 of 1959, s. 41, for section 76 (w.e.f. 16-1-1960).  
4. Subs. by Act 42 of 1983, s. 41, for the proviso (w.e.f. 31-5-1984).  
5. Ins. by Act 62 of 1959, s. 42 (w.e.f. 16-1-1960).

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted;

Provided that—

(a) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;

(b) if in spite of due diligence the person alleged as the actual offender cannot be brought before the court on the date appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the court, the court shall proceed to hear the case against the owner, agent or manager, as the case may be.

**78. Power of Court to make orders.**—(1) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the court may, in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

**79. Limitation of prosecutions.**—No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

(i) within six months of the date on which the offence is alleged to have been committed, or

(ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

<sup>1</sup>[(*iii*) in any case in which the accused is or was a public servant and previous sanction of the Central Government or of the State Government or of any other authority is necessary for taking cognizance of the offence under any law for the time being in force, within three months of the date on which such sanction is received by the Chief Inspector, or]

(*iii*) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within <sup>2</sup>[one year] after the date of the publication of the report referred to in sub-section (4) of that section,

whichever is later.

<sup>3</sup>[*Explanation.*—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time has been extended under this Act, the period of limitation shall be computed from the expiry of the extended period.]

---

1. Ins. by Act 42 of 1983, s. 42 (w.e.f. 31-5-1984).

2. Subs. by s. 42, *ibid.*, for “six months” (w.e.f. 31-5-1984).

3. The *Explanation* added by Act 62 of 1959, s. 43 (w.e.f. 16-1-1960).

**80. Cognizance of offences.**—No Court inferior to that of a <sup>1</sup>[Metropolitan Magistrate or Judicial Magistrate of the first class] shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

**80A.**[*Special provision regarding fine.*]Omitted by the Mines (Amendment) Act, 1983 (42 of 1983), s. 44 (w.e.f. 31-5-1984).

**81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.**—(1) If the Court trying any case instituted at the instance of the Chief Inspector or of the district magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to <sup>2\*\*\*</sup> a Committee it may stay the criminal proceedings and report the matter to the Central Government with a view to such reference being made.

(2) On receipt of a report under sub-section (1), the Central Government may refer the case to <sup>2\*\*\*</sup> a Committee, or may direct the Court to proceed with the trial.

## CHAPTER X

### MISCELLANEOUS

**82. Decision of question whether a mine is under this Act.**—If any question arises as to whether any excavation or working <sup>3</sup>[or premises in or adjacent to and belonging to a mine, on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on] is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

**83. Power to exempt from operation of Act.**—<sup>4</sup>[(1)]The Central Government may, by notification in the Official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of <sup>5</sup>[all or any of the provisions of this Act or the regulations, rules or bye-laws.]

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of <sup>6</sup>[sections 40 and 45] unless it is also exempted from the operation of all the other provisions of this Act.

<sup>7</sup>[(2) The Central Government may, by general or special order and subject to such restrictions as it may think fit to impose, authorise the Chief Inspector or any other authority to exempt, subject to any specified conditions, any mine or part thereof from the operation of any of the provisions of the <sup>8</sup>[regulations rules or bye-laws] if the Chief Inspector or such authority is of opinion that the conditions in any mine or part thereof are such as to render compliance with such provision unnecessary or impracticable.]

**84. Power to alter or rescind orders.**—<sup>9</sup>[(1)] The Central Government may reverse or modify any order passed under this Act.

---

1. Subs. by Act 42 of 1983, s. 43, for “presidency magistrate or magistrate of the first class” (w.e.f. 31-5-1984).

2. The words “a Mining Board or” omitted by s. 45, *ibid.* (w.e.f. 31-5-1984).

3. Ins. by Act 62 of 1959, s. 45 (w.e.f. 16-1-1960).

4. Section 83 renumbered as sub-section (1) thereof by s. 46, *ibid.* (w.e.f. 16-1-1960).

5. Subs. by Act 42 of 1983, s. 46, for “all or any of the provisions of this Act” (w.e.f. 31-5-1984).

6. Subs. by s. 46, *ibid.*, for “section 45” (w.e.f. 31-5-1984).

7. Ins. by Act 62 of 1959, s. 46 (w.e.f. 16-1-1960).

8. Subs. by Act 42 of 1983, s. 46, for “regulations or rules under this Act” (w.e.f. 31-5-1984).

9. Section 84 renumbered as sub-section (1) thereof by s. 47, *ibid.* (w.e.f. 31-5-1984).

<sup>1</sup>[(2)The Chief Inspector may, for reasons to be recorded in writing, reverse or modify any order passed by him under the Act or under any regulation, rule or bye-law.

(3) No order prejudicial to the owner, agent or manager of a mine shall be made under this section unless such owner, agent or manager has been given a reasonable opportunity of making representation.]

**85.Application of Act to mines belonging to Government.**—This Act shall <sup>2</sup>[also] apply to mines belonging to the Government.

<sup>3</sup>**85A.Persons required to give notice, etc., legally bound to do so.**— Every person required to give any notice or to furnish any information to any authority under this Act shall be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).]

<sup>4</sup>**85B.Signing of returns, notices, etc.**—All returns and notices required to be furnished or given or communications sent by or on behalf of the owner of a mine in connection with the provisions of this Act or any regulation, rule, bye-law or any order made thereunder to whom power in this behalf has been delegated by the owner by a power of attorney.

**85C.No fee or charge to be realised for facilities and conveniences.**—No fee or charge shall be realised from any person employed in a mine in respect of any protective arrangements or facilities to be provided, or any equipment or appliances to be supplied under the provisions of this Act.]

**86.Application of certain provisions of Act 63 of 1948 to mines.**—The Central Government may, by notification in the Official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (63 of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

**87.Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**88.** [*Repeal of Act 4 of 1923.*] *Rep. by the Repealing and Amending Act, 1957 (36 of 1957), s. 2 and the First Schedule.*

---

1. Ins. by Act 42 of 1983, s. 47 (w.e.f. 31-5-1984).

2. Ins. by Act 62 of 1959, s. 47 (w.e.f. 16-1-1960).

3. Ins. by s. 48, *ibid.* (w.e.f. 16-1-1960).

4. Ins. by Act 42 of 1983, s. 48 (w.e.f. 31-5-1984).

THE MOTOR TRANSPORT WORKERS ACT, 1961

---

ARRANGEMENT OF SECTIONS

---

CHAPTER I  
PRELIMINARY

SECTIONS

1. Short title, extent, commencement and application.
2. Definitions.

CHAPTER II

REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS

3. Registration of motor transport undertaking.

CHAPTER III

INSPECTING STAFF

4. Chief inspector and inspectors.
5. Powers of the inspectors.
6. Facilities to be afforded to inspectors.
7. Certifying surgeons.

CHAPTER IV

WELFARE AND HEALTH

8. Canteens.
9. Rest rooms.
10. Uniforms.
11. Medical facilities.
12. First-aid facilities.

CHAPTER V

HOURS AND LIMITATIONS OF EMPLOYMENT

13. Hours of work for adult motor transport workers.
14. Hours of work for adolescents employed as motor transport workers.
15. Daily intervals for rest.
16. Spread-over.
17. Split duty.
18. Notice of hours of work.
19. Weekly rest.
20. Compensatory day of rest.

CHAPTER VI  
EMPLOYMENT OF YOUNG PERSONS

SECTIONS

21. Prohibition of employment of children.
22. Adolescents employed motor transport workers to carry tokens.
23. Certificate of fitness.
24. Power to require medical examination.

CHAPTER VII  
WAGES AND LEAVE

25. Act 4 of 1936 to apply to payment of wages to motor transport workers.
26. Extra wages for overtime.
27. Annual leave with wages.
28. Wages during leave period.

CHAPTER VIII  
PENALTIES AND PROCEDURE

29. Obstructions.
30. Use of false certificate of fitness.
31. Contravention of provisions regarding employment of motor transport workers.
32. Other offences.
33. Enhanced penalty after previous conviction.
34. Offences by companies.
35. Cognizance of offences.
36. Limitation of prosecutions.

CHAPTER IX  
MISCELLANEOUS

37. Effect of laws and agreements inconsistent with this Act.
38. Exemptions.
39. Powers to give directions.
40. Power to make rules.

# THE MOTOR TRANSPORT WORKERS ACT, 1961

ACT NO. 27 OF 1961

[20th May, 1961.]

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:—

## 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 <sup>1</sup>\* \* \*.

(3) It shall come into force on such date<sup>2</sup> 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.

<sup>3</sup>[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, 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.

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

(a) “adolescent” means a person who has completed his <sup>4</sup>[fourteenth] year but has not completed his eighteenth year;

---

1. The words “except the State of Jammu and Kashmir” omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).

2. The Act has been brought into force as follows:—

26th January, 1962, *vide* notification No. S.O. 296, dated 23th January, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Madhya Pradesh.

1st February, 1962, *vide* notification No. S.O. 296, dated 23th January, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Assam, Kerala, Mysore, Orissa, Punjab, Andaman & Nicobar Islands, Delhi and Himachal Pradesh.

1st March, 1962, *vide* notification No. S.O. 296, dated 23th January, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in West Bengal.

31st March, 1962, *vide* notification No. S.O. 296, dated 23th January, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Madras, Maharashtra and Uttar Pradesh.

1st February, 1962, *vide* notification No. S.O. 310, dated 30th January, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Andhra Pradesh.

1st February, 1962, *vide* notification No. S.O. 382, dated 31st January, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Rajasthan.

15th February, 1962, *vide* notification No. S.O. 468, dated 9th February, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Tripura.

1st March, 1962, *vide* notification No. S.O. 573, dated 16th February, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Bihar.

31st March, 1962, *vide* notification No. S.O. 781, dated 9th March, 1962, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii), in Gujarat and Manipur.

3. The proviso added by s. 2 and the Schedule, *ibid.* (w.e.f. 1-9-1971).

4. Subs. by Act 61 of 1986, s. 25, for “fifteenth” (w.e.f. 23-12-1986).

\*. *Vide* notification No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.



- (b) “adult” means a person who has completed his eighteenth year;
- (c) “child” means a person who has not completed his <sup>1</sup>[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 has 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;
- (iii) travelling from the place where a person signs on to 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

---

1. Subs. by Act 61 of 1986, s. 25, for “fifteenth” (w.e.f. 23-12-1986).

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, 1936 (4 of 1936);

(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 (1 of 1939), shall have the meanings respectively assigned to them in that Act.

## CHAPTER II

### REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS

**3. Registration of motor transport undertaking.**—(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 (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 sub-section 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), 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.

## CHAPTER IV

### WELFARE AND HEALTH

**8. Canteens.**—(1) The State Government may make rules requiring that in every place wherein one hundred motor transport workers or more 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 therefore;

(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 other 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 that 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:

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 centers 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 such 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 the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty-eight hours in any week but in no case for more than ten hours in a day and fifty-four 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 allowed 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 allocation 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 the month in which the days of rest are due to him or within two months immediately following that month, compensatory days of rest of equal number to the days of rest so lost.

## CHAPTER VI

### EMPLOYMENT OF YOUNG PERSONS

**21. Prohibition of employment of children.**—No child shall be required or allowed to work in any capacity in any motor transport undertaking.

**22. Adolescents employed motor transport workers to carry tokens.**—No adolescent shall be required or allowed to work as a motor transport worker in any motor transport undertaking unless—

(a) a certificate of fitness granted with reference to him under section 23 is in the custody of the employer; and

(b) such adolescent carries with him while he is at work a token giving a reference to such certificate.

**23. Certificate of fitness.**—(1) A certifying surgeon shall, on the application of any adolescent or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed as a motor transport worker in a motor transport undertaking if certified to be fit for that work, or on the application of the employer or any other person on his behalf with reference to any adolescent intending to work, examine such person and ascertain his fitness for work as a motor transport worker.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the adolescent, his parent or guardian.

**24. Power to require medical examination.**—Where an inspector is of opinion that a motor transport worker working in any motor transport undertaking without a certificate of fitness is an adolescent, the inspector may serve on the employer a notice requiring that such adolescent motor transport worker shall be examined by a certifying surgeon and such adolescent motor transport worker shall not, if the inspector so directs, be employed or permitted to work in any motor transport undertaking until he has been so examined and has been granted a certificate of fitness under section 23.

## CHAPTER VII WAGES AND LEAVE

**25. Act 4 of 1936 to apply to payment of wages to motor transport workers.**—The Payment of Wages Act, 1936 (4 of 1936), as in force for the time being, shall apply to motor transport workers engaged in a motor transport undertaking as it applies to wages payable in an industrial establishment as if the said Act had been extended to the payment of wages of such motor transport workers by a notification of the State Government under sub-section (5) of section 1 thereof, and as if a motor transport undertaking were an industrial establishment within the meaning of the said Act.

**26. Extra wages for overtime.**—(1) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the first proviso to section 13 or where he is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the overtime work or the work done on the day of rest, as the case may be.

(2) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the second proviso to section 13, he shall be entitled to wages in respect of the overtime work at such rates as may be prescribed.

(3) Where an adolescent motor transport worker is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the work done on the day of rest.

(4) For the purposes of this section, “ordinary rate of wages” in relation to a motor transport worker means his basic wages *plus* dearness allowance.

**27. Annual leave with wages.**—(1) Without prejudice to such holidays as may be prescribed, every motor transport worker who has worked for a period of two hundred and forty days or more in a motor transport undertaking during a calendar year shall be allowed during the subsequent calendar year leave with wages for a number of days calculated at the rate of—

(a) if an adult, one day for every twenty days of work performed by him during the previous calendar year; and

(b) if an adolescent, one day for every fifteen days of work performed by him during the previous calendar year.

(2) A motor transport worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (a) or, as the case may be, clause (b) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a motor transport worker is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1), even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earned leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a motor transport worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of an adolescent.

(6) In this section "calendar year" means the year commencing on the first day of January.

*Explanation.*—For the purposes of this section, leave shall not include weekly holidays or holidays for festival or other similar occasions whether occurring during or at either end of the period of leave.

**28. Wages during leave period.**—(1) For the leave allowed to a motor transport worker under section 27, he shall be paid at the rate equal to the daily average of his total full time wages for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of the advantage, if any, accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

(2) A motor transport worker who has been allowed leave for not less than four days under section 27 shall, on an application made by him in this behalf to the employer, be paid in advance, before his leave begins, an approximate amount equivalent to the wages payable to him for the period of his leave and any amount so paid shall be adjusted against the wages due to him for the aforesaid period of leave.

(3) If a motor transport worker is not granted leave to which he is entitled under sub-section (3) of section 27, he shall be paid wages in lieu thereof at the rates specified in sub-section (1).

## CHAPTER VIII

### PENALTIES AND PROCEDURE

**29. Obstructions.**—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any motor transport undertaking shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**30. Use of false certificate of fitness.**—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 23 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**31. Contravention of provisions regarding employment of motor transport workers.**—Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a motor transport undertaking, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to seventy-five rupees for every day during which such contravention continues after conviction for the first such contravention.

**32. Other offences.**—Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**33. Enhanced penalty after previous conviction.**—If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

**34. Offences by companies.**—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

**35. Cognizance of offences.**—No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the inspector and no court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

**36. Limitation of prosecutions.**—No court shall take cognizance of an offence punishable under this Act, unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

## CHAPTER IX

### MISCELLANEOUS

**37. Effect of laws and agreements inconsistent with this Act.**—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise a motor transport worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the motor transport worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.



(2) Nothing contained in this Act shall be construed as precluding any motor transport worker from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

**38. Exemptions.**—(1) Nothing contained in this Act shall apply to or in relation to any transport vehicle—

(i) used for the transport of sick or injured persons;

(ii) used for any purpose connected with the security of India, or the security of a State, or the maintenance of public order.

(2) Without prejudice to the provisions of sub-section (1), the State Government may, by notification in the Official Gazette, direct that subject to such conditions and restrictions, if any, as may be specified in the notification, the provisions of this Act or the rules made thereunder shall not apply to—

(i) any motor transport workers who, in the opinion of the State Government, hold positions of supervision or management in any motor transport undertaking,

(ii) any part-time motor transport worker, and

(iii) any class of employers:

Provided that before issuing any order under this sub-section, the State Government shall send a copy thereof to the Central Government.

**39. Powers to give directions.**—The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**40. Power to make rules.**—(1) The State Government may, subject to the condition of previous publication <sup>1</sup>[, by notification in the Official Gazette,] make rules to carry out the purposes of this Act:

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—

(a) the form of application for the registration of a motor transport undertaking, the time within which and the authority to which such application may be made;

(b) the grant of a certificate of registration in respect of a motor transport undertaking and the fees payable for such registration;

(c) the qualifications required in respect of the chief inspector and inspector;

(d) the powers which may be executed by inspectors and the manner in which such powers may be exercised;

(e) the medical supervision which may be exercised by certifying surgeons;

(f) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;

(g) the time within which facilities required by this Act to be provided and maintained may be so provided;

(h) the medical facilities that should be provided for motor transport workers;

(i) the type of equipment that should be provided in the first-aid boxes;

(j) the manner in which long distance routes, festive and other occasions shall be notified by the prescribed authority;

---

1. Ins. by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986).

(k) the conditions and limitations subject to which any motor transport worker may be required or allowed to work for more than eight hours in any day or more than forty-eight hours in any week in any case referred to in the second proviso to section 13;

(l) the form and manner in which notices of period of work shall be displayed and maintained;

(m) the rates of extra wages in respect of the over-time work done by a motor transport worker in any case referred to in the second proviso to section 13;

(n) the registers which should be maintained by employers and the returns, whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act; and

(o) any other matter which has to be, or may be, prescribed.

<sup>1</sup>[(3) Every rule made by the State Government under this Act, shall be laid, as soon as it is made, before the State Legislature.]

---

1. Ins. by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986).