

SHOPS AND ESTABLISHMENT ACT

Statement of Objects and Reasons

There is no enactment in this Province regulating the conditions of work of employees in shops, commercial undertaking, restaurants, etc. The Weekly Holidays Act, 1942(Central Act XVIII of 1942), which has been brought into force in this Province from January, 1947 is limited in scope in that it provides only for the grant of holidays and does not contain provisions for various other matters affecting them, such as hours of work, payment of wages, health and safety. It is considered that there should be a comprehensive measure in this Province to regulate these matters on the lines of similar enactments in force in other Provinces. The Bill is intended to give effect to this object. Its main features are set out below.

The provisions of the Bill will come into force in the first instance in the City of Madras and in all municipalities on a day to be fixed by the Government for this purpose.

Power has also been taken by the Government to bring the provisions into force in other areas, when necessary.

The Bill will apply to persons employed in shops, commercial firms, restaurants, theatres, etc., but will not apply to certain establishments and persons under the Central or Provincial Government etc.

Chapter II and III of the Bill enable the Government to fix the opening and closing hours of shops, commercial firms, restaurants, etc.

The sale of goods other than newspapers in or adjacent to a street or public places after the closing hour fixed for shops in that locality has been prohibited.

Provision has also been made as in the Weekly Holidays Act, 1942, for granting to the persons employed a compulsory holiday for one day in a week and if required by Government, half-holiday also in a week.

Chapter IV prohibits the employment of children i.e., persons who have not completed 14 years, in shops, commercial firms, restaurant, etc. The employment of young persons who have completed 14 but not completed 17 and of women before 6.00 A.M and after 7.00 P.M has also been prohibited.

Chapter V contains provisions with a view to securing the health and safety of the staff, and Chapter VI provides for the grant of annual holidays with pay to them. These chapters are based upon certain provisions in the Factories Act, 1934.

The provisions in Chapter VII are intended to ensure prompt payment of wages and prohibition of unauthorized deductions from wages and follow mainly those of the Payment of Wages Act, 1936.

Suitable penalties have been prescribed in Chapter IX for contravention of the different provisions of the Bill.

THE TAMIL NADU SHOPS AND ESTABLISHMENTS ACT, 1947

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THE TAMILNADU SHOPS AND ESTABLISHMENTS ACT, 1947
(ACT XXXVI OF 1947)

An act to provide for the regulation of conditions of work in shops, commercial establishments, restaurants, theatres and other establishments, and for certain other purposes.

Whereas it is expedient to provide for the regulation of conditions of work in shops, commercial establishments and for certain other purposes; it is hereby enacted as follows:

1. Short title, extent and commencement

(1) This Act may be called the Tamil Nadu Shops and Establishments Act, 1947

(2) It extends to the whole of the State of Tamil Nadu.

(3)

(a) It shall come into force in the following areas on such date as the State Government may, by notification, appoint:(i) the City of Madras,(ii) all the municipalities constituted under the Madras District Municipalities Act, 1920 (Madras Act V of 1920), and iii) All the areas within in the jurisdiction of panchayats which, under rule 2of schedule III to the Madras Village Panchayats Act, 1950 (Madras Act X of 1950), should be deemed to constituted under that act, and which immediately before the commencement of that Act ,were classified by this government as major panchayats and all areas within the jurisdiction of panchayats constituted or reconstituted under the Act which, for the time being, are classified by the state government as Class I panchayats under section 5 (1) (a) of this Act.

b) The (state) Government may, by notification, direct that all or any of this provision of this Act shall come in to force in any other area on such date as may be specified in such notification.

CHAPTER-1 PRELIMINARY

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

- 1) 'child' means a person who has not completed fourteen years.
- 2) 'closed' means not open for the service of any customer or open to any business connected with the establishment.
- 3) 'commercial establishment' means an establishment which is not a shop but which carries on the business of advertising, commission, forwarding or commercial agency, or which is a clerical department of a factory or industrial undertaking or which is an insurance company, joint stock company, bank, broker's office or exchange and includes such other establishments as the state government by notification may by notification declare to be a commercial establishment for the purposes of this Act.
- 4) 'day' means the period of twenty-four hours beginning at midnight. Provided that in the case of a person employed, whose hours extend beyond midnight, day means the period of twenty-fours beginning from the acting in the time when such employment commences.
- 5) 'employer' means a person owning or having charge of the business of an establishment and includes the manager, agent or other persons acting in the general management or control of an establishment;
- 6) 'establishment' means a shop. Commercial establishment, restaurant, eating house, theatre or any place of public amusement or entertainment and includes such establishment as the State Government for the purposes of this Act;
- 7) 'factory' means any premises which is a factory within the meaning of the Factories Act, 1948.
- 8) 'inspector' means an Inspector appointed under section 42;
- 9) 'notification' means a notification in the Fort St. George Gazette;
- 10) 'opened' means opened for the service of any customer.

11) 'periods of work' means the time during which a person employed is at the disposal of the employer;

12) 'person employed' means

- (i) In the case of a shop, a person wholly or principally employed therein in connection with the business of the shop;
- (ii) In the case of a factory or an industrial undertaking, a member of the clerical staff employed in such a factory or undertaking;
- (iii) In the case of a commercial establishment other than a clerical department of a factory or an industrial undertaking, a person wholly or principally employed in connection with the business establishment, and includes a peon;
- (iv) In the case of a restaurant or eating house, a person wholly or principally employed in the preparation or the serving of food or drink or in attendance on customers or in cleaning utensils used in the premises or as a clerk or cashier;
- (v) In the case of a theater a person employed as an operator, clerk, door-keeper, usher or in such capacity as may be specified by the Government by general or special order;
- (vi) In the case of an establishment under paragraphs (i) to (v) above, a person wholly or principally employed in connection with the business of the establishment and includes a peon;
- (vii) In the case of all establishments, a person wholly or principally employed in cleaning any part of the premises;

(13) 'prescribed' means prescribed by the rules made under this Act;

(14) 'residential hotel' means any premises in which business is carried on bona fide for the supply of dwelling accommodation and meals on payment of a sum of money to a traveler or any member of the public or class of the public

(15) 'restaurant' or 'eating house' means any premises in which is carried on wholly or principally the business of the supply of refreshments or meals to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre.

(16) 'shop' means any premises where any trade or business is carried on or where services are rendered to customers and includes offices, store rooms, godowns and warehouses, whether in the same premises or otherwise, used in connection with such business but does not include a restaurant or commercial establishments.

(17) 'theatre' includes any place intended wholly or principally for the representation of moving pictures or for dramatic performances.

(18) 'wage' means any remuneration, capable of being expressed in terms of money, which would if the terms of the contract of employment, express or imply, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behavior of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable to such person by reason of the termination of his employment, but does not include-

- a) The value of any house- accommodation, supply of light, water. Medical attendance or other amenity or of any service excluded by general or special order of the(State) Government ;b) Any contribution paid by the employer to any pension fund or provident fund ;c) Any traveling allowance or the value of any traveling concession ;d)Any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or e) Any gratuity payable on discharge;

(19) 'week' means a period of seven days beginning at midnight on Saturday;

(20) 'Young person' means a person who is not a child and has not completed seventeen years

3. References to time of day-

Reference to time of day in this act are references to India Standard time which is five and a half hours ahead of Greenwich mean time.

4. Exemption:

- (1) Nothing contained in this act shall apply to-
- a) persons employed in any establishment in a position of management
 - b) persons whose work involves traveling: and persons employed as canvasser and caretakers
 - c) Establishments under the central and (State) Government, local authorities, the Reserve Bank of India, and cantonment authorities
 - d) Establishments in mines and oil fields
 - e) Establishments in bazaars in places where fairs or festivals are held temporarily for a period not exceeding fifteen days at a time
 - (f) Establishments which, not being factories within the meaning of the Factories Act, 1948 are in respect of matters dealt with in this Act, governed by a separate law for the time being in force in the (State). (2) Nothing contained in section 7 or section 13, as the case may be, shall apply to-
 - a) hospitals and other institutions for the treatment or care of the sick, the infirm, the destitute or the mentally unfit ;
 - b) Such chemists or druggists shops as the (State) government may, by general or special order, specify

5. Power to Government to apply Act to exempted persons or establishments

Notwithstanding anything contained in section 4, the Government may, by notification apply or any of the provisions of this Act to any class of persons

or establishment mentioned in that section, other than those mentioned in clause (c) and (f) of sub-section (1), and modify or cancel any such notification

6. Exemptions

The Government may, by notification, exempt either permanently or for any specified period, any establishment or class of establishments or person or class of persons, from all or any of the provisions of this Act, subject to such conditions as the Government deem fit.

Chapter II

Shops

7. Opening and closing hours of shops-

- (1) Save as provided by order or under other enactment for the time being in force, no shop shall on any date be opened earlier or closed later than such hours as may be fixed by the (State) Government, by a general or special order in that behalf: Provided that any customer who was being served or was waiting to be served in any shop at the hour fixed for its closing may be served during the quarter of an hour immediately following such hour.
- (2) Before passing an order under sub section (1), the (State) government shall hold an inquiry in the prescribed manner.
- (3) The (State) government may, for the purpose of this section, fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

8. Selling out Side shops prohibited after closing hour.-

Save as provided by or under any other enactment for the time being in force, no person shall carry on, in or adjacent to a street or public place, the sale of any goods after the hour fixed under section 7 for the closing of shops dealing in the same class of goods in the locality in which such street or public place is situated: Provided that nothing in this section shall apply to the sale of newspapers.

9. Daily and weekly hours of work in shops-

- (1) Subject to the provision of this Act, no person employed in any shop shall be required or allowed to work therein for more than eight hours in any day and

forty eight hours in any week: Provided that any such person may be allowed to work in such shop for any period in excess of the limit fixed under this sub section subject to payment of overtime wages, if the period of work including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

- (2) No person employed in any shop shall be required or allowed to work therein for more than four hours in any day unless he has had an interval for rest of at least one hour.

10. Spread over of periods of work-

The periods of work of a person employed in a shops hall be so arranged that, along with his intervals for rest, they shall not spread over more than twelve hours in a day.

11. Closing of shops and grant of holidays

- (1) Every shop shall remain entirely close on one day of the week which day shall be specified by the shopkeeper in a notice permanently exhibited in a conspicuous place in the shop; and the day so specified shall not be altered by the shopkeeper more often than once in three months.
- (2) Every person employed in a shop shall be allowed in each week a holiday of one whole day; Provided that nothing in this sub section shall apply to any person whose total period of employment in the week, including any days spent on authorized leave, is less than six days, or entitle a person who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of sub section (1), to an additional holiday
- (3)
 - (a) The (State) government may, by notification, require in respect of shops or any specified class of shops, that they shall, in addition to the day provided for by subsection(1), be closed at such hour in the afternoon of one week f\day in every week at such hour as may be fixed by the (State) Government.
 - (b) Every person employed in any shop to which a notification under clause (a) applies, shall be allowed in each week an additional holiday of one half day commencing at the hour in the afternoon fixed for the closing of the shop under clause (a)

(4) The (state) government may, for the purpose of sub section (3), fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(5) The weekly day on which a shop is closed in pursuance of requirement under subsection (3) shall be specified by the shop keeper in a notice permanently exhibited in a conspicuous place in the shop, and shall not be altered by the shopkeeper more often than once in three months.

(6) No deduction shall be made from the wage of any person employed in a shop on account of any day or part of a day on which it has remained closed or a holiday has been allowed in accordance with this section ; and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day, he shall nonetheless be paid for such day or part of a day the wages he would have drawn, had the shop not remained closed, or had the holiday not been allowed, on that day or part of a day.

Chapter III

Establishments other than shops

12. Application of this chapter to establishments other than shops:

The provisions of this chapter shall apply only to establishments other than shops.

13. Opening and closing hours:

- (1) Save as provided by or under any other enactment for the time being in force ,no establishment shall be opened earlier or closed later than such hour as may be fixed by the Government, by general or special order in that behalf: Provided that in the case of a restaurant or eating house, any customer who was being served or was waiting to be served therein at the hour fixed for the closing may be served during the quarter of an hour immediately following such hour.
- (2) Before passing an order under sub- section (1), the Government shall make an inquiry in the prescribed manner
- (3) The Government may, for the purposes of this section, fix different hours for different hours for different establishments or for different areas or for different times of the year

14. Daily and weekly hours of work:

- (1) Subject to the provisions of this Act, no person employed in any establishment shall be required or allowed to work for more than eight hours in any day and forty- eight hours in any week: Provided that any such person may be allowed to work in such establishment for any period in excess of the limit fixed under this sub- section subject to payment of overtime wages, if the period of work, including overtime work, does not exceed ten hours in any day and in the aggregate fifty- four hours in any week
- (2) No person employed in any establishment shall be required or allowed to work in such establishment for more than four hours in any day unless he has had an interval for rest of at least one hour.

15. Spread over of periods of work:

The periods of work of a person employed in an establishment shall be so arranged that along with his intervals for rest, they shall not spread over more than twelve hours in any day.

16. Holidays:

- (1) Every person employed in an establishment shall be allowed in each week a holiday of one whole day: Provided that nothing in this sub- section shall apply to any person whose total period of employment in the week, including any days spent on authorized leave, is less than six days.
- (2) The Government may, by notification, require in respect of any establishment or any specified class of establishments, that every person employed therein shall be allowed in each week an additional holiday of one half day commencing at such hour in the afternoon as may be fixed by the Government
- (3) The Government may, for the purposes of sub- section (2), fix different hours for different classes of establishments or different classes of establishments or for different areas or for different times of the year.
- (4) No deduction shall be made from the wages of any person employed in an establishment on account of any day or part of a day on which a holiday has been allowed in accordance with this section; and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day, he shall non ethe less be paid for such day or part of a day the wages he would have drawn, had the holiday not been allowed on that day or part of a day.

CHAPTER IV

Employment of Children and Young Persons

17. Children not to work in establishments:

No child shall be required or allowed to work in any establishment.

18. Young persons to work only between 6 a.m. and 7 p.m.:

No young person shall be required to work in any establishment before 6a.m. and after 7 p.m.

19. Daily and weekly hours of work for young persons:

Notwithstanding anything contained in this Act, no young person shall be required or allowed to work in any establishment for more than seven hours in any day and forty- two hours in any week nor shall such person be allowed to work overtime.

CHAPTER V

HEALTH AND SAFETY

20. 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; and these methods may include lime washing, color washing, painting, varnishing, disinfecting and deodorizing.

21. Ventilation:

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

22. 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 is not sufficiently lighted or ventilated, 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

23. Precautions against fire:

In every establishment, such precautions against fire shall be taken as may be prescribed.

24. Appeal:

Against any order of the Inspector under this chapter, an appeal shall lie to such authority and within such time as may be prescribed; and the decision of the appellate authority shall be final.

CHAPTER VI

Holidays with Wages

25. Holidays and sick leave:

- (1) Every person employed in any establishment shall be entitled, after twelve months continuous service, to holidays with wages for a period of 12 days, in the subsequent period of twelve months: provided that such holidays with wages may be accumulated up to a maximum of twenty- four days.
- (2) Every person employed in any establishment shall also be entitled during his first twelve months of continuous service after the commencement of this Act, and during every subsequent twelve months of such service
 - (a) to leave with wages for a period not exceeding twelve days, on the ground of any sickness incurred or accident sustained by him and
 - (b) to casual leave with wages for a period not exceeding twelve days on any reasonable ground.

- (3) If a person entitled to any holidays under sub- section (1) is discharged by his employer before he has been allowed the holidays, or if having applied for and been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under this act in respect of the holidays.
- (4) If a person entitled to any leave under sub- section (2) is discharged by his employer when he is sick of suffering from the result of an accident, the employer shall pay him the amount payable under this act in respect of the period of the leave to which he was entitled at the time of his discharge, in addition to the amount, if any payable to him under sub- section (3).
- (5) A person employed shall be deemed to have completed a period of twelve months continuous service within the meaning of this section, notwithstanding any interruption in service during those twelve months brought about (i) by sickness, accident, or authorized leave not exceeding 90 days in the aggregate of all three. (ii) by a lockout (iii) by a strike which is not an illegal strike (iv) by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate and authorized leave shall be deemed not to include any weekly holiday or half- day holiday under this act which occurs at the beginning or end of an interruption brought about by the leave.
- (6) A person employed in a hostel attached to a school or college or in an establishment maintained in a boarding school and lodging of pupils and resident masters shall be allowed the privileges referred to in sub- sections (1) to (5), reduced however proportionately to the period for which he was employed continuously in the previous year or to the period for which he will be employed continuously in the current year, as the case may be; and all references to periods of holidays or of leave in sub- sections (1) and (2) shall be construed accordingly, fractions of less than one day being disregarded.(7)The Government shall have power to issue directions as to the manner in which the provisions of sub- section (6) shall be carried into effect in all or any class of cases or in any particular case.

26. Pay during annual holidays:

Every person employed shall, for the holidays or the period of leave allowed under sub- section (1) or (2) of section 25, be paid 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.

27. Power to increase the number of holidays:

Notwithstanding anything contained in section 25, the government may, by notification, increase the total number of annual holidays and the maximum number of days up to which such holidays may be accumulated in respect of any establishment or class of establishments.

28. Power of Inspector to act for person employed:

Any Inspector may institute proceedings on behalf of any person employed to recover any sum required to be paid under this chapter by an employer which he has not paid.

CHAPTER VII

WAGES

29. Responsibility for payment of wages

Every employer shall be responsible for the payment to persons employed by him of all wages and sums required to be paid under this act.

30. Fixation of wage period:

- 1) Every employer shall fix periods (in this act referred to as wage period) in respect of which such wages shall be payable.
- 2) No wage period shall exceed one month

31. Wages for overtime work:

Where any person employed in any establishment is required to work overtime, he shall be entitled, in respect of such overtime work, to wages at twice the ordinary rate of wages.

32. Time for payment of wages:

- 1) The wages of every person employed shall be paid before the expiry of the fifth day after the last day of the wage period in respect of which the wages are payable.

- 2) Where the employment of any person is terminated by or on the behalf of the employer, the wages earned by such person shall be paid before the expiry of the second working day from the day on which his employment is terminated.
- 3) The state government may, by general or special order, exempt an employer from the operation of this section in respect of the wages of any person employed or class of persons employed, to such extent and subject to such conditions as may be specified in the order.
- 4) All payments of wages shall be made on the working day.

33. Wages to be paid in current coin or currency notes:

All wages shall be paid in current coin or currency notes or both.

34. Deductions which may be made from wages

- 1) The wages of a person employed shall be paid to him without deductions of any kind except those authorized by or under this act.
- 2) deduction from the wages of a person employed shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:
 - a) fines:
 - b) deductions for absence from duty:
 - c) deductions for damage to, or loss of, goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default:
 - d) deductions for house accommodation supplied by the employer:
 - e) deductions for such amenities and services applied by the employer as the government may, by general or special order, authorize:
 - f) deductions for recovery of advances or for adjustment of overpayments of wages:

- g) deductions of income tax payable by the employed person:
- h) deductions required to be made by order of a court or other authority competent to make such order
- i) deductions for subscription to, and for repayment of advances from, any provident fund to which the provident funds act 1952 applies or any recognized has defined in section 58A of the Indian income tax act 1922, or any provident approved in this behalf by the (state) government during the continuance of such approval:
- j) Deduction for payments to co operative societies approved in this behalf by the (state) government or to a scheme of insurance maintained by Indian post office or by any insurance company approved in this behalf by the (state) government:
- k) Deductions made with the return authorization of the employed person in furtherance of any saving schemes approved by the (state) government for the purchase of securities of the central or (state) government.

35. Fines:

1. No fine shall be imposed on any person employed save in respect of such acts and omission on his part as the employer, with the previous approval of (state) government or of the prescribed authority, may have specified by notice under sub sec (2).
2. A notice specifying such act and omission shall be exhibited in the prescribed manner on the premises in which the employment is carried on.
3. No fines shall be imposed on any person employed until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedures as may be prescribed for the impositions of fines.
4. The total amount of fine which may be imposed in any one wage period on any person employed shall not exceed any amount equal to half an anna in the rupee of the wages payable to him in respect to that wage period.
5. No fines shall be imposed on any person employed who has as not completed 15th year.

6. No fine imposed on any person employed shall be recovered from him after the expiry of 60 days from the day on which it was imposed.

7. Every fine shall be deemed to have been imposed on the day of the act of omission in respect of which it was imposed

8. All fines and realizations there of shall be recorded in the register to be kept by the employer in such forms as may be prescribed; and all such realization shall be applied only to the such purposes beneficial to the persons employed in the establishment as are approved by the prescribed Authority.

36. Deductions for absence from duty

1) Deductions may be under clause b of subsection 2 of section 34 only on account of the absence of an employed person from the place or places where, by the terms of employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage period for which the deduction is made, a larger proportion than the period for which he was absent bears to the total period, within such wage period during which by the terms of his employment he was required to work: Provided that, subject to any rules made in this behalf by the state government, if 10 or more employed persons acting in concert absent themselves without due notice (that is to say, without giving the notice which is required under the terms of their contract of employment) and without reasonable cause such deductions from any such person may include such amount not exceeding his wages for 8 days as may by any such terms be due to the employer in lieu of due notice.

37. .Deductions for damage or loss

- i. A deduction under clause c of sub section 2 of section 34 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the person employed and shall not be made until the person employed has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

- ii. All such deductions and all realizations there of shall be recorded in a register to be kept by the employer in such form as may be prescribed.

38. .Deductions for services rendered

Deductions under clause d or clause e under sub section (2) of section 34 shall not be made from the wages of a person employed unless the house accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deductions shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and in the case of case of deduction under the said clause shall be subject to such condition as state government may impose.

39. Deductions for recovery of advances

Deductions under clause (f) of subsection (2) of section 34 shall be subject to the following conditions namely

- a) Recovery of advance of money given before employment began shall be made from the 1st payment of wages with respect of a complete wage period, but no recovery shall be made of such advances given for traveling expenses.
- b) Recovery of advances of wages not already earned shall be subject to any rules made by the state government regulating the extent to which such advances may be given on the installments by which they may be recovered.

40. Deductions for payments to co operative societies and insurance schemes

Deductions under clauses j and k of sub- section (2) of section 34 shall be subject to such conditions as state government may impose.

41. Notice of dismissal

- 1) No employer shall dispense with the services of a person employed continuously for a period of not less than 6 months, except for a reasonable cause and without giving such person at least 1 months notice

or wages in lieu of such notice ,provided however, that such notice shall not be necessary where the services of such person are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an enquiry held for the purpose.

- 2) The person employed shall have a right to appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with is services or on the ground that he had not been guilty of misconduct as held by the employer.
- 3) The decision of the appellate authority shall be final and binding on both the employer AND THE PERSON employed. CHAPTER VIII APPOINTMENT, POWRES AND DUTIES OF INSPECTORS

41. A. Payment of full wages to person employed pending proceeding proceedings in Higher Courts

Where in any case, the appellate authority, by its decision under section 41, directs reinstatement of any person employed and the employer prefers any proceeding against such decision in a High Court or the Supreme Court, the employer shall be liable to pay such person employed, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the person employed had not been employed in any establishment during such period and an affidavit by such person employed had been filed to that effect in such court:

Provided that where it is provided to the satisfaction of the High Court or the Supreme Court that such person employed had been employed and had been receiving adequate remuneration during any such period or part there of, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be

CHAPTER VIII

APPOINTMENT, POWERS AND DUTIES OF INSPECTORS

42. Appointment of Inspectors

The State Government may, by notification, appoint such officers of the State Government or of any local authority as they think fit to be Inspectors for the purposes of this Act, within such local limits as the State government may assign to them.

43. Powers and duties of Inspectors

Any inspector at all reasonable hours enter into any premises, which is , or which he has reason to believe is, an establishment, with such assistants and make such examination of the premises and of the prescribed registers, records or notices as may be prescribed.

44. Inspectors to be public servants

Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code .

CHAPTER IX

PENALTIES FOR OFFENCES

45. Penalties

- 1) Any employer who contravenes any of the provisions of Section 7, 9 to 11, 13 to 23, 25, 26, 29 to 41 and 47 shall be punishable for a first offence, with fine which may extend to 25 rupees, and for a second or subsequent offence, with fine which may extend to Rs.250.
- 2) Whoever contravenes the provisions of section 8 shall be punishable, for a 1st offence, with fine which may extend to Rs. 10 and for a 2nd or subsequent offence with fine which may extend to Rs.100.

45A. Penalty for failure to comply with the provisions of section 41.A

Any employer who fails to comply with the provisions of Section 41-A shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both and where such failure is a continuing one, with a further fine which may extend to two hundred rupees for every day during which such failure continues after the conviction for the first and the court trying the offence, if it fitness the offender, may direct that the whole or any part of the fine realized from him shall be paid, by way of compensation, to any person who, in its opinion has been injured by such failure

46. Penalty for obstructing Inspector

Any person who willfully obstructs an Inspector in the exercise of any power conferred on him under this act or any person lawfully assisting an Inspector in the exercise of such power, or who fails to comply with any lawful direction made by an Inspector, shall be punishable with fine which may extend to Rs.250.

46 A. Compounding of Offences

1. Any offence punishable under section 45 or any rule made under section 49 may, either before or after the institution of the prosecution, be compounded by the Commissioner of Labour or such other officer as may be authorized in this behalf by the Commissioner of Labour, on payment for credit to the State Government, of such sum as the Commissioner of Labour or such other officer may specify: provided that such sum shall not, in any case, exceed the maximum amount of fine which may be imposed under this Act for the offence so compounded.
2. Nothing contained in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence, committed by him, was compounded
3. Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded and the offender, if in custody, shall be discharged forthwith.
4. No offence punishable under this Act shall be compounded except as provided by this section.

CHAPTER X

MISCELLANEOUS

47. 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 register and records and display such notices as may be prescribed.

48. Delegation of powers

- 1) The State Government may, by notification, authorize any officer or authority subordinate to them, to exercise any one or more of the powers vested in them by or under this Act, except the power mentioned in section 49, subject to such restrictions and conditions, if any, as may be specified in the notification.
- 2) The exercises of the powers delegated under subsection (1) shall be subject to control and revision by the state government or by such persons as may be empowered by them in that behalf. The state government shall also have power to control and revise the acts or proceedings of any person so empowered.

49. Power to make rules

- 1) The State government may make rules to carry out the purposes of this act.
- 2) In making a rule under sub-section (1), the state government may provide that a contravention thereof shall be punishable with fine which may extend to Rs.50.
- 3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

- 4) All rules made under this section shall be punishable in the Fort St. George Gazette and on such publication shall have effect as if enacted in this Act.

50. Rights and privileges under other law, etc., not affected.

Nothing contained in this Act shall affect any rights or privileges which any person employed in any establishment is entitled to on the date on which this Act comes into operation in respect of such establishment, under any other law, contract, custom or usage applicable to such establishment, if such rights or privileges are more favorable to him than those to which he would be entitled under this Act.

51. Commissioner of labour to decide certain question.

If any question arises whether all or any of the provisions of this Act apply to an establishment or to a person employed therein or whether section 50 applies to any case or not, it shall be decided by the Commissioner of Labour and his decision there on shall be final and shall not be liable to be questions in any court of Law.⁵² Power of government to suspend provisions of the Act during fairs and festivals. On any special occasion in connection with a fair or festival or a succession of public holidays, the state government may, by notification, suspend for a specified period the operation of all or any of the provisions of this Act.

52. Power of Government to suspend provisions of the Act during fairs and festivals.

On any special occasion in connection with a fair or festival or a succession of public holidays, the State Government may, by notification, suspend for a specified period the operation of all or any of the provisions of this Act.

53. Central Act XVIII of 1942 not to apply to establishments governed by this Act

On and from the date on which this Act comes into operation in respect of an establishment, the weekly holidays Act, 1942, shall cease to apply to such establishment.