

C.G. SHOPS & ESTABLISHMENTS ACT, 1958

[Act No. 25 of 1958]

Received the assent of the President on the 20th September, 1958:

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As amended subsequently by the following g : -

1 . M . P . Act No . 1 9 of 1967; 3 . M . P . Act No . 2 3 of 1990, w . e . f . 5 - 11
- 1990; 2 . M . P . Act No . 10 of 1 982; 4 . M . P . Act No . 17of 1995, w . e . f . 1
- 8 - 1995.

An Act to provide for the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusements o r entertainment and other establishments.

Be it enacted by the Madhya Pradesh Legislature in the Ninth Year of the Republic of India as follows: -

CHAPTER 1

PRELIMINARY

1 . Short title, extent, operation and application — (1) This Act may be called **the Madhya Pradesh Shops and Establishments Act, 1958 .**

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force on such date' as the Government may, by notification appoint in this behalf .

(4) This Act shall apply in the first instance to the local areas specified in Schedule I . The State Government ma y, b y notification, direct that all or an y of the pro visions of this Act shall apply to any other local area as may be specified in the - notification on such date as ma y fixed therein and different dates ma y be fixed for different provisions o f this Act and for different classes of establishments .

2 . Definitions — In t his 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 o f being trained in an y trade, craft, business o r employment in any establishment;
- (2) **“child”** mea ns a person who is below fourteen years;
- (3) **“closed”** mean s not open for the service of any customer, or for any business of the establishment or for any work connected with the establishment;
- (4) **“Commercial Establishment”** mea ns an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary t o, an y business, trade or profession and includes –
 - (a) a society registered or deemed to have been registered under the Madhya Pradesh Societies Registration Act, 1 959 (1 of 1960)², and a charitable or other trust, whether registered or not which carries on whether f or gain or not, any business, trade or profession or work in connection with or incidental or ancillary to such business, trade or profession;
 - (b) an establishment which carries on the business of advertising, commission agency, forwarding or commercial agency or which is a clerical department of a factory or of any industrial or commercial undertaking;
 - (c) an insurance company, joint stock company, bank , broker’s office and exchange;but does not include a factory, shop , residential hotel, restaurant, eating - house, theatre or other place of public amusement or entertainment;
- (5) **“ day ”** means t he period of t went y - four h ours beginning at midnight: Provided that in the case on an employee whose hours of work extend be

yond 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 include 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 and includes the manager , agent or any other person acting in the general management or control of such establishment;
- (8) “ **establishment** ” means a shop, commercial establishment, residential hotel, restaurant, eating - ho use, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other . establishment of like nature as the Government may, by notification declare to be an establish me nt 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, 194 8 (63 of 1948) or which is deemed to be a factor y 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 this Act;

- (12) "**Inspector**" means an Inspector appointed or deemed to be appointed under the Act, whether by name or by virtue of office;
- (13) "**Labour Commissioner**" means the person appointed as such by the Government and includes, for the purpose of such provision of the Act, and for such areas as the Government may direct, an officer not below the rank of an Assistant Labour Commissioner;
- (14) "**leave**" means leave as provided for in Chapter VII of this Act;
- (15) "**Local Authority**" means a municipal corporation or municipality constituted under any enactment in force for the time being;
- (16) "**manager**" means a person declared to be a manager under section 6;
- (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;
- (18) "**opened**" means opened for the service of any customer or for any business of the establishment or for any work connected with the establishment;

Explanation - An establishment in the premises of which people are present shall be deemed to be opened unless contrary is proved;

- (19) "**period of work**" means the time during which an employee is at the disposal of the employer;
- (20) "**register of establishment**" means a register maintained for the registration of establishment under this Act;
- (21) "**registration certificate**" means a certificate showing the registration of an establishment;
- (22) "**residential hotel**" means any premises in which a bonafide business is carried on of supplying for payment, lodging or board and lodging to travellers and other members or class of members of the public and includes a residential club;
- (23) "**restaurant or eating - house**" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises, and includes a Halwai 's shop; but does not include a restaurant or a canteen attached to a factory if the persons employed therein are

allowed the benefits provided for workers under the Factories Act, 1948 (63 of 1948);

(24) **“shop”** means any premises where goods are sold, either by retail or wholesale or both or where services are rendered to customers, and includes an office, a store room, godown, warehouse or workplace whether in the same premises or otherwise 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 or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948 (63 of 1948);

(25) **“spread-over”** means the period between the commencement and the termination of the work of an employee on any day;

(26) **“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 a dramatic performance or for any other public amusement or entertainment;

(27) **“wages”** means wages as defined in the Payment of Wages Act, 1936 (4 of 1936);

(28) **“week”** means the period of seven days beginning at midnight of Saturday;

(29) **“year”** means a year commencing on the first day of April; and

(30) **“young person”** means a person who is not a child and has not completed his seventeenth year.

3. Act not applicable to certain persons and establishments — (1) Nothing in this Act shall apply to –

(a) persons occupying positions of management and declared as such under clause (a) of sub-section (2) of section 6 or employed in a confidential capacity not exceeding ten percent of the total number of the employees in the establishment or three in number, whichever is less;

(b) persons whose work is inherently intermittent such as traveler, canvasser, a watchman or a caretaker;

(c) persons exclusively engaged in preparatory or complementary work, such as clearing or forwarding clerks, responsible for the dispatch of goods by rail or other means of communication and for customs formalities or messengers;

(d) persons exclusively employed in the collection, delivery or conveyance of goods;

- (e) offices of Union or State Government or of local authorities and of the Reserve Bank of India, the State Bank of India and the Life Insurance Corporation ;
- (f) establishment for the treatment or the care of the sick, in firm, destitute or mentally unfit;
- (g) bazars, fairs or exhibitions for the sale of works for charitable or other purposes from which no profit is derived;
- (h) stalls and refreshment rooms at railway stations, or railway dining cars;
- (i)
- (j) clubs not being residential clubs; and
- (k) any other class of establishments or class of persons which the Government may, by notification, exempt from the operation of this Act:

Provided that if in the opinion of the State Government the circumstances existing in any particular class of cases hereinbefore mentioned requires that all or any of the provisions of this Act should be extended thereto, the State Government may, by notification extend to such class of cases all or any of the provisions of this Act and thereupon such provisions shall apply to such class of cases.

(2) The Government may, by notification, direct that any or all of the provisions of this Act shall, subject to such terms and conditions as may be specified in such direction not apply to such classes of establishment or class of persons as may be specified therein .

4. Application of Act to other establishments and persons -- (1) Notwithstanding anything contained in this Act the Government may, by notification, 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

establishment or a person or class of person to which or whom this Act or any provision thereof 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 shall apply to such establishment or class of establishments or to such employee or class of employees.

5. Suspension of all or any of the provisions of this Act — The Government may suspend by order notified in the Gazette, 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 festivals or other special occasions,

CHAPTER II

REGISTRATION OF ESTABLISHMENTS

6. Registration of establishments -- (1) Every establishment to which this Act applies shall be registered in accordance with the provision of this section.

(2) Within thirty days from the date on which this Act applies to an establishment, its employer shall send to the Inspector of the area concerned a statement, in the prescribed form, together with such fees, as may be prescribed, containing –

- (a) the name of the employer, the manager and the person holding positions of management, if any;
- (b) the postal address of and the date of starting the business by 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.

(3) 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 establishment in such manner as may be prescribed and shall issue in the prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(4) 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 Labour Commissioner who shall, after such inquiry as he thinks proper, decide the category of such establishment and his decision shall be final for the purposes of this Act.

(5) The Government may, by notification, require renewal of registration certificate issued under this section at such intervals not being less than five years and on payment of such fee as may be prescribed.

(6) The registration fee and the renewal fee shall not exceed '[two hundred and fifty rupees] per establishment.

7. Change to be communicated to Inspector -- It shall be the duty of an employer to notify to the Inspector, in the prescribed form, any change in respect of any information contained in his statement under section 6 within seven days after the change has taken place. The Inspector shall, on receiving such notice and on being satisfied about its correctness, make the change in the register of the establishment in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

8. Closing of establishment to be communicated to Inspector -- The employer shall, within ten days of 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.

CHAPTER III

SHOPS AND COMMERCIAL ESTABLISHMENTS

9. Opening and closing hours -- (1) No shop or commercial establishment shall on any day : -

- (a) be opened earlier than such hour as may be fixed by the Government by a general or special order in this behalf;
- (b) be kept open later than such hour as may be fixed by the Government by general or special order in this behalf:

Provide that any custom; who was being served or was waiting to be served at the closing hour so fixed in any shop may be served in such shop during half hour immediately following such hour.

(2) The Government may fix different opening or closing hours for different classes of shops and commercial establishments or for different area or for different periods of the year.

10. Haw king prohibited before opening and after closing hours of shops - (1) 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 section 9 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 section shall apply to the sale of news papers.

(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 persons from whom they were seized on his depositing rupees '[fifty]' as security for his appearance in the Court.

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

(5) Where no prosecution is instituted for contravention of the

provisions of sub-section (1) within such period as the Court may fix in this behalf the Court 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 (No. V 189 8)2 shall so far as they may be applicable, apply to the disposal of the goods seized under this Section.

11. Hours of work in shops and commercial establishments — (1)

(a) No employee in any shop or commercial establishment shall be required or allowed to work for more than 48 hours in a week.

(b) Subject to clause (a) no employee shall be required to work —

(i) in any shop, for more than nine hours on any day;

(ii) in any commercial establishment, for more than ten hours on any day.

(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 subsection (1) if such period does not exceed six hours in any week.

(3) On not more than six days in a year, which the 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.

12. Spread - over in shops and commercial establishments -- The spread -over of an employee in a shop or commercial establishment shall not exceed twelve hours on a day:

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

Provided also that where an employee works on any day in accordance with the provisions of sub-section (2) of Section 11, the spread - over shall not exceed fourteen hours on 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, on any such day:

Provided further that the Government may increase the spread-over period subject to such conditions as it may think fit either generally in the case of commercial establishments or in the case of a class of commercial establishments .

13 .Holidays in a week in shops and commercial establishments --

(1) Every shop and commercial establishment shall remain closed on one day of the week. The employer shall fix such day at the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. The employer shall not alter such day more often than once in three months shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.

Provided 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 fix such day of the week on which the shop or commercial establishment shall remain closed and notify it to the Inspector within one month of the date on which the shop or establishment so comes within the purview of this Act.

(2) If any day notified as a holiday under sub -section (1) happens to be a day of public festival, the employer may keep the shop or commercial establishment open on such day but in that even the shall keep the shop or commercial establishment closed on some other day within three days before or after the date of such public festival and give notice of the change to the inspector at least seven clear days before the day of such public festival.

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

(3A) Notwithstanding anything contained in sub-section (1), the State Government or any officer authorised by it in this behalf may, if it or he thinks fit so to do in public interest, by notification, fix any day of the week to be the closed day in respect of all or any class of shops or commercial establishments in any or all the local area or part thereof, and the closed day so fixed shall be deemed to have been fixed under sub-section (1):

Provided that the employer shall have no right to alter the closed day so fixed.

(4) 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 daily wages he shall nonetheless be paid wages for the weekly holiday equal to the average of daily wages earned by him during the preceding six working days. If any employee is paid a piece rate wage, he shall nonetheless be paid his wage for the day on which the shop or commercial establishment remain 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 .

CHAPTER IV

RESIDENTIAL HOTELS, RESTAURANTS AND

EATING-HOUSES

14 . Opening and closing hours of restaurants and eating houses --

(1) Notwithstanding anything contained in any other enactment for the time being in force, no restaurants or eating - ho uses shall on any day be opened earlier than 5 a.m. and be kept open later than 1 - 30 a .m. 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 2 a. m. :

Provided also that any customer who was being serve d or waiting to be served at the closing hour of such restaurant or eating -ho use ma y be served in such restaurant or eating-house during the half-hour immediately following such hour .

(2) Subject to the provisions of sub - section (1), the 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, the Government may, by notification fix for specific periods in a year on festive or special occasions such opening and closing hours for different restaurants or eating - houses or for different areas, as it thinks proper .

15 . Restrictions on selling of goods -- Before and after the hours fixed for the opening and closing of shops under section 9, no goods of the kind sold in such shops shall be sold in any restaurants or eating-house except for consumption on premises .

16 . Hours of work in residential hotels, restaurants and eating - houses — (1) No employee in any residential hotel, restaurant or eating - house shall be required or allowed to work for more than 48 hours in a week and nine hours in a day .

(2) Any employee may be required or allowed to work in a residential

hotel, or restaurant or eating-house for an y period in excess of the limit fixed under subsection (1) if such additional period does not exceed six hours in any week.

(3) Notwithstanding anything contained in sub-section (1) and (2) an employee may be required or allowed to work in a residential hotel, restaurant or eating-house on the day which may be notified under sub-section (3) of section 14 in excess of the period fixed under sub-section (1) if such additional period does not exceed three hours on any day.

17 . Spread - over — The spread -over of an employee in a residential hotel, restaurant or eating - ho use shall not exceed fourteen - hours:

Provided that the Government may increase the spread -over period subject to such conditions as it may impose on the days that ma y be notified under sub - section (3) of section 14 .

18 . 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 s hall apply to an employee whose total period of employment in an y 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 an y 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 hi m under sub - section (1) . If an y employee is employed on a daily wage, he shall nonetheless be p aid wages for the weekly holiday equal to the average of the daily wages earned by him during preceding six working days .

18A . Employers in residential hotel, etc . to furnish identity card to employees — The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be kept by the employee when on duty and shall be produced 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, if any and the holiday of the employee;
- (e) the signature (with date) of the employer ;
- (f) the identity mark of an employee; and
- (g) signature or thumb - impression of the employee .

CHAPTER V

THEATRES OR OTHER PLACES OF PUBLIC

AMUSEMENT OR ENTERTAINMENT

19 . Closing hour of theatres or other places of public amusement or entertainment -- Notwithstanding anything contained in for the any other enact public time being in force, no theatre or other place of entertainment amusement or 1 a.m. shall, on any day, be closed later than 1 AM.

20 . 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 shops under section 9, no goods of the kind sold in shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises .

21 . Hours of work in theatres or other places of public amusement or entertainment -- (1) No employee in a theatre or other place of public amusement or entertainment shall be required or allowed to work for more than 48 hours in a week and nine hours in a day .

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

22 . Spread - over — The spread -over of an employee in a theatre or other place of public amusement or entertainment shall not exceed twelve hours on any day:

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

23 . 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 an y 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 y employee is employed on a daily wage he shall nonetheless be paid wages for the weekly holiday equal to the average of the daily wages earned by him during the preceding six working days .

23A . The employer in a theatre etc . to furnish identity card to employee --

The employer shall furnish every employee in a theatre, or other places of public amusement or entertainment an identity card which shall be kept by the employee when on duty and shall be produced 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 of rest, if any and the holiday of the employee;
- (e) the signature (with date) of the employer ;
- (f) the identity mark of an employee; and
- (g) signature or thumb - impression of the employee .

CHAPTER VI

EMPLOYMENT OF CHILDREN, YOUNG PERSONS

AND WOMEN

24 . No child to work in any establishment -- No child shall be required or allowed to work whether as an employee or otherwise in any establishment not withstanding that such child is a member of the family of the employer .

25 . Young persons and women to work between 7 a . m . to 9 p . m .

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No young person or women shall be required or allowed to work whether as an employee or otherwise in any establishment before 7 a . m . and after 9 p . m . notwithstanding that such young person or women is a member of the family of the employer .

25A . Daily hours of work for young person -- (1) Not withstanding 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 five 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 had an interval for rest of at least half an hour .

25B . 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, to be work involving danger to life, health or morals .

CHAFFER VII

LEAVE WITH PAY AND PAYMENT OF WAGES

26 . Employee's right f or casual and privilege leave -- (1) A person employed in an establishment to which this Act applies shall be e n titled –

- (a) after every 12 month's continuous employment, to privilege leave for a total period of o ne month; and
- (b) in every year to casual leave for a total period not exceeding 14 days:

Provided that the leave under sub - clause (a) shall not at an y ti me accumulate for a total period exceeding 3 months:

Provided further that holidays under sections 13, 1 8 or 2 3 falling during the period of such leave shall be included in the leave so granted:

Provided further that casual leave shall not be combined with privilege leave .

(2) If any employee entitled to leave under sub - section (1) is discharged b y his employer before he has been allowed leave or if, having applied for and been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay hi m the amount payable under section 27 in respect o f the leave .

(3) If any employee entitled to leave under sub -section (1) is refused the leave, he ma y give intimation to the Inspector or any other officer authorised in this behalf by the Government regarding such refusal. The Inspector shall enter such information in a register kept in such form as may be prescribed .

Explanation — An employee shall be deemed to have completed a period of twelve month's continuo us service in an establishment notwithstanding any interruption in the service during those twelve months brought about by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by a lockout or b y a strike which is not an illegal strike, or b y intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate, and authorised leave shall be deemed not include an y weekly holiday allowed under this Act which occurs at the beginning or end of an interruption brought about b y the leave .

27 . 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 .

28 . Payment w hen to be made -- An employee who had been allowed leave under section 2 6 shall before his leave begins, be paid half the total amount due to hi m for the period of such leave.

29 . Power of Inspector to act for worker -- Any Inspector may institute proceeding on behalf of any employee in a n establishment to which this Act applies to recover any sum required to be paid under this Chapter by an employer which the employer has not paid.

30 . Application and amendment of the Payment of Wages Act — (1) '[Notwithstanding anything contained in the Payment of Wages Act 1936 (No . IV of 1936), (hereinafter referred to in this section as the said Ac t,) the State Government may, by notification, direct that subject to the provisions of subsection (2) all or any of the provisions of the said Act shall apply to all or any establishment or t o all or an y class of employees to which or who m this Act for the time being applied.

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

CHAPTER VIII

HEALTH AND SAFETY

31 . 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, disinfecting and deodorizing

32. Ventilation -- The Premises of every establishment shall be ventilated in accordance with such standard and by such methods as may be prescribed.

33. Precaution against fire -- In every establishment except such establishment or class of establishment, as may be prescribed , such precaution against fire shall be taken as may be prescribed .

CHAPTER IX

ENFORCEMENT AND INSPECTION

34. Powers and duties of local authorities — (1) Save as otherwise provided in this Act, it shall be the duty of every local authority whom the Government may by order empower in this behalf to enforce within the area subject to its jurisdiction, the provisions of this Act, subject to the control of the Government.

(2) The local authority empowered under sub-section (1) may by order delegate any of the powers and functions (other than the powers of making bye-laws under section 35), exercisable or performable by it under this Act to any of its officers.

(3) An order empowering a local authority under sub-section (1) may at any time be cancelled by the Government.

(4) To enable Government to exercise effective control over a local authority in the performance of the duties entrusted to it under this Act, Government may authorise any officer, not below the rank of a labour officer, to supervise the enforcement of this Act within the area subject to the jurisdiction of the local authority and for this purpose such officer shall have all the power of an Inspector under this chapter.

35 . Power to make bye-laws -- A local authority empowered under section 34 to enforce the provisions of this Act may, with the previous sanction of the Government, make bye-laws not inconsistent with the provisions of the Act, or the rules or orders made by the Government thereunder, for the purpose of carrying out the provisions of this Act.

36 . Submission of annual report, etc. -- It shall be the duty of every local authority empowered under section 34 to submit within three months after the close of the year to the Government a report on the working of the Act within the local area under its jurisdiction during such year. It shall submit to the Government from time to time such annual or periodical returns as may be prescribed.

37 . Delegation -- (1) The Government may, by order, direct that any power other than the power to make rules under section 59, or any duty which is conferred or imposed on the State Government, by this Act, shall in such circumstances and under such conditions, if any, as may be specified in that direction be exercised or discharged by any officer or authority subordinate to it.

(2) Nothing in this Act shall derogate from the right of the Government to exercise any or all the functions delegated to any local Authority or officer subordinate to it.

38 . Power of Government to provide for performance of duties on default by local authority - (1) if and local authority makes default in the performance of any duty imposed by or under this Act, the

Government may appoint some person to perform it and may direct that the expense of perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid, the 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 or on behalf of the local authority by way of deposit by such bank or person; and such bank or persons shall be bound to obey such order. Every payment made pursuant to such order shall be 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.

39. 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 local authority under and for the purposes of this Act, shall be paid out of the municipal or local fund, as the case may be.

40. Appointment of Inspectors — (1) Every local authority empowered under section 34 shall appoint a 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) The Government may, by notification, appoint such persons having the prescribed qualifications, as it thinks fit, by name or virtue of office to be Inspector for the purposes of this Act within such local limits and for such classes of establishments, as it may assign to each such person.

41. Powers and duties of Inspectors — (I) Subject to any rules made by the Government in this behalf, an Inspector may, within the local limits for which he is appointed —enter, at all reasonable times and with such assistants, if any, being person in the service of the Government or of any local authority, as he thinks fit, any place which is or which he has reasons to believe is an establishment;

- (a) 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; and
- (b) exercise such other powers, as may be prescribed or 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.

(2) For the purposes of investigation of offences under this Act, an Inspector shall have the same powers as an officer-in-charge of a Police Station has under the Code of Criminal Procedure, 1898 (V of 1898)1 for investigation of the cognizable offences except that he shall not have the power of arrest.

42. Inspectors to be public servants — Every Inspector appointed under section 40 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (X LV of 1860).

43. Employer to produce registers, records, etc. for inspection -- Every employer shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this act.

CHAPTER X

OFFENCES AND PENALTIES

44. Contravention of certain provisions and offences -- (a) If any employer fails to send to the Inspector of the area concerned a statement within the period specified in section 6 or to notify a change within the period specified in section 7 or to notify the closing of his establishment under section 8; or

(b) If in any establishment there is any contravention of the provision of section 9, 13, 14, 15, 19, 20, 31, 32, or 33 or any orders made thereunder; or

(c) If in any establishment any person is required or allowed to work in contravention of sections 11, 12, 16, 17, 18, 21, 22, or 23; or

(d) If in any establishment a child, young person or woman is required or allowed to work in contravention of sections 24, 25A or 25 B; or

(e) If any employer contravenes the provisions of section 43, 54, 57 or 58; 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 with fine which shall not be less than 3[fifty rupees] and which may extend to 4[five hundred rupees].

Provided that if the contravention of the provisions of sub-section (2) and (5) of section 6 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 to fifty rupees for each day on which the contravention is so continued;

45. Contravention of section 10 -- If any person contravenes, the provisions of section 10 he shall, on conviction, be punished with fine which may extend to one hundred rupees.

46. Employees contravening sections 13(3), 18, 25 and 57 — If an employee contravenes the provisions of sub-section (3) of section 13 or sub-section (2) of section 18 or sub-section (2) of section 25 or section 57, he shall, on conviction be punished with fine which may extend to fifty rupees.

47. False entries by employer and manager -- (1) If any employer or manager with intent to deceive, makes or causes or allows to be made, in any register, record or 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 wilfully 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, on conviction, be punished with imprisonment not exceeding one year or with fine which may extend to one thousand rupees or with both.

(2) An offence under sub-section (1) shall be triable by a Court of Judicial Magistrate of competent jurisdiction.

48. Enhance penalty in certain cases after previous conviction — If any employer who has been convicted of any offence under sub-section (1) of section 9 or section 11, 12, or 13 of sub-section (1) of section 14 or sections 16, 17, 18, 19, 21, 22, 23, 24, 25, 25A, 25 - B, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 or 58] is again guilty of an offence involving contravention of the same provision he shall be punished on a subsequent conviction with fine which shall not be less than fifty rupees and which may extend to one thousand five hundred rupees.

49. Penalty for obstructing Inspector — Whoever willfully obstructs an Inspector in the exercise of any power under section 41 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 fifty rupees and which may extend to one thousand rupees.

50. Persons who may be liable to be prosecuted against and punished -- (1) Where the owner of an establishment is a firm or other association of individuals, all the partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable.

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

(3) Notwithstanding anything contained in sub-sections (1) and (2) where an offence under this Act has been committed for the first time the employer or the manager shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

51. Cognizance of Offences — (1) 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 local authority or any officer authorized by the Government in that behalf.

(2)

51A. Summary disposal of cases — (1) The Court taking cognizance of an offence under this Act shall, unless the offence is an offence under Section 47, 48 or 49, state upon the summons to be served on the accused person that he –

- (a) may appear by a pleader and not in person; or
- (b) may, by such date prior to the hearing of the charge as may be specified therein, plead guilty to the charge by a registered letter and remit to the Court such sum as the Court may, subject to the minimum and maximum limits of fine prescribed for the said offence, specify.

(2) Where an accused person pleads guilty and remits the sum in accordance with the provisions of sub-section (1), no further proceedings in respect of the offence shall be taken against him.

51B. Offences to be tried by Executive Magistrate -- Save as provided in section 47, the State Government may confer on any Executive Magistrate the power of a Judicial Magistrate of the First Class or the Second Class for the trial of offences under Act, and on such conferment of powers the Executive Magistrate, on whom powers are so conferred shall be deemed for the purposes of the Code of Criminal Procedure, 1973 (No. 2 of 1974), to be a Judicial Magistrate of the first Class or the Second Class, as the case may be.

52. Limitation of prosecutions — No Court shall take cognizance of an offence under this Act or any rule or order made thereunder 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.

53 . Composition of offence -- (1) Subject to the conditions as may be prescribed, the Labour

Commissioner or any other officer not below the rank of a Labour Officer, if so authorised by the Labour Commissioner by Notification, may either before or after the institution of proceedings under this Act, permit any person charged with an offence punishable under sections 44, 45 or 46 to compound the offence on payment of such sum which shall not be less than rupees fifty and not more than the maximum amount of fine prescribed for the offence.

(2) On payment in full of such sum as may be determined by the Labour Commissioner or the officer authorised by the Labour Commissioner under subsection (1) ---

- (a) no proceedings shall be commenced against any person as aforesaid; and
- (b) if any proceeding have already been commenced against any person as aforesaid, such proceedings shall not be further proceeded with.

CHAPTER XI

MISCELLANEOUS AND SUPPLEMENTARY

54. Maintenance of Registers and records and display of notices --- Subject to the general or special orders of the Government an employer shall maintain for sub-section (1) of section 53 of the Principal Act, the following sub-section shall be substituted cause to be maintained such registered and records and display on the establishment such notice, as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

55. Wages for overtime work --- Where an employee in any establishment - in required to work in excess of the limit of hours of work, he shall be entitled in respect of the overtime work to wages at the rate of twice his ordinary rate of wages.

Explanation -- For the purposes of the section "limit of hours of work" shall mean --

- (a) in respect of establishment to which sections 11, 16, or 21 apply, the limits prescribed in the respective sections; and
- (b) in respect of other establishments, such number of hours of work as may be prescribed.

56. Evidence as to age --- (1) When an act of commission 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 the 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 purpose of this section, a qualified Medical Practitioner shall have the same meaning as in the Factories Act, 1948 (LXIII of 1948).

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

58. Notice of dismissal --- No employer shall dispense with the services of an employee who has been employed for a period of three months or more except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice.

Provided that such notice shall not be necessary if the services of such employees are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an enquiry held by the employer for the purpose .

(2) (a) The employee discharged, dismissed or retrenched may 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 his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground to on the ground that such punishment of discharge or dismissal was severe..

(b) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period during which he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case .

(3) The decision of the appellate authority shall be final and binding on both the parties and be given effect to within such time as may be specified in the order of the appellate authority.

59. Rules — (1) The Government may make rules to carry out the purposes of the Act .

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

- (a) (i) the form of submission of a statement to the Inspector and the fees and other particulars which shall be given along with such statement under sub-section (2) of section 6;
- (ii) the manner of registration of establishment in the register of establishment and the form in which a registration certificate shall be issued to the employer under sub-section (3) of section 6;
- (iii) prescribing fee for renewal of registration certificate under subsection (5) of section 6;
- (b) the form in which a change shall be notified to the Inspector under section 7;
- (c) fixing six days in a year additional overtime and prescription of occasion under sub-section (3) of section 11 ;
- (d) the form of register for entering refusal of leave to be kept under section 26;
- (e) fixing times and methods for cleaning the establishments under section 31; fixing standards

and methods for ventilation under section 32; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under section 33;

- (f) annual or periodical returns which shall be submitted to Government under section 36;
- (g) the qualifications of Inspectors to be appointed under section 40 and the powers which such Inspectors shall exercise under section 41;
- (h) the registers and records to be maintained and the notice to be displayed on the premises of the establishment under section 54;
- (i) the limit of hours of work under clause (c) of the Explanation to section 55;
- (j) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee;
- (k) any other matter which is to be 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.

60. 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.

61. Rights and privileges under other law, etc not to be affected —Nothing in this Act shall affect any rights 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 favorable to him than those to which he would be entitled under this Act.

62. Persons employed in factories to be governed by Factories Act, 1948 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 (No. 63 of 1948) apply:

Provided that, where any shops or commercial establishments situated within the 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, apply all or any of the provisions of the Factories Act, 1948 (No. 63 of 1948) to any shop or commercial establishment situate within the precincts of a 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.

63 . Provisions of the Workmen’s Compensation Act, to apply mutatis mutandis — The provisions of the Workmen’s Compensation Act, 1923 (V III of 1923) and of rules made there under shall mutatis mutandis apply to every employee of an establishment.

64 . Provisions of Provident Fund — Every employer shall, in accordance with the rules made by the Government, provide a provident fund for the benefit of every employee and shall contribute to this fund an amount equal to the amount contributed by the employee not exceeding six and a quarter percent of his wages:

Provided that this section shall apply only to such places and such classes of employers as may be notified in this behalf by the Government.

65 . Repeal — As from the date appointed under sub-section (3) of section 1 the enactments specified in

Schedule II shall stand repealed:

Provided that —

- (a) every appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of any enactment 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 any enactment so repealed shall be continued and completed as if such enactment had not been repealed but had continued in operation and any penalty imposed in such proceedings shall be recovered under the enactment so repealed.

SCHEDULE I

[See section 1(4)]

1. Limits of the Jabalpur Corporation .
2. The Municipal limits of Raipur, Rajnandgaon, Khandwa, Burhanpur, Sagar, Raigarh, Bilaspur, Chhindwara, Seoni, Damoh, Katni -Murwara, Itarsi and Durg.
3. Limits of the Sagar Cantonment .
4. Bilaspur Railway Market Area .
5. The Municipal (Corporation) limits of Indore and three miles around such limit .
6. The Municipal (Corporation) limits of Lashkar, Gwalior, Morar including the industrial area .
7. The Municipal limits of Ujjain, Madhonagar, Ashoknagar, Mandsaur, Vidisha, Dewas, Morena, Neemuch, Guna, Badnagar and Khargone .
8. The Municipal limits of Ratlam and two miles around such limits .

SCHEDULE II

[See section 65]

No . and year of enactment	Name of enactment
No . 2 2 of 19 47	The Central Provinces and Berar Shops and Establishments Act, 19 47
No . 7 of 195 2	The Madhya Bharat Shops Establishments Act, Samvat 200 9

“बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी.2-22-छत्तीसगढ़ गजट / 38 सि. से. भिलाई, दिनांक 30-05-2001.”



पंजीयन क्रमांक

“छत्तीसगढ़/दुर्ग/09/2013-2015.”

छत्तीसगढ़ राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 307]

रायपुर, गुरुवार, दिनांक 23 अगस्त 2018 — भाद्रपद 1, शक 1939

विधि और विधायी कार्य विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 23 अगस्त 2018

क्र. 8345/डी. 156/21-अ/प्रारू./छ.ग./18. — छत्तीसगढ़ विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 28-08-2017 को राज्यपाल एवं दिनांक 03-08-2018 को राष्ट्रपति की अनुमति प्राप्त हो चुकी है, एतद्वारा सर्वसाधारण की जानकारी के लिए प्रकाशित किया जाता है।

छत्तीसगढ़ के राज्यपाल के नाम से आदेशानुसार,
मनीष कुमार ठाकुर, अतिरिक्त सचिव.

छत्तीसगढ़ अधिनियम (क्र. 21 सन् 2018)

छत्तीसगढ़ दुकान एवं स्थापना (नियोजन एवं सेवा की शर्तों का विनियमन) अधिनियम, 2017.

विषय—सूची
अध्याय—एक
प्रारम्भिक

1. संक्षिप्त नाम, विस्तार तथा प्रारंभ.
2. परिभाषाएं.
3. कतिपय व्यक्तियों तथा परिसरों को अधिनियम का लागू नहीं होना.
4. कतिपय अधिकारों एवं विशेषाधिकारों का प्रभावित न होना.

अध्याय—दो
श्रम पहचान संख्या का पंजीयन एवं जारी करना

5. दुकान एवं स्थापना का पंजीयन एवं श्रम पहचान संख्या का जारी करना.

अध्याय—तीन
नियोजक का कर्तव्य

6. महिला कर्मकारों के विरुद्ध भेदभाव पर प्रतिषेध.
7. कर्मकारों के स्वास्थ्य एवं सुरक्षा.
8. कार्य के घण्टे.
9. अधिसमय (ओवर टाईम) के लिये वेतन (मजदूरी).
10. पाली एवं विश्राम (अवकाश) की अवधि.

अध्याय—चार
अवकाश तथा छुट्टी

11. वार्षिक, आकस्मिक एवं रूग्ण अवकाश एवं अन्य छुट्टियां.

अध्याय—पांच
कल्याणकारी उपबंध

12. पीने का पानी.
13. शौचालय एवं प्रसाधन.
14. झूलाघर की सुविधायें.
15. प्राथमिक उपचार.
16. केन्टीन.

अध्याय—छः
फैसिलिटेटर और उनकी शक्तियां एवं कार्य

17. मुख्य फैसिलिटेटर, फैसिलिटेटर की नियुक्ति एवं उनकी शक्तियां.

अध्याय—सात
अभिलेख तथा विवरणियां

18. पंजी एवं अभिलेख का संधारण.
19. वार्षिक विवरणी.

अध्याय—आठ
अपराध तथा शास्तियां

20. इस अधिनियम के प्रावधानों के उल्लंघन के लिये शास्ति.
21. इस अधिनियम के प्रावधानों का उल्लंघन, जिसके परिणामस्वरूप घटना हुई है, के लिये शास्ति.
22. पंजी आदि उपलब्ध कराने हेतु अवरोध, इंकार हेतु शास्ति.
23. अपराध का संज्ञान.
24. अपराधों का प्रशमन.

अध्याय—नौ
विविध

25. संभावना पूर्वक की गई कार्यवाही का संरक्षण.
26. छूट देने की शक्ति.
27. अन्य विधियों के लागू होने पर रोक नहीं.
28. नियम बनाने की शक्ति.
29. कठिनाईयों के निराकरण की शक्ति.
30. निरसन एवं व्यावृत्ति.

छत्तीसगढ़ अधिनियम

(क्र. 21 सन् 2018)

छत्तीसगढ़ दुकान एवं स्थापना (नियोजन एवं सेवा की शर्तों का विनियमन) अधिनियम, 2017

दुकानों एवं स्थापनाओं में नियोजित कर्मकारों के नियोजन एवं अन्य सेवा शर्तों के विनियमन से संबंधित विधियों को समेकित एवं संशोधित करने हेतु तथा उनसे संबंधित और उनके आनुषंगिक विषयों हेतु अधिनियम।

भारत गणराज्य के अड़सठवें वर्ष में छत्तीसगढ़ विधानमण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो:-

अध्याय-एक प्रारम्भिक

संक्षिप्त नाम,
विस्तार, लागू
होना तथा
प्रारंभ.

1. (1) यह अधिनियम छत्तीसगढ़ दुकान एवं स्थापना (नियोजन एवं सेवा की शर्तों का विनियमन) अधिनियम, 2017 कहलायेगा।
- (2) इसका विस्तार संपूर्ण छत्तीसगढ़ राज्य में होगा।
- (3) यह दस या अधिक कर्मकारों के नियोजन वाले दुकानों और स्थापनाओं पर लागू होगा।
- (4) यह ऐसी तारीख से प्रवृत्त होगा जिसे राज्य शासन, राजपत्र में अधिसूचना द्वारा, नियत करे।

परिभाषाएं.

2. इस अधिनियम में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,-
 - (क) "मुख्य फ़ैसिलिटेटर" से अभिप्रेत है धारा 17 की उप-धारा (1) के अधीन नियुक्त मुख्य फ़ैसिलिटेटर;
 - (ख) "दिन" से अभिप्रेत है मध्य रात्रि से प्रारंभ होने वाले चौबीस घण्टे की कालावधि;
 - (ग) "नियोजक" से अभिप्रेत है स्वामी या व्यक्ति, जिसका किसी दुकान या स्थापना के कार्यों पर अंतिम नियंत्रण हो तथा इसमें सम्मिलित है,-
 - (एक) किसी फर्म या व्यक्तियों के संघ की दशा में, फर्म या संघ का कोई भागीदार या सदस्य;
 - (दो) किसी कम्पनी की दशा में, कम्पनी का निदेशक;
 - (तीन) केन्द्र सरकार या राज्य सरकार या स्थानीय प्राधिकरण के स्वामित्व या उसके द्वारा नियंत्रित किसी दुकान या स्थापना की दशा में, यथास्थिति, केन्द्र सरकार या राज्य सरकार या स्थानीय प्राधिकरण द्वारा ऐसे दुकान या स्थापना के कार्यों के प्रबंधन के लिये नियुक्त व्यक्ति या व्यक्तियों;
 - (घ) "स्थापना" से अभिप्रेत है कोई परिसर, जो कारखाना अथवा दुकान का परिसर नहीं है,-
 - (एक) जिसमें कोई व्यापार, व्यवसाय, विनिर्माण या उससे संबंधित या उसके आनुषंगिक या उसके सहायक कोई कार्य या कोई पत्रकारिता या मुद्रण कार्य या बैंकिंग का व्यवसाय, बीमा, स्टॉक एवं शेयर, ब्रोकरेज या उत्पाद विनिमय का कार्य किया जाता हो; अथवा
 - (दो) जिसे नाट्यशाला, चलचित्र अथवा कोई अन्य सार्वजनिक आमोद प्रमोद या मनोरंजन के रूप में उपयोग किया जाता हो, जिसमें कारखाना अधिनियम, 1948 (1948 का 63) के उपबंध लागू नहीं होते हों;
 - (ङ) "अधिसूचना" से अभिप्रेत है राजपत्र में प्रकाशित अधिसूचना;

- (च) "विहित" से अभिप्रेत है इस अधिनियम के अधीन निर्मित नियमों द्वारा विहित;
- (छ) "दुकान" से अभिप्रेत है कोई परिसर, जहां माल का, या तो फुटकर या थोक, विक्रय किया जाता हो अथवा जहां ग्राहकों को सेवायें प्रदान की जाती हैं तथा इसमें सम्मिलित है कार्यालय, भंडारकक्ष, गोदाम, भाण्डागार या कार्यगृह या कार्यस्थल, जहां निर्मित माल के वितरण या पैकिंग या पुनःपैकिंग करने का कार्य किया जाता हो, किन्तु इसमें कारखाने से संलग्न कोई दुकान, जहां दुकान में नियोजित व्यक्तियों को, कारखाना अधिनियम, 1948 (1948 का 63) के अधीन उपबंधित लाभ अनुज्ञात किया जाता हो, सम्मिलित नहीं है;
- (ज) "मजदूरी" से अभिप्रेत है सभी पारिश्रमिक (चाहे वेतन, भत्ते या अन्य रूप में हो), जो धनराशि के अंतर्गत अभिव्यक्त हो अथवा इस प्रकार अभिव्यक्त किये जाने के योग्य हो, जो कि, यदि अभिव्यक्त या विवक्षित, नियोजन के शर्तों की पूर्ति हो गई हो, नियोजित व्यक्ति को उसके नियोजन या ऐसे नियोजन में किये गये कार्य के संबंध में देय होता, और इसमें सम्मिलित है,-
- (एक) पक्षकारों के बीच किसी अधिनिर्णय या समझौता या किसी न्यायालय या अधिकरण के किसी आदेश के अधीन संदेय कोई पारिश्रमिक;
- (दो) कोई पारिश्रमिक, जिसका नियोजित व्यक्ति अधिसमय (ओवर टाईम) कार्य या अवकाश या कोई अवकाश की कालावधि के संबंध में हकदार है;
- (तीन) नियोजन के निबंधनों के अधीन संदेय कोई अतिरिक्त पारिश्रमिक (चाहे वह बोनस या कोई अन्य नाम से जाना जाता हो);
- (चार) कोई राशि, जो नियोजित व्यक्ति के नियोजन का पर्यवसान हो जाने के कारण किसी विधि, संविदा या लिखत के अधीन संदेय है जिसमें ऐसी राशि, चाहे कटौती सहित या कटौती के बिना हो, भुगतान करने हेतु उपबंधित हो;
- (पांच) कोई राशि, जिसका नियोजित व्यक्ति, तत्समय प्रवृत्त किसी विधि के अधीन निर्मित किसी योजना के अन्तर्गत हकदार हो; और
- (छ) गृह भाड़ा भत्ता,
- किन्तु इसमें सम्मिलित नहीं है,-
- (क) कोई बोनस, जो नियोजन के निबंधनों के अधीन संदेय पारिश्रमिक का भाग नहीं है या पक्षकारों के बीच हुए किसी अधिनिर्णय या समझौता या न्यायालय के किसी आदेश के अधीन संदेय नहीं है;
- (ख) किसी आवास सुविधा या रोशनी, जल, चिकित्सीय परिचर्या या अन्य सुख-सुविधा के प्रदाय या किसी ऐसी सेवा का मूल्य, जो राज्य सरकार के साधारण या विशेष आदेश द्वारा वेतन (मजदूरी) की संगणना से अपवर्जित है;
- (ग) किसी पेंशन या भविष्य निधि में नियोजक द्वारा संदत्त कोई अभिदाय, और ब्याज जो उस पर प्रोद्भूत किया जा सकेगा;
- (घ) कोई यात्रा भत्ता या किसी यात्रा रियायत का मूल्य;
- (ङ) किसी नियोजित व्यक्ति को विशेष व्यय चुकाने के लिए संदत्त कोई राशि, जो उसे अपने नियोजन की प्रकृति के कारण उठाने पड़े; या

- (च) उप-खण्ड (4) में विनिर्दिष्ट मामलों से भिन्न मामलों में नियोजन के पर्यवसित होने पर संदेय कोई उपादान;
- (झ) "सप्ताह" से अभिप्रेत है शनिवार मध्य रात्रि से प्रारंभ होने वाले सात दिनों की कालावधि या ऐसी अन्य रात्रि, जैसा कि मुख्य फ़ैसिलिटेटर द्वारा विशेष क्षेत्र के लिए लिखित में अनुमोदित किया जाये;
- (ञ) "कर्मकार" से अभिप्रेत है कोई ऐसा व्यक्ति (प्रशिक्षु अधिनियम, 1961 (1961 का 52) के अधीन प्रशिक्षु को छोड़कर), जिसे कोई शारीरिक श्रम, अकुशल, कुशल, तकनीकी, प्रायोगिक या लिपिकीय कार्य हेतु किराये या प्रतिफल पर नियोजित किया गया हो, चाहे नियोजन की शर्तें अभिव्यक्त हो या विवक्षित हो।

कतिपय
व्यक्तियों तथा
परिसरों को
अधिनियम का
लागू नहीं होना.

3. (1) इस अधिनियम के प्रावधान निम्नलिखित को लागू नहीं होंगे,—
- (क) ऐसा कर्मकार जो गोपनीय, प्रबंधकीय या पर्यवेक्षण प्रकृति के प्रास्थिति पर किसी दुकान या स्थापना में कार्यरत हो;
- (ख) कोई कर्मकार जिसका कार्य स्वाभाविक रूप से अनिर्ंतर रहा हो;
- (ग) शासन या स्थानीय प्राधिकारी के किसी कार्यालय;
- (घ) भारतीय रिजर्व बैंक के किसी कार्यालय;
- (ङ.) रोगी, अशक्त, निराश्रित या मानसिक रूप से अयोग्य के उपचार या परिचर्या हेतु प्रयुक्त कोई स्थापना; और
- (च) किसी नियोजक के कुटुम्ब का सदस्य।
- (2) उप-धारा (1) के खण्ड (क) में निर्दिष्ट कर्मकारों की सूची, दुकान अथवा स्थापना के बेवसाइट पर तथा बेवसाइट के अभाव में, दुकान या स्थापना के सहज दृश्य स्थान पर, प्रदर्शित की जायेगी एवं उसकी एक प्रति फ़ैसिलिटेटर को भेजी जायेगी।

कतिपय
अधिकारों एवं
विशेषाधिकारों
का प्रभावित न
होना.

4. इस अधिनियम में अंतर्विष्ट कोई भी बात, किसी अधिकार या विशेषाधिकार पर प्रतिकूल प्रभाव नहीं डालेगा, जिसका कोई कर्मकार तत्समय प्रवृत्त किसी विधि, अवारड, अनुबंध, संविदा, प्रथा या प्रचलन के अधीन हकदार है।

अध्याय—दो

श्रम पहचान संख्या का पंजीयन एवं जारी करना

दुकान एवं
स्थापना का
पंजीयन एवं श्रम
पहचान संख्या
का जारी करना.

5. (1) अधिनियम के प्रारंभ होने पर, प्रत्येक दुकान एवं स्थापना, जिसमें दस या अधिक कर्मकार नियोजित हैं, ऐसे प्रारंभ होने की तिथि से अथवा तिथि, जिस पर ऐसा दुकान या स्थापना अस्तित्व में आया है, से छः माह की कालावधि के भीतर पंजीयन हेतु आवेदन करेगा एवं श्रम पहचान संख्या प्राप्त करेगा।
- (2) प्रत्येक दुकान एवं स्थापना, जिसमें दस या अधिक कर्मकार नियोजित हैं, पंजीयन हेतु ऐसे प्राधिकारी को, ऐसे प्ररूप एवं रीति में, जैसा कि विहित किया जाये, आवेदन प्रस्तुत करेगा।
- (3) उप-धारा (2) में निर्दिष्ट प्राधिकारी, उप-धारा (2) के अधीन आवेदन प्राप्त होने पर, दुकान अथवा स्थापना का पंजीयन करेगा और ऐसे प्ररूप में, जैसा कि विहित किया जाये, श्रम पहचान संख्या जारी करेगा।
- (4) इस धारा में अंतर्विष्ट किसी बात के होते हुए भी, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) अथवा कर्मचारी भविष्य निधि एवं प्रकीर्ण

उपबंध अधिनियम, 1952 (1952 का 19) अथवा इसके अधीन बनाये गये किन्हीं नियमों, विनियमों या योजनाओं के प्रावधानों के अधीन पंजीकृत दुकानों और स्थापनाओं को इस अधिनियम के प्रयोजन के लिए पंजीकृत माना जायेगा:

परन्तु यह कि ऐसे दुकानों एवं स्थापनाओं को इस अधिनियम के प्रारंभ होने के छः माह की कालावधि के भीतर, ऐसी रीति में, जैसा कि विहित किया जाये, श्रम पहचान संख्या प्राप्त करेगा।

अध्याय-तीन नियोजक का कर्तव्य

6. (1) किसी महिला कर्मकार के विरुद्ध भर्ती, प्रशिक्षण, स्थानांतरण, पदोन्नति या वेतन (मजदूरी) से संबंधित मामले में, भेदभाव नहीं किया जायेगा।
(2) किसी महिला को, सुबह 6 बजे से रात्रि 9 बजे के मध्य को छोड़कर, दुकान या स्थापना में अपेक्षित या अनुज्ञात नहीं किया जायेगा :

महिला कर्मकारों
के विरुद्ध
भेदभाव पर
प्रतिषेध.

परन्तु यह कि जहां राज्य शासन या उसके द्वारा इस निमित्त प्राधिकृत किसी व्यक्ति का समाधान हो जाता है कि आश्रय, विश्राम गृह, रात्रि शिशु गृह, महिला प्रसाधन, उसकी गरिमा, सम्मान एवं सुरक्षा का समुचित संरक्षण, यौन उत्पीड़न से सुरक्षा एवं दुकान एवं स्थापना से उनके विद्यमान निवास के द्वार तक उनको पहुंचाने की व्यवस्था ऐसे दुकान या स्थापना में है, तो वह, अधिसूचना द्वारा, महिला कर्मकार की सहमति अभिप्राप्त करने के पश्चात्, ऐसी शर्तों, जैसा कि अधिसूचना में विनिर्दिष्ट किया जाये, के अधीन रहते हुए, रात्रि 9 बजे से सुबह 6 बजे तक कार्य करने हेतु उनको अनुज्ञात कर सकेगा।

7. (1) प्रत्येक नियोजक, कर्मकारों के स्वास्थ्य एवं सुरक्षा (जिसमें सफाई, प्रकाश, खिड़कियां एवं अग्नि से बचाव) से संबंधित ऐसे उपाय करेगा, जैसा कि विहित किया जाये।
(2) प्रत्येक नियोजक, ऐसे दुकान या स्थापना में नियोजित कर्मकारों के सतत एवं पर्याप्त पर्यवेक्षण की व्यवस्था करने हेतु तथा किसी प्रकार के दुर्घटना के होने से रोकने के लिए उप-धारा (1) के अंतर्गत उपबंधित आवश्यक उपाय सुनिश्चित करने हेतु उत्तरदायी होगा।

कर्मकारों के
स्वास्थ्य एवं
सुरक्षा.

8. (1) किसी भी वयस्क कर्मकार से दुकान या स्थापना में सप्ताह में अड़तालीस घण्टे एवं एक दिन में नौ घण्टे से अधिक निरंतर कार्य करने की अपेक्षा नहीं की जायेगी अथवा उन्हें अनुज्ञात नहीं किया जायेगा जब तक कि प्रत्येक पांच घंटे के पश्चात उसे विश्राम अन्तराल, जो आधे घण्टे से कम न हो, नहीं दिया गया हो :

कार्य के घण्टे.

परन्तु अत्यावश्यक प्रकृति के कार्य की दशा में एवं फेसिलिटेटर की पूर्व अनुमति से, कार्य के घण्टे या साप्ताहिक विश्राम को शिथिल की जा सकेगी।

- (2) किसी दुकान या स्थापना में एक पाली में विश्राम अंतराल सहित कार्य के कुल घण्टों की अवधि, साढ़े दस घण्टे से अधिक नहीं होगी और यदि कर्मकार को अनिर्ंतर प्रकृति के कार्य या अतिआवश्यक कार्य सौंपे गये हैं, तो कार्य की कुल अवधि, बारह घण्टे से अधिक नहीं होगी।
(3) यदि एक दिन में नौ घण्टे एवं सप्ताह में अड़तालीस घण्टे से अधिक कार्य किया जाता है तो वह अधिसमय (ओवर टाईम) माना जायेगा और अधिसमय (ओवर टाईम) घण्टे की कुल संख्या, तीन माह की अवधि में एक सौ पच्चीस घण्टे से अधिक नहीं होगी।
(4) राज्य शासन,—
(क) उप-धारा (1) के अधीन रहते हुए, एक या अधिक विनिर्दिष्ट अन्तरालों सहित कार्य के घण्टे, जो किसी भी दुकान या

स्थापना में नियोजित कर्मकारों के लिये सामान्य कार्य दिवस होगा, निर्धारित करने;

- (ख) सात दिवस की प्रत्येक कालावधि में एक विश्राम (अवकाश) दिवस की व्यवस्था, जो किसी भी दुकान या स्थापना में नियोजित सभी कर्मकारों को अनुज्ञात होगा, एवं ऐसे विश्राम (अवकाश) दिवस के संबंध में पारिश्रमिक के भुगतान की व्यवस्था,

के लिये नियम बनायेगा।

- (5) उप-धारा (1) एवं (2) के उपबंध, ऐसे दुकान एवं स्थापना में नियोजित कर्मकारों के निम्नलिखित श्रेणियों के संबंध में, केवल ऐसी सीमा एवं ऐसी शर्तों के अध्यधीन, जैसा कि विहित किया जाये, लागू होंगे, अर्थात्:-
- (क) आवश्यक या अति आवश्यक कार्य में संलग्न कर्मकार, जिन्हें उस कार्य से नजर अंदाज अथवा निवारित नहीं किया जा सका हो;
- (ख) प्रारंभिक या पूरक प्रकृति के कार्य में संलग्न कर्मकार, जिनके द्वारा उस कार्य को नियमों में वर्णित कार्य के सामान्य घण्टे के बाद किया जाना आवश्यक हो;
- (ग) तकनीकी कारणों से किसी कार्य में संलग्न कर्मकार, जिनके द्वारा उस कार्य को उसी दिन पूर्ण करना हो;
- (घ) ऐसे कार्य में संलग्न कर्मकार जो प्राकृतिक आपदा संबंधी अनियमित कार्य पर लगने वाले समय के सिवाय, नहीं किया जा सकता; और
- (ङ) उच्च कुशल कर्मकार (जैसे कि सूचना प्रौद्योगिकी, की स्थापना, बायो तकनीकी और शोध तथा विकास विभाग में कार्यरत कर्मकार)।

अधिसमय (ओवर टाईम) के लिये वेतन (मजदूरी) .

9. जहां किसी कर्मकार से किसी दिन नौ घण्टे अथवा सप्ताह में अड़तालीस घण्टे से अधिक कार्य करने की अपेक्षा की जाती है, तो वह, उसे प्राप्त होने वाली सामान्य वेतन (मजदूरी) से दुगुनी दर पर वेतन (मजदूरी) अथवा ऐसा उच्चतम राशि, जैसा कि विहित किया जाये, प्राप्त करने का हकदार होगा।

पाली एवं विश्राम (अवकाश) की अवधि.

10. (1) दुकान या स्थापना के एक विभाग या उस विभाग के किसी शाखा में, एक से अधिक पाली में कार्य किया जा सकेगा एवं कर्मकार को नियोजक के विवेकानुसार किसी भी पाली में कार्य करने हेतु अपेक्षित किया जा सकेगा।
- (2) किसी दुकान अथवा स्थापना में सप्ताह में सभी दिनों में इस शर्त के अध्यधीन रहते हुए कार्य किया जा सकेगा कि विश्राम हेतु प्रत्येक कर्मकार को लगातार कम से कम चौबीस घण्टे की साप्ताहिक छुट्टी अनुज्ञात किया जाये।
- (3) यदि कोई कर्मकार साप्ताहिक छुट्टी लेने से इंकार करता है तो उसके बदले में उसे, ऐसी साप्ताहिक छुट्टी के दो माह के भीतर, प्रतिकारात्मक अवकाश दिया जायेगा।
- (4) ऐसी पालियों में कार्यरत सभी श्रेणी के कर्मकारों के एक सप्ताह में किये गये कार्य की कालावधि तथा घंटों की जानकारी, सभी कर्मकारों को लिखित में दी जायेगी एवं उसे फैंसिलिटेटर को इलेक्ट्रॉनिक रूप से या अन्यथा भेजी जायेगी।
- (5) जहां किसी कर्मकार से विश्राम के दिन में भी कार्य करने की अपेक्षा की जाती है तो वह, उसके सामान्य वेतन (मजदूरी) के दर से दुगुनी दर पर वेतन प्राप्त करने का हकदार होगा।

**अध्याय-चार
अवकाश तथा छुट्टी**

11. (1) प्रत्येक कर्मकार को वेतन (मजदूरी) सहित साप्ताहिक छुट्टी दिया जायेगा:
परन्तु राज्य शासन, अधिसूचना द्वारा, क्षेत्र के पृथक पृथक श्रेणी के दुकानों और स्थापनाओं के लिए पृथक पृथक दिनों को साप्ताहिक छुट्टी के रूप में नियत कर सकेगा।
- (2) प्रत्येक कर्मकार को प्रत्येक कैलेण्डर वर्ष में वेतन (मजदूरी) सहित आठ दिनों के आकस्मिक अवकाश की पात्रता होगी जो कर्मकार के खाते में त्रैमासिक आधार पर जमा होगी।
- (3) प्रत्येक कर्मकार जिसने किसी दुकान या स्थापना में दो सौ चालीस दिन या अधिक की कालावधि तक एक कैलेण्डर वर्ष में कार्य किया है, तो पूर्व कैलेण्डर वर्ष के दौरान उसके द्वारा किये गये कार्य के प्रत्येक बीस दिनों के लिये एक दिन की दर से संगणित दिनों की संख्या के लिये वेतन (मजदूरी) सहित अवकाश, पश्चात्पूर्वी कैलेण्डर के दौरान अनुज्ञात की जायेगी।
- (4) प्रत्येक कर्मकार को अधिकतम पैंतालीस दिन तक के अर्जित अवकाश संग्रहित करने हेतु अनुमति होगी।
- (5) जहां नियोजक पन्द्रह दिन पूर्व आवेदन दिये जाने पर भी अवकाश स्वीकृत करने से इंकार करता है तो कर्मकार को, पैंतालीस दिन से अधिक के अवकाश का नकदीकरण प्राप्त करने का अधिकार होगा:
परन्तु यदि कोई कर्मकार इस धारा के अंतर्गत अवकाश की पात्रता रखता है, उसे अवकाश स्वीकृत करने के पूर्व उसके नियोजक द्वारा मुक्त कर दिया जाता है अथवा यदि उसने अवकाश हेतु आवेदन कर दिया है एवं उस अवकाश को देने से इंकार कर दिया गया है, वह सेवानिवृत्त होने, त्यागपत्र, मृत्यु या स्थायी निःशक्तता के कारण अपने नियोजन से पृथक हो जाता है, तो नियोजक, उसे देय अवकाश की कालावधि के लिये पूर्णतः वेतन (मजदूरी) संदाय करेगा।
- (6) कोई भी कर्मकार, एक कैलेण्डर वर्ष में आठ त्यौहारी छुट्टियों के भुगतान का अर्थात् स्वतंत्रता दिवस, गणतंत्र दिवस एवं गांधी जयंती तथा ऐसी अन्य पांच त्यौहारी छुट्टियां जिन्हें वर्ष के प्रारंभ होने के पहले नियोजक एवं कर्मकारों के मध्य सहमति हो, हकदार होगा।
- (7) उप-धारा (3) के प्रयोजनों के लिये,—
- (क) औद्योगिक नियोजन (स्थायी आदेश) अधिनियम, 1946 (1946 का 20) के अधीन प्रमाणित स्थायी आदेश के अंतर्गत समझौता अथवा संविदा या अनुमति द्वारा किसी दिन का ले-ऑफ ;
- (ख) महिला कर्मकारों के मामले में, मातृत्व हित लाभ अधिनियम, 1961 (1961 का 53) के प्रावधानों के अधीन मातृत्व अवकाश;
- (ग) उस वर्ष के पूर्व में अर्जित अवकाश, जिसमें अवकाश का उपभोग किया गया है;
- (घ) उसके नियोजन के दौरान हुये दुर्घटना से कारित अस्थायी निःशक्तता के कारण कर्मकार की अनुपस्थिति,
- को ऐसा दिन समझा जायेगा जिस पर कर्मकार ने दुकान या स्थापना में दो सौ चालीस दिवस या उससे अधिक की कालावधि की गणना के प्रयोजन के लिये कार्य किया है, किन्तु इन दिनों के लिये अवकाश प्राप्त नहीं होगी।
- (8) उप-धारा (3) के अधीन अनुज्ञेय अवकाश, सभी छुट्टियों (अवकाश) के अनन्य होंगे चाहे वे अवकाश की कालावधि के दौरान घटित हो या इसके अंत में हो।

वार्षिक,
आकस्मिक एवं
रूग्ण अवकाश
एवं अन्य
छुट्टियां.

**अध्याय—पांच
कल्याणकारी उपबंध**

पीने का पानी.

12. प्रत्येक नियोजक, उचित स्थान पर पर्याप्त मात्रा में स्वास्थ्यप्रद पेयजल की व्यवस्था एवं रख-रखाव करेगा जो दुकान या स्थापना में नियोजित समस्त कर्मचारियों के लिए सुविधानुसार अवस्थित हो।

शौचालय एवं प्रसाधन.

13. प्रत्येक नियोजक यथा विहित पुरुष एवं महिलाओं के लिए प्रयाप्त रूप से शौचालय एवं प्रसाधन सुविधा उपलब्ध करायेगा। जो दुकान या स्थापना में नियोजित कर्मकारों के लिए सुगमता से पहुंचनीय स्थान पर अवस्थित होगा:

परन्तु विभिन्न नियोजक सामान्य सुविधायें उपलब्ध करा सकेंगे यदि किसी दुकान अथवा स्थापना में स्थान या अन्यथा कमी के कारण संभव न हो।

झूलाघर सुविधायें की

14. प्रत्येक दुकान या स्थापना में जहां तीस या उससे अधिक महिला कर्मकार नियोजित हैं अथवा पचास या उससे अधिक कर्मकार सामान्यतः नियोजित है तो नियोजक, ऐसे समुचित कक्ष या कक्षों की व्यवस्था एवं रख-रखाव करेगा जिसमें ऐसे महिला कर्मकारों के बच्चों के उपयोग के लिये झूलाघर हो:

परन्तु यदि दुकान एवं स्थापना के समूह, एक किलोमीटर की परिधि के भीतर सामान्य झूलाघर प्रदान करने का निर्णय लेता है, तो उसकी अनुमति, आदेश द्वारा, ऐसी शर्तों, जैसा कि आदेश में विनिर्दिष्ट किया जाए, के अध्वधीन रहते हुए मुख्य फ़ैसिलिटेटर द्वारा दी जाएगी।

प्राथमिक उपचार.

15. प्रत्येक नियोजक, कार्यस्थल पर प्राथमिक उपचार की ऐसी व्यवस्था करेगा, जैसा कि विहित किया जाए।

केन्टीन.

16. राज्य शासन, ऐसे दुकानों एवं स्थापनाओं में, जहां नियोजित कर्मकारों अथवा सामान्य तौर पर कर्मकारों की संख्या एक सौ से कम नहीं है, उन कर्मकारों के उपयोग के लिये केन्टीन की व्यवस्था करने एवं रख-रखाव करने की नियोजक से अपेक्षा करेगा:

परन्तु यदि दुकानों एवं स्थापनाओं का समूह, सामान्य केन्टीन व्यवस्था करने का निर्णय लेता है तो उसकी अनुमति मुख्य फ़ैसिलिटेटर द्वारा, आदेश द्वारा, ऐसी शर्तों, जैसा कि आदेश में विनिर्दिष्ट किया जाए, के अध्वधीन रहते हुए दी जाएगी।

अध्याय—छः

फ़ैसिलिटेटर और उनकी शक्तियां एवं कार्य

मुख्य फ़ैसिलिटेटर, फ़ैसिलिटेटर की नियुक्ति एवं उनकी शक्तियां.

17. (1) राज्य शासन, अधिसूचना द्वारा ऐसे व्यक्तियों की नियुक्ति कर सकेगा जो इस अधिनियम के उद्देश्यों के लिये फ़ैसिलिटेटर होने के लिये विहित अर्हता रखते हों एवं उन्हें ऐसे स्थानीय सीमा के भीतर कार्यभार सौंपा जा सकेगा, जैसा कि वह उचित समझे :

परन्तु यह कि राज्य शासन अधिसूचना द्वारा मुख्य फ़ैसिलिटेटर की नियुक्ति कर सकेगा जो इस अधिनियम के अधीन उसको प्रदत्त शक्तियों के अतिरिक्त पूरे राज्य में फ़ैसिलिटेटर की शक्तियों का प्रयोग करेगा।

- (2) राज्य शासन, दुकानों अथवा स्थापनाओं के निरीक्षण हेतु एक योजना विहित करेगा जो एक वेब आधारित निरीक्षण शेड्यूल उपलब्ध करायेगा।

- (3) प्रत्येक फ़ैसिलिटेटर एवं मुख्य फ़ैसिलिटेटर जो उप-धारा (1) के अधीन नियुक्त किये गये हैं, भारतीय दण्ड संहिता (1860 का 45) की धारा 21 के अर्थ के भीतर लोक सेवक समझे जायेंगे एवं ऐसे प्राधिकारी, जैसा कि राज्य शासन इस निमित्त विनिर्दिष्ट करें, के पदीय तौर पर अधीनस्थ होंगे।

- (4) ऐसी शर्तों, जैसा कि विहित किया जाये, के अध्वधीन रहते हुए फ़ैसिलिटेटर, स्थानीय सीमाओं जिसके लिए वह नियुक्त है, के भीतर,—

(एक) नियोजकों एवं कर्मकारों को सलाह दे सकेगा एवं उन्हें ऐसी

- जानकारी जैसा कि इस अधिनियम के प्रावधानों को प्रभावी अनुपालन के लिये आवश्यक समझता हो, उपलब्ध करा सकेगा;
- (दो) उप-धारा (2) के अधीन निर्दिष्ट निरीक्षण हेतु योजनाओं के अनुसार दुकान या स्थापना का निरीक्षण कर सकेगा एवं,—
- (क) कोई व्यक्ति जो दुकान या स्थापना के किसी परिसर में पाया जाता है और उसके लिए पास विश्वास करने का कारण है कि दुकान या स्थापना का कर्मकार है, परीक्षण कर सकेगा;
- (ख) किसी व्यक्ति से जो उसके अधिकार क्षेत्र में है व्यक्तियों के नाम और पते के संबंध में कोई जानकारी देने हेतु अपेक्षा कर सकेगा;
- (ग) ऐसे पंजी, वेतन के दस्तावेज या नोटिस या उसके किसी भाग, जैसा कि इस अधिनियम के अधीन अपराध के संबंध में जो कि फ़ैसिलिटेटर सुसंगत मानता है, तथा फ़ैसिलिटेटर के पास विश्वास करने का पर्याप्त कारण है कि नियोक्ता द्वारा अपराध किया गया है, की तलाशी, जब्ती या प्रतिलिपि ले सकेगा;
- (घ) त्रुटि एवं दोष जो तत्समय प्रवृत्त किसी विधि सम्मत न हो, राज्य शासन की जानकारी में ला सकेगा; और
- (ड.) ऐसी अन्य शक्तियों का प्रयोग, जैसा कि विहित किया जाये:

परंतु यह कि किसी व्यक्ति को इस धारा के अधीन किसी प्रश्न का उत्तर देने अथवा स्वयं को दोषी ठहराने हेतु कोई साक्ष्य देने के लिए बाध्य नहीं किया जायेगा।

- (5) उप-धारा (4) के अधीन फ़ैसिलिटेटर द्वारा अपेक्षित कोई दस्तावेज प्रस्तुत करने या कोई जानकारी देने के लिए अपेक्षित कोई व्यक्ति, भारतीय दण्ड संहिता (1860 का 45) की धारा 175 एवं धारा 176 के अर्थ के भीतर ऐसा करने के लिए विधिक रूप से बाध्य समझा जायेगा।
- (6) दंड प्रक्रिया संहिता, 1973 (1974 का 2) के उपबंध, जहां तक हो सके, उप-धारा 4 के खण्ड (दो) के उप-खण्ड (ग) के अधीन तलाशी एवं जब्ती के लिए लागू होंगे, जैसे कि वे उक्त संहिता की धारा 94 के अधीन जारी वारंट के प्राधिकार के अन्तर्गत तलाशी या जब्ती के लिए लागू होते हैं।

अध्याय—सात अभिलेख तथा विवरणियां

18. (1) प्रत्येक नियोजक, ऐसी पंजियां एवं अभिलेख संधारित करेगा जैसा कि विहित किया जाये।
- (2) अभिलेखों का संधारण इलेक्ट्रानिक रूप से अथवा हस्तलिपि में किया जा सकेगा:

परंतु फ़ैसिलिटेटर द्वारा निरीक्षण के दौरान, यदि ऐसे अभिलेख की हार्ड प्रति की मांग की जाती है, तो उसकी सम्यक् रूप से हस्ताक्षरित प्रति नियोजक द्वारा प्रस्तुत किया जायेगा।

19. दुकान या स्थापना का प्रत्येक नियोजक, ऐसे प्ररूप तथा रीति में (इलेक्ट्रानिक प्ररूप सहित), ऐसे प्राधिकारी को, वार्षिक विवरणी प्रस्तुत करेगा, जैसा कि विहित किया जाये।

पंजी एवं अभिलेख
का संधारण.

वार्षिक विवरणी.

अध्याय-आठ
अपराध तथा शास्तियां

- इस अधिनियम के प्रावधानों के उल्लंघन के लिए शास्ति.
20. (1) जो कोई, इस अधिनियम या इसके अधीन बनाये गये नियमों के प्रावधानों का उल्लंघन करता है, तो उसे ऐसे जुर्माने, जो दो लाख रुपये तक का हो सकेगा और निरंतर उल्लंघन की दशा में, प्रत्येक दिन, जिसके दौरान उल्लंघन जारी रहता है, के लिए अतिरिक्त जुर्माने, जो दो हजार रुपये तक का हो सकेगा, से दण्डित किया जायेगा।
- परंतु जुर्माने की कुल राशि, नियोजित प्रति कर्मकार दो हजार रुपये से अधिक नहीं होगी।
- (2) यदि कोई व्यक्ति, जिसे उप-धारा (1) के अंतर्गत दण्डनीय किसी अपराध का सिद्धदोष ठहराया गया हो, पुनः उसी प्रावधान के उल्लंघन अंतर्गत अपराध का, या उसके अनुपालन में विफलता का, दोषी पाया जाता है, तो उसे, पश्चातवर्ती दोषसिद्धी पर जुर्माने, जो एक लाख रुपये से कम नहीं होगा किन्तु जो पांच लाख रुपये तक का हो सकेगा, से दण्डित किया जायेगा।
- इस अधिनियम के प्रावधानों के उल्लंघन, जिसके परिणाम स्वरूप घटना हुई है, के लिए शास्ति.
21. इस अधिनियम में अभिव्यक्त रूप से अन्यथा उपबंधित के सिवाय, जहां कोई नियोजक, इस अधिनियम या इसके अधीन बनाये गये किन्हीं नियमों के किन्हीं प्रावधानों के उल्लंघन का दोषी पाया जाता है, जिसके परिणाम स्वरूप दुर्घटना में कर्मकार को गंभीर शारीरिक क्षति हुई है, अथवा उसकी मृत्यु हुई है, तो वह कारावास से, जो छः माह तक का हो सकेगा और जुर्माने से जो दो लाख रुपये से कम नहीं होगा किन्तु जो पांच लाख रुपये तक का हो सकेगा अथवा दोनों से दण्डित किया जायेगा।
- पंजी, आदि उपलब्ध कराने हेतु अवरोध, इंकार हेतु शास्ति.
22. (1) जो कोई, इस अधिनियम के अधीन या इसके द्वारा प्रदत्त किसी शक्ति का प्रयोग करने से, फैंसिलिटेटर को जानबूझकर बाधा पहुंचाता है या इंकार करता है अथवा फैंसिलिटेटर को दुकान या स्थापना के संबंध में इस अधिनियम अधीन या इसके द्वारा प्राधिकृत कोई निरीक्षण, परीक्षण, जांच एवं अन्वेषण करने के लिए कोई भी युक्तियुक्त सुविधा उपलब्ध कराने से जानबूझकर उपेक्षा करता है, तो वह जुर्माने, जो दो लाख रुपये तक का हो सकेगा, से दण्डित किया जायेगा।
- (2) जो कोई, इस अधिनियम या इसके अधीन बनाये गये नियमों के अनुसरण में रखे गये कोई पंजी या अन्य दस्तावेज, फैंसिलिटेटर द्वारा मांगे जाने पर, प्रस्तुत करने से जानबूझकर इंकार करता है अथवा इस अधिनियम के अन्तर्गत उसके कर्तव्य के अनुसरण में कार्यवाही हेतु फैंसिलिटेटर के समक्ष उपस्थित होने से या उसके द्वारा परीक्षा किये जाने से, किसी व्यक्ति को रोकता है या रोकने का प्रयास करता हो या यह विश्वास करने का कारण है कि रोकने हेतु कुछ भी कार्य करता है, तो उसे जुर्माने, जो दो लाख रुपये तक का हो सकेगा, से दण्डित किया जायेगा।
- परंतु जुर्माने की कुल राशि, नियोजित प्रति कर्मकार दो हजार रुपये से अधिक नहीं होगी।
- अपराध का संज्ञान.
23. (1) कोई न्यायालय, इस अधिनियम एवं इसके अधीन बनाये गये नियमों के अंतर्गत दण्डनीय किसी अपराध का संज्ञान तब तक नहीं लेगा, जब तक कि उसके संबंध में कोई परिवाद, फैंसिलिटेटर द्वारा ऐसी तारीख, जिस पर कथित अपराध, फैंसिलिटेटर की जानकारी में आता है, के तीन माह के भीतर प्रस्तुत नहीं किया जाता है :
- परंतु जहां फैंसिलिटेटर द्वारा, अवज्ञा अंतर्विष्ट अपराध हेतु, लिखित आदेश दिया जाता है, तो उसका परिवाद, ऐसी तारीख, जिस पर अपराध किया जाना कथित है, के छः माह के भीतर प्रस्तुत किया जा सकेगा।

- (2) प्रथम श्रेणी के न्यायिक दंडाधिकारी का न्यायालय, इस अधिनियम एवं इसके अधीन बनाये गये नियमों के अंतर्गत दण्डनीय किसी अपराध का विचारण करेगा।
24. (1) दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) में अंतर्विष्ट किसी बात के होते हुए भी, इस अधिनियम के अंतर्गत दण्डनीय कोई अपराध, जो मात्र कारावास से या कारावास और जुर्माने से भी दण्डनीय अपराध नहीं है, अभियुक्त व्यक्ति के आवेदन पर, या तो अभियोजन संस्थित होने के पूर्व या पश्चात् हो, राजपत्रित अधिकारी द्वारा प्रशमन किया जा सकेगा, जैसा कि राज्य शासन, अधिसूचना द्वारा, ऐसी रीति के अपराध, जो कि विहित किया जाये, के लिए उपबंधित अधिकतम जुर्माने की पचास प्रतिशत की राशि के लिए, विनिर्दिष्ट करे।
- (2) उप-धारा (1) में अंतर्विष्ट बात,—
- (क) उसी प्रकार का अपराध, जिसका पूर्व में प्रशमन किया गया हो, के कारित करने की;
- (ख) उसी प्रकार का अपराध, जिसके लिए व्यक्ति, पूर्व में दोषसिद्ध ठहराया गया हो, के कारित करने की,
- तारीख से पांच वर्ष की कालावधि के भीतर दूसरी बार या तत्पश्चात् के लिए व्यक्ति द्वारा कारित अपराध पर लागू नहीं होगा।
- (3) उप-धारा (1) में निर्दिष्ट प्रत्येक अधिकारी, राज्य शासन के निर्देशन, नियंत्रण एवं पर्यवेक्षण के अध्वधीन रहते हुए, किसी भी अपराध के प्रशमन करने के लिए अपनी शक्तियों का प्रयोग करेगा।
- (4) अपराध के प्रशमन के लिए प्रत्येक आवेदन, ऐसे प्ररूप एवं रीति में किया जायेगा जैसा कि विहित किया जाये।
- (5) जहां किसी अपराध का, अभियोजन संस्थित करने के पूर्व, प्रशमन हो गया हो, वहां उस अपराध के संबंध में, अपराधी, जिसके अपराध का इस प्रकार प्रशमन हो गया है, के विरुद्ध कोई अभियोजन संस्थित नहीं किया जायेगा।
- (6) जहां किसी अपराध का प्रशमन, अभियोजन संस्थित करने के पश्चात् किया जाता है, वहां ऐसा प्रशमन, उप-धारा (1) में निर्दिष्ट अधिकारी द्वारा, लिखित में न्यायालय, जिसमें अभियोजन लंबित है, के संज्ञान में लाया जायेगा तथा अपराध के प्रशमन की ऐसी सूचना पर, व्यक्ति, जिसके विरुद्ध अपराध का इस प्रकार प्रशमन किया गया है, को निर्मुक्त किया जायेगा।
- (7) कोई व्यक्ति, जो उप-धारा (1) में निर्दिष्ट अधिकारी द्वारा दिये गये आदेश को पालन करने में विफल रहता है, वइ, ऐसे जुर्माने के अतिरिक्त, अपराध के लिए उपबंधित अधिकतम जुर्माने के बीस प्रतिशत के बराबर राशि भुगतान करने हेतु दायी होगा।
- (8) इस धारा के प्रावधानों के अन्तर्गत एवं उसके अनुसरण के सिवाय, इस अधिनियम के प्रावधानों के अंतर्गत दण्डनीय किसी अपराध का प्रशमन नहीं किया जायेगा।

अपराधों का प्रशमन.

अध्याय—नौ
विविध

25. इस अधिनियम या इसके अधीन निर्मित किसी नियम के अनुपालन में सद्भावनापूर्वक की गई या की जाने के लिए आशयित किसी कार्य करने के लिए, केन्द्र सरकार या राज्य सरकार की सेवा के कोई लोक सेवक या कोई अन्य व्यक्ति, जो किसी ऐसे लोक सेवक के निर्देश के अधीन कार्य करता है, के विरुद्ध कोई वाद अभियोजन या अन्य विधिक कार्यवाहियां नहीं होगी।

सद्भावना पूर्वक की गई कार्यवाही का संरक्षण.

छूट देने की शक्ति.

26. राज्य शासन अथवा इस निमित्त सशक्त किया गया कोई अधिकारी, अधिसूचना द्वारा, किसी दुकान या स्थापना या उसके किसी वर्ग या कोई नियोजक या कर्मचारी या नियोजकों या कर्मचारियों के किसी वर्ग, जिस पर यह अधिनियम लागू होता है, को ऐसे निबंधन एवं शर्तों, जैसा कि वह उचित समझे, ऐसी कालावधि, जैसा कि आवश्यक समझे, के लिए इस अधिनियम के समस्त या किसी प्रावधानों से छूट दे सकेगा।

अन्य विधियों के लागू होने पर रोक नहीं.

27. इस अधिनियम के प्रावधान, तत्समय प्रवृत्त किसी अन्य विधि के प्रावधानों के अतिरिक्त होंगे, उनके अल्पीकरण में नहीं।

नियम बनाने की शक्ति.

28. (1) राज्य शासन, अधिसूचना द्वारा, इस अधिनियम के प्रावधानों के क्रियान्वयन के लिए नियम बना सकेगा।

(2) विशेषतः एवं पूर्वगामी शक्तियों की व्यापकता पर प्रतिकूल प्रभाव डाले बिना, निम्नलिखित सभी या किन्हीं विषयों के लिए ऐसा नियम उपबंधित किया जा सकेगा, अर्थात्:-

(क) प्राधिकारी जिसको, एवं प्ररूप और रीति जिसमें, धारा (5) की उप-धारा (2) के अंतर्गत आवेदन किया जायेगा, उप-धारा (3) के अंतर्गत श्रम पहचान संख्या का प्ररूप तथा उप-धारा (4) के अंतर्गत श्रम पहचान संख्या प्राप्त करने की रीति;

(ख) धारा 7 की उप-धारा (1) के अंतर्गत कर्मकारों के स्वास्थ्य एवं सुरक्षा (सफाई, प्रकाश, रोशनदान, अग्नि की रोकथाम) के संबंध में नियोजक द्वारा की जाने वाली उपाय;

(ग) धारा 8 की उप-धारा (4) के अंतर्गत नियमों द्वारा उपबंधित विषय;

(घ) शर्तें जिसके अध्याधीन धारा 8 की उप-धारा (1) एवं उप-धारा (2) के प्रावधान, उस धारा की उप-धारा (5) के अंतर्गत कर्मकारों की कतिपय श्रेणियों को लागू होगी;

(ङ.) धारा 9 के अंतर्गत उपबंधित उच्च वेतन (मजदूरी) की दर;

(च) धारा 13 के अंतर्गत उपबंधित पर्याप्त शौचालय एवं प्रसाधन की व्यवस्था तथा धारा 15 के अंतर्गत उपबंधित प्रथमोपचार की सुविधा की व्यवस्था;

(छ) धारा 17 की उप-धारा (1) के अंतर्गत उपबंधित फैंसिलिटेटर की योग्यता, शर्तें जिसके अध्याधीन फैंसिलिटेटर उप-धारा (4) के अंतर्गत उपबंधित अपनी शक्तियों का तथा उप-धारा 4 के खण्ड (दो) के उप-खण्ड (ड.) के अंतर्गत उपबंधित उसके द्वारा प्रयोग किये जाने योग्य अन्य शक्तियों का प्रयोग करेगा;

(ज) धारा 18 की उप-धारा (1) के अंतर्गत उपबंधित नियोजक द्वारा अनुरक्षित की जाने वाली पंजियों एवं अभिलेखों के लिए;

(झ) धारा 19 के अंतर्गत वार्षिक विवरणी प्रस्तुत करने हेतु प्ररूप एवं रीति (जिसमें इलेक्ट्रॉनिक प्ररूप सम्मिलित है), तथा ऐसे विवरणी को प्राधिकारी को प्रस्तुत किया जायेगा;

(ञ) धारा 24 की उप-धारा (1) के अंतर्गत उपबंधित अपराधों के प्रशमन की रीति, तथा उप-धारा (4) के अंतर्गत ऐसे प्रशमन के लिए आवेदन करने का प्ररूप एवं रीति;

(ट) कोई अन्य विषय जो कि विहित किया जाना अपेक्षित हो या विहित किया जाये।

- (3) उप-धारा (1) एवं (2) के अधीन बनाये गये प्रत्येक नियम, राज्य विधान सभा के समक्ष रखा जायेगा।
29. (1) यदि इस अधिनियम के प्रावधानों को प्रभावी बनाने में कोई कठिनाई उद्भूत होती है तो राज्य शासन, राजपत्र में प्रकाशित आदेश द्वारा, ऐसे प्रावधान बना सकेगा, जो इस अधिनियम के प्रावधानों से असंगत न हो, और जैसा कि उसे कठिनाईयों के निराकरण के लिए आवश्यक प्रतीत हो:
- परंतु इस अधिनियम के प्रारंभ होने की तारीख से दो वर्ष के अवसान के पश्चात् इस धारा के अन्तर्गत कोई आदेश नहीं किया जायेगा।
- (2) इस धारा के अंतर्गत किया गया प्रत्येक आदेश, इसके बनाये जाने के पश्चात्, यथा शीघ्र, राज्य विधान सभा के समक्ष रखा जायेगा।
30. (1) छत्तीसगढ़ दुकान एवं स्थापना अधिनियम, 1958 (क.25 सन् 1958) एतद्वारा निरसित किया जाता है।
- (2) उप-धारा (1) के अंतर्गत अधिनियम के निरसन के होते हुए भी, इस प्रकार निरसित अधिनियम के अधीन किया गया कोई कार्य या की गई कोई कार्यवाही, जहां तक ऐसा कार्य या कार्यवाही इस अधिनियम के प्रावधानों से असंगत न हो, इस अधिनियम के प्रावधानों के अंतर्गत किया गया कार्य या की गई कार्यवाही समझी जायेगी।
- (3) इस धारा के अंतर्गत विशेष विषय का वर्णन साधारण खण्ड अधिनियम, 1897 (क. 10 सन् 1897) की धारा 6 की सामान्य प्रयोज्यता को प्रतिकूलित या प्रभावित नहीं करेगा।

कठिनाईयों के निराकरण की शक्ति.

निरसन एवं व्यावृत्ति.

नया रायपुर, दिनांक 23 अगस्त 2018

क्र. 8345/डी. 156/21-अ/प्रारू./छ.ग./18. — भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में इस विभाग की समसंख्यक अधिसूचना दिनांक 23-8-2018 का अंग्रेजी अनुवाद राष्ट्रपति एवं राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है।

छत्तीसगढ़ के राज्यपाल के नाम से आदेशानुसार,
मनीष कुमार ठाकुर, अतिरिक्त सचिव.

CHHATTISGARH ACT

(No. 21 of 2018)

THE CHHATTISGARH SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 2017.

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CHHATTISGARH ACT
(No. 21 of 2018)

**THE CHHATTISGARH SHOPS AND ESTABLISHMENTS (REGULATION
OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 2017**

An Act to consolidate and amend the laws relating to regulation of employment and other service conditions of workers employed in shops and establishments and for matters connected therewith or incidental thereto.

Be it enacted by the Chhattisgarh Legislature in the Sixty-eighth Year of the Republic of India, as follows:-

CHAPTER – I
PRELIMINARY

Short title, extent, application and commencement.

1. (1) This Act may be called the Chhattisgarh Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017.
- (2) It shall extend to the whole State of Chhattisgarh.
- (3) It shall apply to the shops and establishments employing ten or more workers.
- (4) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-
- (a) “**Chief Facilitator**” means the Chief Facilitator appointed under sub-section (1) of Section 17;
- (b) “**Day**” means a period of twenty-four hours beginning at mid night;
- (c) “**Employer**” means an owner or a person who has ultimate control over the affairs of a shop or an establishment, and includes,-
- (i) in the case of a firm or association of individuals, a partner or member of the firm or association;
- (ii) in the case of a company, a director of the company;
- (iii) in the case of a shop or an establishment owned or controlled by the Central Government or the State Government or Local Authority, the person or persons appointed to manage the affairs of such shop or establishment by the Central Government or the State Government or Local Authority, as the case may be;
- (d) “**Establishment**” means any premises, not being the premises of a factory or a shop,-
- (i) wherein any trade, business, manufacture, or any work in connection with, or incidental or ancillary thereto, or any journalistic or printing work or business of banking, insurance, stocks and shares, brokerage or produce exchange, is carried on; or
- (ii) which is used as theater, cinema or for any other public amusement or entertainment, to whom the provisions of the Factories Act, 1948 (No. 63 of 1948) does not apply;
- (e) “**Notification**” means a notification published in the Official Gazette;

- (f) **"Prescribed"** means prescribed by rules made under this Act;
- (g) **"Shop"** means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers and includes an office, a store-room, go-down, warehouse or workhouse or work place for distribution or packing or repacking of finished goods is carried on, but does not include a shop attached to a factory where persons employed in such shop are allowed the benefits provided under the Factories Act, 1948 (No. 63 of 1948);
- (h) **"Wages"** means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,-
- (i) any remuneration payable under any award or settlement between the parties or under any order of a court or tribunal;
 - (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
 - (iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
 - (iv) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions;
 - (v) any sum to which the person employed is entitled under any scheme framed under any law, for the time being in force; and
 - (vi) house rent allowance,
- but does not include,-
- (A) any bonus, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or under any order of a court;
 - (B) the value of any accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
 - (C) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (D) any travelling allowance or the value of any travelling concession;
 - (E) any sum paid to the employed person to defray special expenses entailed to him by the nature of his employment; or
- any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv);
- (i) **"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 Facilitator;

- (j) “**Worker**” means any person (except an apprentice under the Apprentice Act, 1961 (No. 52 of 1961)) employed to do any manual, unskilled, skilled, technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied.

Act not to apply to certain persons and premises.

3. (1) The provisions of this Act shall not apply to,-
- (a) a worker occupying a position of confidential, managerial or supervisory character in a shop or in an establishment;
 - (b) a worker whose work is inherently intermittent;
 - (c) any office of the Government or the Local Authority;
 - (d) any office of the Reserve Bank of India;
 - (e) an establishment used for the care and treatment of the sick, infirm, destitute or mentally unfit; and
 - (f) a member of the family of an employer.
- (2) A list of the workers referred to in clause (a) of sub-section (1) shall be displayed on the website of the shop or establishment and in absence of the website, at a conspicuous place in the shop or establishment and a copy thereof shall be sent to the Facilitator.

Certain rights and privileges not to be affected.

4. Nothing contained in this Act shall adversely affect any right or privilege to which any worker is entitled, under any law, award, agreement, contract, custom or usage for the time being in force.

Registration of shops and establishment and issue of Labour identification Number.

- CHAPTER-II**
REGISTRATION AND ISSUE OF LABOUR IDENTIFICATION NUMBER.
5. (1) On the commencement of this Act, every shop and establishment, employing ten or more workers, shall apply for registration within a period of six months from the date of such commencement or the date on which such shop or establishment comes into existence and obtain a Labour Identification Number.
- (2) Every shop and establishment, employing ten or more workers, shall make an application for registration to such authority and in such form and manner as may be prescribed.
- (3) The authority referred to in sub-section (2) shall, on receipt of an application under sub-section (2), register the shop or establishment and issue a Labour Identification Number in such form as may be prescribed.
- (4) Notwithstanding anything contained in this section, the shops and establishments registered under the provisions of the Employees State Insurance Act, 1948 (No. 34 of 1948) or the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (No. 19 of 1952) or any rules, regulations or schemes made thereunder shall be deemed to be registered for the purposes of this Act:
- Provided that such shops and establishments shall, within a period of six months from the commencement of this Act, obtain a Labour Identification Number in such manner as may be prescribed.

Prohibition on discrimination against women workers.

- CHAPTER-III**
DUTIES OF EMPLOYER
6. (1) No woman worker shall be discriminated against in matters concerning recruitment, training, transfers, promotions or wages.

- (2) No woman shall be required or allowed to work in a shop or establishment except between 6 a.m. and 9 p.m.:

Provided that, where the State Government or any person, authorized by it in this behalf, is satisfied that the provision of shelter, rest room, night crèche, ladies' toilet, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the shop or establishment to the door step of their residence exists in such shop or establishment, it may, by notification, after obtaining the consent of the woman worker, allow her to work between 9 p.m. and 6 a.m., subject to such conditions as may be specified in the notification.

7. (1) Every employer shall take such measures relating to the health and safety (including cleanliness, lighting, ventilation and prevention of fire) of the workers as may be prescribed.

Health and safety of workers.

- (2) Every employer shall be responsible for providing constant and adequate provisions relating to the health and safety of the workers employed in such shop or establishment and to ensure necessary steps given under sub-section (1) is taken to prevent the happening of any kind of accident.

8. (1) No adult worker shall be required or allowed to work continuously in a shop or establishment for more than forty-eight hours in a week and nine hours in a day, unless he has been given a break of not less than half an hour after every five hours:

Working hours.

Provided that, the working hours or weekly rest may be relaxed in case of work of urgent nature and with the previous permission of the Facilitator.

- (2) The total number of hours of work in a shift including the rest interval shall not exceed ten and half hours in any shop or establishment and in case a worker is entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours.

- (3) Any working hour beyond nine hours a day or forty-eight hours a week shall be treated as overtime and the total number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.

- (4) The State Government shall make rules,-

- (a) subject to sub-section (1), for fixing the number of hours of work which shall constitute a normal working day for the workers employed in the shop or establishment, inclusive of one or more specified intervals;
- (b) for providing a day of rest in every period of seven days which shall be allowed to all the workers employed in the shop or establishment and for the payment of remuneration in respect of such days of rest.

- (5) The provisions of sub-sections (1) and (2) shall, in relation to the following class of workers employed in such shop or establishment, apply only to such extent, and subject to such conditions, as may be prescribed, namely :-

- (a) workers engaged on urgent work or in any emergency which could not have been foreseen or prevented;
- (b) workers engaged in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;

- (c) workers engaged in any work which for technical reasons has to be completed before the day is over;
- (d) workers engaged in a work which cannot be carried on except at times dependent on the irregular action for natural forces; and
- (e) highly skilled workers (such as workers working in the establishments of Information Technology, Bio-Technology and Research and Development Divisions).
- Wages for overtime.** 9. Where any worker is required to work on any day in excess of nine hours and forty-eight hours in a week, shall be entitled to wages at the rate of twice his ordinary rate of wages or such higher amount, as may be prescribed.
- Shifts and period of rest.** 10. (1) A department or any section of a department of the Shop or Establishment may work in more than one shift and the worker may be required to work in any shift at the discretion of the employer.
- (2) A shop or an establishment may work on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least twenty-four consecutive hours of rest.
- (3) If a worker is denied weekly holiday, the compensatory leave in lieu thereof shall be given within two months of such weekly holiday.
- (4) The period and hours of work in a week for all classes of workers in such shift shall be informed to all workers in writing and shall be sent to the Facilitator electronically or otherwise.
- (5) Where a worker is required to work on a day of rest, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

CHAPTER-IV LEAVE AND HOLIDAYS.

- Annual, casual and sick leave and other holidays.** 11. (1) Every worker shall be allowed a weekly holiday with wages:
- Provided that the State Government may, by notification, fix different days as weekly holiday for different class of shops and establishments of a area.
- (2) Every worker shall be entitled to eight days' casual leave with wages in every calendar year which shall be credited into the account of the worker on a quarterly basis.
- (3) Every worker who has worked for a period of two hundred and forty days or more in a shop or establishment 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 one day for every twenty days of work performed by him during the previous calendar year.
- (4) Every worker shall be permitted to accumulate the earned leave upto a maximum of forty-five days.
- (5) Where the employer refuses to sanction the leave due when applied fifteen days in advance, then the worker shall have a right to encash the leave in excess of forty-five days :

Provided that if a worker is entitled to leave under this section, 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 on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.
- (6) A worker shall be entitled to eight paid festival holidays in a calendar year, namely, the Independence Day, Republic Day and Gandhi Jayanti and five such other festival holidays as may be agreed between the employer and the workers, before the commencement of the year.
- (7) For the purposes of sub-section (3),-
- (a) any day of lay-off, by agreement or contract or as permissible under the standing order certified under the Industrial Employment (Standing Orders) Act, 1946 (No. 20 of 1946);
- (b) in the case of a female worker, the maternity leave under the provisions of the Maternity Benefit Act, 1961 (No. 53 of 1961);
- (c) the leave earned in the year prior to that in which the leave is availed; or
- (d) the absence of the worker due to temporary disablement caused by accident arising out of and in the course of his employment,- shall be deemed to be days on which the worker has worked in a shop or establishment for the purpose of computation of the period of two hundred and forty days or more, but shall not earn leave for these days.
- (8) The leave admissible under sub-section (3) shall be exclusive of all holidays, whether occurring during or at either end of the period of leave.

CHAPTER-V WELFARE PROVISIONS

12. Every employer shall make sufficient arrangements to provide and maintain at suitable points, conveniently situated for all persons employed in the shop or establishment, a sufficient supply of wholesome drinking water. **Drinking water.**
13. Every employer shall provide sufficient latrine and urinal facilities for male and female as may be prescribed, which shall be so conveniently situated as may be accessible for the workers employed in the shop or establishment: **Latrines and urinals.**
- Provided that several employers may provide common facilities, in case it is not possible in a shop or establishment due to constraint in space or otherwise.
14. In every shop or establishment wherein thirty or more woman workers are employed or fifty or more workers are ordinarily employed, employer shall provide and maintain a suitable room or rooms as crèche for the use of children of such woman workers: **Crèche facility.**
- Provided that if a group of shops or establishments, so decide to provide a common crèche within a radius of one kilometer, then, the same shall be permitted by the Chief Facilitator, by an order, subject to such conditions as may be specified in the order.

- First-Aid.** 15. Every employer shall provide at the place of work first-aid facilities as may be prescribed.
- Canteen.** 16. The State Government shall require the employer to provide and maintain in the shop or establishment, wherein not less than one hundred worker are employed or ordinarily employed, to maintain a canteen for the use of its workers:
- Provided that if a group of shops or establishments, so decide to provide a common canteen, then the same shall be permitted by the Chief Facilitator by an order, subject to such conditions as may be specified in the order.

CHAPTER-VI FACILITATOR AND THEIR POWERS AND FUNCTIONS

Appointment of Chief Facilitator, Facilitators and their powers.

17. (1) The State Government may, by notification, appoint such persons who possess the prescribed qualification to be Facilitator for the purposes of this Act and may assign to them such local limits as it may think fit:
- Provided that the State Government may, by notification, appoint a Chief Facilitator who shall, in addition to the powers conferred on him under this Act, exercise the powers of a Facilitator throughout the State.
- (2) The State Government may prescribe a scheme for inspection of shops and establishments, which shall provide for generation of a web-based inspection schedule.
- (3) Every Facilitator and Chief Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code (No. 45 of 1860), and shall officially be subordinate to such Authority as the State Government may specify in this behalf.
- (4) Subject to such conditions as may be prescribed, a Facilitator may, within the local limits for which he is appointed,-
- (i) advise the employers and workers and provide them such information as may be considered necessary for complying with the provisions of this Act effectively;
 - (ii) inspect the shop or establishment in accordance with the scheme for inspection referred under sub-section (2), and may,-
 - (a) examine any person who is found in any premises of the shop or establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the shop or establishment;
 - (b) require any person to give any information, which is in his power to give, with respect to the names and addresses of the persons;
 - (c) search, seize or take copies of such register, record of wages or notices or portions thereof as the Facilitator may consider relevant in respect of an offence under this Act and which the Facilitator has reason to believe has been committed by the employer;
 - (d) bring to the notice of the State Government defects or abuses not covered by the law for the time being in force; and

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

Provided that no person shall be compelled under this section to answer any question or give any evidence that tends to incriminate himself.

- (5) Any person required to produce any document or to give any information required by a Facilitator under sub-section (4) shall be deemed to be legally bound to do so within the meaning of Sections 175 and section 176 of the Indian Penal Code (No. 45 of 1860).
- (6) The provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) shall, so far as may be, apply to the search or seizure under sub-clause (c) of clause (ii) of sub-section (4), as they apply to the search or seizure made under the authority of a warrant issued under Section 94 of the said Code.

CHAPTER VII RECORDS AND RETURNS

18. (1) Every employer shall maintain such registers and records as may be prescribed. **Maintenance of register and records.**
- (2) The records may be maintained electronically or manually:
Provided that at the time of inspection by a Facilitator, a hard copy of such records if demanded, shall be submitted, duly signed by the employer.
19. Every employer of a shop or an establishment shall furnish an annual return, in such form and manner (including electronic form), to such authority as may be prescribed. **Annual return.**

CHAPTER VIII OFFENCES AND PENALTIES

20. (1) Whoever contravenes with the provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to two lakh rupees and in the case of a continuing contravention, with an additional fine which may extend to two thousand rupees for every day during which such contravention continues: **Penalty for contravention of provision of this Act.**
- Provided that the total amount of fine shall not exceed two thousand rupees per worker employed.
- (2) If any person has been convicted of any offence punishable under sub-section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with fine, which shall not be less than one lakh rupees but which may extend to five lakh rupees.
21. Save as otherwise expressly provided in this Act, where an employer on being held guilty of contravention of any of the provisions of this Act or any rules made thereunder, which has resulted in an accident causing serious bodily injury or death of a worker, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than two lakh rupees but which may be extended to five lakh rupees or with both. **Penalty for contravention of provisions of this Act which resulted in accident.**
22. (1) Whoever willfully obstructs a Facilitator in exercise of any power conferred on him by or under this Act or refuses or willfully neglects to afford the Facilitator any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act, in **Penalty for obstruction, refusal to provide register, etc.**

relation to a shop or an establishment, shall be punishable with fine which may extend to two lakh rupees.

- (2) Whoever willfully refuses to produce, on the demand by a Facilitator, any register or other document kept in pursuance of this Act or the rules made thereunder or prevents or attempts to prevent or does anything which he has reason to believe to prevent any person from appearing before, or being examined, by a Facilitator action in pursuance of his duties under this Act, shall be punishable with a fine which may extend to two lakh rupees:

Provided that the total amount of fine shall not exceed two thousand rupees per worker employed.

**Cognizance
offences.**

of 23.

- (1) No Court shall take cognizance of any offence punishable under this Act and the rules made thereunder, unless a complaint in respect thereof is made by the Facilitator within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator:

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

- (2) Court of Judicial Magistrate of the First Class shall try any offence punishable under this Act or the rules made thereunder.

**Compounding
offences.**

of 24.

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment alone, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the State Government may, by notification, specify, for a sum amounting to fifty percent of the maximum fine provided for such offence, in the manner as may be prescribed.

- (2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date,-

- (a) of commission of a similar offence which was earlier compounded;
- (b) of commission of similar offence for which such person was earlier convicted.

- (3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the State Government.

- (4) Every application for the compounding of an offence shall be made in such form and manner as may be prescribed.

- (5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

- (6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

- (7) Any person who fails to comply with the order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty percent of the maximum fine provided for the offence, in addition to such fine.
- (8) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.

CHAPTER IX MISCELLANEOUS

25. No suit, prosecution or other legal proceeding shall lie against any public servant or any other person in the service of the Central Government or the State Government, acting under direction of any such public servant, for anything done in good faith or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder. **Protection of action taken in good faith.**
26. The State Government or any officer empowered in this behalf may, by notification, exempt from the operation of all or any of the provisions of this Act for such period as it considers necessary, any shop or establishment or class thereof or any employer or worker or class of employers or workers to whom this Act applies on such terms and conditions as it may think fit. **Power to grant exemption.**
27. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. **Application of other laws not barred.**
28. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act. **Power to make rules.**
- (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 authority to which and the form and manner in which an application shall be made under sub-section (2), the form of Labour Identification Number under sub-section (3), and the manner of obtaining Labour Identification Number under sub-section (4), of Section 5;
 - (b) the measures to be taken by the employer relating to the health and safety (including cleanliness, lighting, ventilation and prevention of fire) of the workers under sub-section (1) of Section 7;
 - (c) the matters to be provided by rules under sub-section (4) of Section 8;
 - (d) the conditions subject to which the provisions of sub-section (1) and sub-section (2) of Section 8 shall apply to certain class of workers under sub-section (5) of that Section;
 - (e) rate of higher amount of wages provided under Section 9;
 - (f) the provision for sufficient latrine and urinals given under Section 13 and the provision of first-aid facility given under Section 15;
 - (g) the qualifications of Facilitators provided under sub-section (1), conditions subject to which a Facilitator shall exercise his powers given under sub-section (4), and other powers exercisable by him given under sub-clause (e) of clause (ii) of sub-section (4), of Section 17;

- (h) the registers and records to be maintained by the employers given under sub-section (1) of Section 18;
- (i) the form and manner (including electronic form) for furnishing of annual return and the authority to such returns shall be furnished under Section 19;
- (j) the manner of compounding of offences given under sub-section (1), and form and manner for making application for such compounding under sub-section (4), of Section 24;
- (k) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made under sub-section (1) and (2) shall be laid before the State Legislative Assembly.
- Power to remove difficulties.** 29. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions which are not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulties:
- Provided that no order shall be made under this Section after the expiry of two years from the date of the commencement of this Act.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislative Assembly.
- Repeal and Saving.** 30. (1) The Chhattisgarh Shops and Establishments Act, 1958 (No. 25 of 1958) is hereby repealed.
- (2) Notwithstanding the repeal of the Act under sub-section (1), anything done or any action taken under the Act so repealed shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act.
- (3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 (No. 10 of 1897) with regard to the effect of repeals.