

THE RAJASTHAN SHOPS & COMMERCIAL ESTABLISHMENTS ACT, 1958

(Act No. 31 of 1958)

[Received the assent of the President on the 24th day of July, 1958]

An act to consolidate and amend the Law relating to the regulation of condition of work and employment in shops and commercial establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops and commercial establishments in the State of Rajasthan.

BE it enacted by the Rajasthan State Legislature in the Ninth Year of the Republic of India as follows:

CHAPTER - I Preliminary

1. **Short title, extent, commencement and application :-** (1) This Act may be called the Rajasthan Shops and Commercial Establishments Act, 1958.
 - (2) It extends to the whole of the State of Rajasthan.
 - (3) It shall come in to force on such date* as the State Government may, by notification in the Official Gazette, appoint in this behalf.
 - (4) It shall apply, in the first instance, to such areas as the State Government may specify by notification in the official Gazette.

* Came into force with effect from 1.6.1959 vide Labour Department Notification No.F. 3 (5) Lab./59 (3550) dated 15.5.1959, pub. in Raj. Gaz. E.O., Part IV-C, dated 16.5.1959.

- (5) The State Government may, after giving three month's notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of the Act or any of them to such other areas as may be specified.

2. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context,-
- (1) **"apprentice"** means a person, aged not less than twelve years, who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;
 - (2) **"closed"** means not open for any purpose whatsoever;
 - (3) **"commercial establishment"** means a commercial or trading or banking or insurance establishment, an establishment or administrative service in which the persons employed are mainly engaged in office work, a hotel, restaurant, boarding or eating house, cafe or any other refreshment house, a theatre or any other place of public amusement or entertainment and includes every such establishment as a State Government may, by notification in the Official Gazette, declare to be a commercial establishment for the purposes of this Act;
 - (4) **"day"** means the period of twenty-four hours beginning at midnight: Provided that in the case of an employee whose hours of work extend beyond midnight, "day" means the period of twenty-four hours beginning from the time when such employment commences irrespective of midnight;
 - (5) **"employee"** means a person wholly or principally employed in, or in connection with any establishment and includes an apprentice but does not include a member of the employer's family; it also includes any clerical or other staff of a factory or industrial establishment who falls outside the purview of the Factories Act, 1948 (Central Act LXIII of 1948);
 - (6) **"employer"** means a person having charge of or owning or having ultimate control over the affairs of an establishment and includes the manager, agent or other person acting in the general management or control of an establishment;
 - (7) **"establishment"** means a shop or a commercial establishment;
 - (8) **"family"** in relation to an employer means the husband or wife, son, daughter, father, mother, brother or sister of such employer who lives with, and is dependent on him;
 - (9) **"Inspector"** means an Inspector appointed under the Act;
 - (10) **"leave"** means leave provided for in Chapter IV of the Act;
 - (11) **"night"** means a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 A.M.;
 - (12) **"opened"** means opened for any purpose whatsoever ;

- (13) “**period of work**” means the time during which an employee is at the disposal of the employer;
- ¹[(14) “**prescribed authority**” means the authority as may be notified by the State Government in the Official Gazette from time to time.]
- (15) “**register of establishments**” means a register maintained for the registration of establishments under this Act;
- (16) “**registration certificate**” means a certificate showing the registration of an establishment.
- (17) “**shop**” means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, store-rooms, godowns or ware-houses, whether in the same premises or otherwise, used in connection with such trade or business but does not include a commercial establishment 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 (Central Act LXIII of 1948);
- (18) “**spread over**” means the period between the commencement and the termination of the work of an employee on any day;
- (19) “**State**” or **State of Rajasthan**” means the new State of Rajasthan as formed by section 10 of the States Re-organisation Act, 1956 (Central Act 37 of 1956);
- (20) “**week**” means the period of seven days beginning at midnight of Saturday or such other day as may be approved in writing for a particular area by the prescribed authority;
- (21) “**year**” means a year commencing on the first day of January.
- 3. Exemptions-** (1) Nothing in this Act shall apply to-
- (a) offices of or under the Central or any State Government or local authorities;
 - (b) offices of the Reserve Bank of India;
 - (c) establishments for the treatment or the care of the infirm, or the mentally unfit;
 - (d) persons whose work is inherently intermittent such as travellers or care-takers;
 - (e) fairs or bazars for the sale of work for charitable or other purposes from which no private profit is derived; and
 - (f) libraries at which the business of lending books or periodicals is not carried on for purposes of gain other than that of making profit for charitable, philanthropic, religious or educational objects.

1. Substituted and shall be deemed always to have been substituted by section 2 of Raj. Act No. 6 of 1983, Published in Raj. Gazette, E.O. Part IV-A, dated 2.4.1983.

- (2) The State Government may, by notification in the Official Gazette, exempt either permanently or for any specified period any establishment or class of establishments or person or class of persons, to which or to whom this Act applies, from all or any of its provisions, subject to such conditions as the State Government may deem fit.

CHAPTER II

Registration of Establishments

4. **Registration of Establishments :-** (1) Within the period specified in sub section (3), the employer of every establishment shall send to the Inspector of the area concerned a statement in the prescribed form, together with such fees as may be prescribed, containing-
- the name of the employer and the manager, if any;
 - the postal address of the establishment;
 - the name, if any, of the establishment; and
 - such other particulars as may be prescribed.
- (2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.
- (3) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1 the statement together with fees shall be sent to the Inspector under sub section (1) :-

Establishments	Date from which the period of 30 days commence
1	2
1. Establishments existing on the date on which this Act comes into force.	The date on which this Act comes into force.
2. New establishments	The date on which the establishment commences its work.

5. **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 4 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 establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

6. **Closing of establishment to be communicated to Inspector-** The employer shall, within ten days of his closing an 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 Hours of Work

7. **Daily & Weekly Hours :-** (1) No employee in any establishment shall be required or allowed to work for more than nine hours in any day and forty-eight hours in any week :

Provided that the total number of hours of work including overtime shall not exceed ten hours in any day except on days of stock taking and preparation of accounts :

Provided further that the total number of over-time hours worked by an employee shall not exceed fifty in a quarter.

- (2) No child between the ages of twelve and fifteen shall be allowed to work in any employment for more than three hours in a day.

8. **Extra wages for over-time work :-** (1) Where an employee works in any establishment for more than nine hours in any day or more than forty eight hours in any week, he shall in respect of such over-time work be entitled to wages at the rate of one and a half times the ordinary rate of wages.

- (2) For the purposes of this section, "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include bonus.

- (3) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food-grains and other articles admissible to a standard family.

Explanation 1- "Standard family" means a family consisting of the employer, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2- "Adult consumption unit" means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rate of 8 and 6 respectively of one adult consumption unit.

- (4) The State Government may make rules prescribing-
- (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed, and

- (b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.
9. **Interval for rest :-** The period of work of an employee in an establishment each day shall be so fixed that no period shall exceed five hours and that no such person shall work for more than five hours before he has had an interval for rest of at least half an hour.
10. **Spread-over :-** The period of work of an employee in an establishment shall be so fixed that, inclusive of his interval of rest, it shall not spread-over more than twelve hours on any day.
11. **Opening and closing hours :-** (1) No establishment shall, on any day, be opened earlier than and closed later than such hour as may be fixed by a general or special order of the State Government made under sub-section (2).
(2) The State Government may, after making an enquiry in the prescribed manner, by general or special order fix the time at which any establishment or class of establishment shall be opened or closed in any local area.
12. **Weekly Holidays: -** (1) Every establishment shall remain closed for 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 six months, and shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.
(2) Notwithstanding anything contained in sub-section (1) the State Government may allow an establishment to remain open throughout the week, if they are satisfied that the establishment employs additional staff for meeting the requirements of sub-section (3).
(3) Every employee in an establishment shall be given at least one whole day in a week as a holiday for rest. This is without prejudice to the existing practice in establishments which allow one and half day's rest.
(4) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his establishment or any other place for any work in connection with the business of his establishment on a weekly holiday or on a day on which such establishment remains closed.
(5) No deductions shall be made from the wages of any employee in any establishment on account of the holiday given to him under sub section (1). If any employee is employed on daily wages, he shall none the less be paid his wages for the weekly holiday.

CHAPTER IV

Annual Leave with Wages

13. **Application of Chapter :-** The provisions of this Chapter shall not operate to the prejudice of any rights to which an employee may be entitled under any other law or under the terms of any award, agreement or contract of service :

Provided that where such award, agreement or contract of service provides for a longer leave with wages or weekly holidays than provided in this chapter the employee shall be entitled to only such longer leave or weekly holidays as the case may be.

14. **Annual Leave with Wages :-** (1) Every employee who has worked for a period of 240 days or more in an 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,— (i) if an adult, one day for every twelve days of work performed by him during the previous calendar year; (ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation 1- For the purpose of this sub-section : (a) any days of lay off, by agreement or contract or as permissible under the standing orders;

- (b) in the case of female employee, maternity leave for any number of days not exceeding twelve weeks; and
(c) the leave earned in the year prior to that in which the leave is enjoyed; shall be deemed to be days on which the employee has worked in an establishment for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

Explanation 2- The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

- (2) An employee whose service commences, otherwise than on the first day of January, shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.
(3) If an employee is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1) even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earn leave.
(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave and fraction of less than half a day shall be omitted.

- (5) If an employee does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child :

Provided further that an employee who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-section (8) and (9) shall be entitled to carry forward the unavailed leave without any limit.

- (6) Any employee may at any time apply in writing to the Manager of the establishment not less than seven days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year :

Provided that the number of times in which leave may be taken during any year shall not exceed six.

- (7) If an employee wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6) and in such a case wages as admissible under section 16 shall be paid not later than fifteen days.
- (8) For the purpose of ensuring continuity of work in an establishment the employer in agreement with the representatives of the employees therein chosen in the prescribed manner, may formulate a scheme in writing whereby the leave allowable under this section may be regulated.
- (9) A scheme formulated under sub-section (8) shall be posted in convenient places in the premises of the establishment and shall be in force for a period of twelve months and may thereafter be renewed, with or without modification, for a further period of 12 months at a time by the employer in agreement with the representatives of the employees as specified in sub-section (8).
- (10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused unless refusal is in accordance with the scheme for the time being in operation under sub-section (8) and (9).
- (11) If the employment of an employee who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the employer before he has taken the entire leave to which he is entitled or if having applied for and having not been granted such leave, the employee quits his employment before he has taken the

leave, the employer shall pay him the amount payable under section 15 in respect of the leave not taken, and such payment shall be made where the employment of the employee is terminated by the employer before the expiry of the second working day after such termination and where any employee quits his employment, on or before the next pay day.

- (12) The unavailed leave of an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

15. Wages during leave period :- (1) For the leave allowed to him under section 14 an employee shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of an advantage accruing through the concessional sale to the employees of foodgrains and other articles.

- (2) The cash equivalent of the advantage accruing through the concessional sale to the employee of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation 1 : "Standard family" means a family consisting of an employee, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2 : "Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rate of 8 and 6 respectively of one adult consumption unit.

- (3) The State Government may make rules prescribing :-

- (a) The manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed, and
(b) The registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this section.

16. Payment of advance in certain cases :- An employee, who has been allowed leave for not less than four days in the case of an adult, and five days in the case of a child, shall before his leave begins be paid the wages due for the period of leave allowed.

17. Mode of recovery of unpaid wages :- Any sum required to be paid by an employer under this chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (Central Act IV of 1936).

18. **Power to make rules :-** The State Government may make rules directing employers to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.
19. **Powers to exempt establishments :-** Where the State Government is satisfied that the leave rules applicable to employees in an establishment provide benefits which in its opinion are not less favourable than those for which this chapter makes provision it may, by written order, exempt the establishment from all of any of the provisions of this chapter subject to such conditions as may be specified in the order.

CHAPTER V

Wages

20. **Application and amendment of the Payment of Wages Act :-**

- (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936), herein referred to as "the said Act," the State Government may, by notification in the Official Gazette, direct that, subject to the provisions of sub-section (2) of the said Act or any of the provisions thereof shall apply to all or any class of employees in an establishment to which this Act applies.
- (2) On the application of the provisions of the said Act to any establishment under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VI

Employment of Children and Women

21. **Prohibition of employment of children :** No child who has not completed the age of twelve shall be required or allowed to work in any establishment.
22. **Employment of women-Prohibition of employment during night :** No woman or child between the age of 12 and 15 shall be required or allowed to work whether as an employee or otherwise, in any establishment during night.
23. **Prohibition of employment during certain periods :** No owner or manager of an establishment shall knowingly employ a woman, and no woman shall engage in employment in any establishment, during the six weeks following the day on which she is delivered of a child.
24. **Right of absence in pregnancy :** (1) If any woman employed in an establishment who is pregnant gives notice either orally or in writing in the prescribed form to the employer that she expects to be delivered of a child within six weeks from the date of such notice, the employer shall permit her, if she so desires, to absent herself from work upto the day of her delivery:
 Provided that the employer may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within six weeks, he may refuse such permission.
- (2) The examination referred to in the proviso to sub-section (1) shall, if the woman so desires, be carried out by a woman.

25. **Maternity leave** : The absence of a woman, during the period she is entitled of maternity benefit under this Act or due to illness medically certified to arise out of pregnancy or confinement, shall be treated as authorised absence on leave.
26. **Maternity benefit** : (1) Every woman employed in an establishment who has been continuously employed in that establishment or in establishments belonging to the owner of that establishment for a period of not less than six months preceding the date of her delivery shall be entitled to receive and the employer shall be liable to make to her, a payment of maternity benefit which shall be prescribed by the State Government for every day during the six weeks immediately preceding and including the day of her delivery and for each day of the six weeks following her delivery :
Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the six weeks preceding her delivery.
- (2) The manner in which the maternity benefit shall be payable, may be prescribed by the State Government.
27. **Intervals for nursing the child** : Any woman employed in an establishment who is delivered of a child shall, while she is nursing her child, be allowed half an hour twice a day during her working hours for this purpose in addition to regular intervals for rest.
28. **Prohibition of dismissal during or on account of absence from work owing to confinement** : (1) When a woman absents herself from work under section 25, it shall be unlawful for the employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.
- (2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman but for such dismissal, would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Inspector is satisfied that her dismissal was without sufficient cause.

¹[CHAPTER VI-A

Dismissal, Discharge & Termination of Service

- 28-A. Notice of Dismissal or Discharge by employer:-** (1) No employer shall dismiss or discharge from his employment any employee who has been in such employment continuously for a period of not less than 6 months except for a reasonable cause and after giving such employee at least one month's prior notice or on paying him one month's wages in lieu of such notice :

Provided that such notice shall not be necessary where the services of such employee are dispensed with for such misconduct, as may be defined in the rules made by the State Government in this behalf, and supported by satisfactory evidence recorded at an enquiry held for the purpose in the prescribed manner.

1. Inserted by section 2 of Rajasthan Act No. 2 of 1972, published in Rajasthan Gazette, Extraordinary, Part IV-A dated 17.3.1972.

- (2) Every employee so dismissed or discharged may make complaint in writing in the prescribed manner to a prescribed authority within 30 days of the receipt of the order of dismissal or discharge on one or more of the following grounds, namely:-
- (a) that there was no reasonable cause for dispensing with his services; or
 - (b) that no notice was served upon him as required by sub-section (1) or
 - (c) that he had not been guilty of any misconduct:
- Provided that the prescribed authority may condone delay in filing such a complaint, if it is satisfied that there was sufficient cause for not making the complaint within the prescribed time.
- (3) The prescribed authority shall cause a notice to be served on the employer relating to the said complaint, record briefly the evidence produced by the parties, hear them and make such enquiry as it may consider necessary and thereafter pass orders in writing giving reasons therefor.
- (4) While passing an order under sub-section (3), the prescribed authority shall have power to give relief to the employee by way of reinstatement or by awarding money compensation or by both.
- (5) The decision of the prescribed authority under this section shall be final and binding both on the employer and the employee.

28-B. Notice of termination of employment by employee :- (1) No employee who has been in continuous employment of an employer for a period of not less than six months shall leave the service of such employer without giving him one month's notice in writing.

- (2) Where an employee contravenes the provision of sub-section (1), his employer may forfeit his unpaid wages for a period not exceeding one month or for the number of days by which the notice falls short of one month or he may apply to the prescribed authority appointed under section 28-A for awarding suitable money compensation against such an employee.]

CHAPTER VII

Enforcement and Inspection

- 29. Enforcement and appointment of Inspectors :-** (1) The State Government may, by notification, appoint such persons or such class of persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.
- (2) The State Government may hand over the administration of this Act, and with it the power to appoint Inspectors, to local authorities generally or to any particular local authority.
- 30. Powers and duties of Inspector :-** Subject to any rules made by the State Government in this behalf, an Inspector may within the local limits for which

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

- (b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary, for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

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

31. **Inspector to be public servant :-** Every Inspector appointed under section 29 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.
32. **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 VIII

Offences, Penalties and Procedure

33. **Penalties-**

- (1) Whoever contravenes any of the provisions of sections 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 23, 24, 25, 26, ¹[28, 28-A and 28-B] shall, on conviction, be punishable with fine which, for first offence may extend to two hundred and fifty rupees and, for a second or any subsequent offence, may extend to five hundred rupees.
- (2) Whoever contravenes any of the provisions of sections 8, 16, 21, 22, 27, 32 and 36 shall, on conviction, be punishable with fine which may extend to fifty rupees.

34. **Procedure :-**

- (1) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector appointed under sec. 29 or except with the previous sanction of the State Government or the local authority as the case may be.
- (2) No court inferior to that of a Magistrate of a second class shall try any offence punishable under this Act or any rules or orders made thereunder.

35. **Limitation of Prosecutions :-** No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

1. Substituted by section 3 of Raj. Act No. 2 of 1972, published in the Rajasthan Gazette, E.O., part IV-A, dated 17.3.1972.

CHAPTER IX
Miscellaneous

36. Maintenance of Registers and records and display of notices :-

Subject to general or special orders of the State Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

37. Saving of certain rights and privileges:-

Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to on the date this Act comes into force under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

38. Application of the Workmen's Compensation Act, 1923 :-

The provisions of the Workmen's Compensation Act, 1923 (Central Act VIII of 1923) and the rules thereunder shall, *mutatis mutandis* apply to every employee of a shop or commercial establishment.

39. Indemnity :-

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.

40. Power to make rules :-

- (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (1) may provide in respect of the health, safety and welfare of employees.
- (3) In making rules under this section, the State Government may provide that a contravention of the rules shall be punishable with fine, which may extend to fifty rupees.
- (4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

41. Repeal :-

On and from the date of commencement of this Act in any area, the enactments specified in the schedule shall stand repealed in so far as they apply to such area :

Provided that anything done in relation thereto under the enactments so repealed, which could have been done under this Act, if it had then been in force in that area, shall be deemed to have been done under this Act.

THE SCHEDULE

(See Section 41)

1. The Weekly Holidays Act, 1942 (Central Act XVIII of 1942).
2. The Ajmer Shops and Commercial Establishments Act, 1956.
3. The Madhya Bharat Shops and Establishments Act, Samvat 2009 (1952 A.D) in so far as it applies to the Sunel Tappa of Bhanpura tehsil of Mandsaur district in the pre-reorganisation State of Madhya Bharat.
4. The Bombay Shops and Establishments Act, 1948 in so far as it applies to the Abu Road taluka of Banaskantha district in the pre-reorganisation State of Bombay.
5. All corresponding laws in force in any part of the State of Rajasthan.

THE RAJASTHAN SHOPS AND COMMERCIAL ESTABLISHMENTS

(AMENDMENT AND VALIDATION) ACT, 1982

(Act No. 6 of 1983)

[Received the assent of the President on the 23rd day of March, 1983]

An Act further to amend the Rajasthan Shops and Commercial Establishment Act, 1958 and to validate the constitution and appointment of the prescribed authorities and the proceedings, judgments and orders taken before or made by those authorities under the said Act.

Be it enacted by the Rajasthan State Legislature in the Thirty-third year of the Republic of India, as follows :-

1. Short title-

This Act may be called the Rajasthan Shops and Commercial Establishments (Amendment and Validation) Act, 1982.

2. Amendment of section 2, Rajasthan Act 31 of 1958.-

Clause (14) of section 2 of the Rajasthan Shops and Commercial Establishments Act, 1958 (Rajasthan Act 31 of 1958), hereinafter referred to as the said Act, shall be, and shall be deemed always to have been substituted by the following, namely:-

“(14) “prescribed authority” means the authority as may be notified by the State Government in the Official Gazette from time to time.”

3. Validation of Proceedings taken and decisions made by the prescribed authorities-

Notwithstanding anything contained in the said Act or in any other enactment or any rule or Notification made or issued thereunder or in any judgment, decree, order or decisions of any court or tribunal :-

- (a) all prescribed authorities constituted or appointed under the said Act by the State Government from time to time before the commencement

- of this Act, shall be, and shall be deemed always to have been validly constituted and duly appointed under the said Act;
- (b) all decisions given by such prescribed authorities in any proceedings before the commencement of this Act, shall be deemed always to have been validly given by them as the prescribed authorities of competent jurisdiction under the said Act;
 - (c) all proceedings taken before the commencement of this Act in the cases before such prescribed authorities, whether finally disposed of or pending, shall be deemed always to have been validly taken before the prescribed authorities of competent jurisdiction;
 - (d) no proceedings, whether finally disposed of by, or pending before such prescribed authorities shall be called in question on the ground that such authorities were not validly constituted or duly appointed under the said Act or the rules or notifications made or issued thereunder;
 - (e) all prescribed authorities appointed under the said Act, or the rules or notifications made or issued thereunder and functioning as such at the commencement of this Act, shall be deemed to have been validly constituted and duly appointed and shall continue to function as prescribed authorities of competent jurisdiction till any re-constitution or re-appointment is duly made under the law for the time being in force.
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