THE ANDHRA PRADESH SHOPS & ESTABLISHMENTS ACT, 1988

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THE ANDHRA PRADESH SHOPS & ESTABLISHMENTS ACT, 1988

Reserved by the Governor on the 19th August, 1986 for the consideration and assent of the President. Received the assent of the President on the 18th July, 1988 and first published on the 26th July, 1988 in the Andhra Pradesh Gazette, Part-IV-B (Ext.).

Act No. 20 of 1988

An Act to consolidate and amend the Law relating to the regulation of conditions of work and employment in Shops, Commercial Establishments, Restaurants, Theatres and other Establishments and for matters connected therewith.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-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 Andhra Pradesh Shops and Establishments Act, 1988.

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

(3) It shall come into force on such date as the Government may, by notification, appoint.[1]

(4) It shall apply—

(i) in the first instance to all areas in which the Andhra Pradesh Shops and Establishments Act, 1966 was in force immediately before the commencement of this Act;

(ii) [2]to such other areas in the State on such date as the Government may, by notification, specify.

2. Definitions

In this Act unless the context otherwise requires,—

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

(2) 'Chief Inspector' means the Chief Inspector appointed under Section 57;

(3) 'child' means a person who has not completed fourteen years of age;

(4) 'closed' means not open for the service of any customer, or for any trade or business or for any other purpose connected with the establishment except loading, unloading and annual stock-taking;

(5) 'commercial establishment' means an establishment which carries on any trade, business, profession or any work in connection with or incidental or ancillary to any such trade, business or profession or which is a clerical department of a factory or an industrial undertaking or which is a commercial or trading or banking or insurance establishment and includes an establishment under the management and control of a co-operative society, an establishment of a factory

or an industrial undertaking which falls outside the scope of the Factories Act, 1948 (Central Act 63 of 1948), and such other establishment as the Government may, by notification, declare to be a commercial establishment for the purposes of this Act but does not include a shop;

(6) '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;

(7) 'dependent' means, in relation to a deceased employee, his nominee or in the absence of such nominee, the heir or legal representative;

(8) 'employee' means a person wholly or principally employed in, and in connection with any establishment and includes an apprentice and any clerical or other staff of a factory or an industrial establishment who fall outside the scope of the Factories Act, 1948 (Central Act 63 of 1948); but does not include the husband, wife, son, daughter, father, mother, brother or sister of an employer or his partner, who is living with and depending upon such employer or partner and is not in receipt of any wages;

(9) '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 management or control of an establishment;

(10) 'establishment' means a shop, restaurant, eating-house, residential hotel, lodging house, theatre or any place of public amusement or entertainment and includes a commercial establishment and such other establishment as the Government may, by notification, declare to be an establishment for the purposes of this Act;

(11) 'factory' means factory within the meaning of the Factories Act, 1948 (Central Act, 63 of 1948);

(12) 'Government' means the State Government;

(13) 'Inspector' means an Inspector appointed under Section 57;

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

(15) 'opened' means opened for the service of any customer or for any trade or business connected with the establishment;

(16) 'periods of work' mean the time during which an employee is at the disposal of the employer;

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

(18) 'register of establishment' means a register maintained for the registration of establishments under this Act;

(19) 'registration certificate' means a certificate issued under this Act;

(20) 'service compensation' means the service compensation payable under Section 47;

(21) 'shop' means any premises where any trade or business is carried on or where services are rendered to customers and includes a shop run by a co-operative society, an office, a storeroom, godown, warehouse or work place whether in the same premises or otherwise, used in connection with such trade or business and such other establishments as the Government may, by notification declare to be a shop for the purposes of this Act, but does not include a commercial establishment;

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

(23) 'wages' means every remuneration, whether by way of salary, allowance, 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 an employee in respect of his employment or of work done in such employment, and includes—

(a) any remuneration payable under any settlement between the parties or order of a Tribunal or Court;

(b) any remuneration to which the employee is entitled in respect of overtime work or holidays or any leave period;

(c) any additional remuneration payable under the terms of employment, whether called a bonus or by any other name;

(d) any sum which by reason of the termination of employment of the employee is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

(e) any sum to which the employee is entitled under any scheme framed under any law for the time being in force; but does not include,—

(i) any bonus, whether under a scheme of profit sharing or otherwise, 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 order of a Court;

(ii) the value of any house 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 Government;

(iii) any contribution paid by the employer to any person or provident fund, and the interest which may have accrued thereon;

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

(v) any sum paid to the employee to defray special expenses entailed on him by the nature of his employment;

(vi) any service compensation payable on the termination of employment in cases other than those specified in sub-clause (d);

(vii) the subscription paid by the employee to life insurance and the contribution paid by the employer to the life insurance of the employee under the provisions of this Act and the bonus which may have accrued thereon; or

(viii) house rent allowance payable by the employer;

(24) 'Week' means a period of seven days beginning at midnight on Saturday;

(25) 'Young person' means a person who is not a child and has not completed eighteen years of age.

CHAPTER II

Registration of Establishments

3. Registration of Establishments

(1) Every employer of an establishment shall

(i) in the case of an establishment existing on the date of commencement of this Act, within thirty days from that date; and

(ii) in the case of a new establishment, within thirty days from the date on which the establishment commences its work, send to the Inspector concerned a statement, containing such particulars, together with such fees, as may be prescribed.

(2) On receipt of such statement, the Inspector shall register the establishment in the register of establishments in such manner as may be prescribed and shall issue in the prescribed form a registration certificate to the employer who shall display it at a prominent place of the establishment.

(3) Every registration certificate issued under sub-sec. (2), shall be valid with effect from the date on which it is issued upto the 31st day of December following.

(4) Every employer shall give intimation to the Inspector, in the prescribed form, any change in any of the particulars in the statement made under sub-section (1) within fifteen days after the change has taken place. The Inspector shall, on the receipt of such intimation and the fees prescribed thereof make the change in the register of establishments in accordance with such intimation and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

(5) The employer shall, within fifteen days of the closure of the establishment, give intimation thereof in writing to the Inspector, who shall, on receipt of such intimation, remove the name of the establishment from the register of establishments and cancel the registration certificate:

Provided that, where the Inspector is satisfied otherwise than on receipt of such intimation, that the establishment has been closed, he shall remove the name of such establishment from the register and cancel the registration certificate.

4. Renewal of Registration Certificate

(1) The Inspector may, on an application made by the employer accompanied by the fees prescribed therefor, renew the registration certificate for a period of one year or for such number of years as may be prescribed, commencing from the date of its expiry.

(2) Every application for the renewal of the registration certificate shall be made in such form and in such manner as may be prescribed so as to reach the Inspector not later than thirty days before the date of its expiry:

Provided that, an application for the renewal of a registration certificate received not later than thirty days after its expiry may be entertained by the Inspector on the applicant paying such penalty as may be prescribed, by the Government from time to time.

(3) An applicant for the renewal of a registration certificate under sub-section (2) shall, until communication of orders on his application, be entitled to act as if the registration certificate had been renewed.

5. Revocation or suspension of the Registration Certificate

(1) If the Inspector is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) the Registration Certificate granted under Section 3 or renewed under Section 4 has been obtained by misrepresentation, fraud or suppression of any material fact; or

(b) the employer has wilfully contravened any of the provisions of this Act or the rules made thereunder,

the Inspector may without prejudice to any other penalty to which the employer may be liable under this Act, revoke or suspend the Registration Certificate, after giving the employer an opportunity of showing cause.

6. Appeal against revocation or suspension of the Registration Certificate

(1) Any person aggrieved by an order made under Section 5 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority as may be prescribed:

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

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within two months.

CHAPTER III

Shops

7. Opening and closing hours of shops

(1) No shop shall on any day be opened earlier or closed later than such hour as may, after previous publication, be fixed by the Government by general or special order in that behalf:

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

(2) The Government may, for the purposes of this section, fix different hours for different classes of shops or for different areas or for different times of the year.

8. Selling outside prohibited, before opening and after closing hours of shops

No person shall carry on, in or adjacent to, a street or public place, the sale of any goods, before the opening and after the closing hours fixed under Section 7 for the shops dealing in any kind of goods in the locality in which such street or public place is situated:

Provided that, nothing in this section shall apply to the sale of—

(i) newspapers;

(ii) flowers;

(iii) pan;

(iv) vegetables and fruits;

(v) such other goods as the Government may, by notification specify from time to time.

9. Daily and weekly hours of work in shops

(1) Subject to other provisions of this Act, no employee in any shop shall be required or allowed to work therein for more than eight hours in any day and forty-eight hours in any week.

(2) Any employee may be required or allowed to work in a shop for any period in excess of the limit fixed under sub-section (1), on payment of overtime wages, subject to a maximum period of six hours in a week.

(3) For the purpose of stock-taking and preparation of accounts, an employer may, with the previous intimation to the Inspector, require or allow any employee to work in a shop for not more than any six days in a year in excess of the period fixed in sub-section (1), on payment of overtime wages; so however, that the excess period shall not in aggregate, exceed twenty-four hours.

10. Interval for rest

No employee in any shop shall be required or allowed to work therein for more than five hours in any day unless he has had an interval for rest of at least one hour:

Provided that, an employee who was serving a customer at the commencement of the interval may be required to serve him during the quarter of an hour immediately following such commencement.

11. Spread-over periods of work

The periods of work of an employee in a shop shall be so arranged that along with his intervals for rest, they shall not spread-over for more than twelve hours in any day:

Provided that where an employee works on any day for the purpose of stock-taking and preparation of accounts, the spread-over shall not exceed fourteen hours in any such day on payment of overtime wages.

12. Closing of shops and grant of holidays

(1) Every shop, whether with or without employees, shall remain closed on every Sunday which shall be a holiday for every employee in the shop:

Provided that the Chief Inspector may, by notification, specify in respect of any shop or class of shops or in respect of shops or class of shops in any area, any day in the week instead of Sunday on which day such shop or class of shops shall remain closed.

(2)(2)

(a) The Chief Inspector may, by notification require in respect of any specified class of shops, that they shall in addition to the weekly holiday mentioned in sub-section (1), be closed for one half day in a week, as may be fixed by the Government.

(b) Every employee in any shop to which a notification under Clause (a) applies, shall be allowed in each week an additional holiday of one half day fixed for the closing of the shop under Clause (a).

(3) The Chief Inspector may, for the purposes of sub-section (2), fix different hours for different classes of shops or for different areas or for different times of the year.

(4) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (2) shall be specified by the employer in a notice prominently exhibited in a conspicuous place in the shop.

(5) It shall not be lawful for the employer to call an employee at or for the employee to go to his shop or any place for any work in connection with the business of his shop on any day or part of the day on which it has remained closed.

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

13. Closing of shops in public interest during special occasions

In addition to the holidays mentioned in Section 12, the Chief Inspector may, by notification and with the previous approval of the Government, require in respect of any specified class of shops that they shall be closed on any specified day or days in the public interest.

CHAPTER IV

Establishments other than Shops

14. Application of this chapter to establishments other than shops

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

15. Opening and closing hours

(1) No establishment shall on any day be opened earlier, or closed later, than such hour as may, after previous publication, be fixed by the Government by general or special order in that behalf:

Provided that, in the case of a restaurant or eating-house, any customer who was being served or was waiting to be served therein at the hour fixed for its closing may be served during the quarter of an hour immediately following such hour.

(2) The Government may, for the purposes of this section fix different hours for different classes of establishments or for different areas or for different times of the year.

16. Daily and weekly hours of work

(1) Subject to the provisions of this Act, no employee in any establishment shall be required or allowed to work therein for more than eight hours in any day and forty-eight hours in any week.

(2) Any employee may be required or allowed to work in an establishment for any period in excess of the limit fixed under sub-section (1), on payment of overtime wages, subject to a maximum period of six hours in any week.

(3) For the purposes of stock-taking and preparation of accounts, an employer may, with the previous intimation to the Inspector, require or allow any employee to work in an establishment for not more than any six days in a year, in excess of the period fixed in sub-section (1) on payment of overtime wages; so however, that the excess period shall not, in the aggregate, exceed twenty-four hours.

17. Interval for rest

No employee in any establishment shall be required or allowed to work in such establishment for more than five hours in any day unless he has had an interval for rest of at least one hour:

Provided that the Chief Inspector may, in the case of an establishment whose daily hours of work are less than eight hours reduce interval for rest to half-an-hour on an application made by the employer, with the consent of the employees.

18. Spread over of periods of work

The periods of work of an employee in an establishment shall be so arranged that, along with his interval for rest, they shall not spread-over for more than twelve hours on any day:

Provided that, where an employee works on any day for the purpose of stock-taking and preparation of accounts the spread-over shall not exceed fourteen hours on any such day on payment of overtime wages.

19. Holidays

(1) Every employee in any establishment shall be allowed in each week a holiday of one whole day:

Provided that, nothing in this sub-section shall apply to any employee whose total period of employment in the week, including any days spent on authorised leave is less than six days.

(2) The Government may, by notification, require in respect of any specified class of establishments that every employee therein shall be allowed in each week an additional holiday on one half-day commencing at such hour in the afternoon as may be fixed by the Government.

(3) The Government may, for the purposes of sub-section (2) fix different hours for different classes of establishments or for different areas or for different times of the year.

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

(5) It shall not be lawful for the employee to call an employee at or for the employee to go to, his establishment or any other place for any work in connection with the business of his establishment on any day or part of a day on which a holiday has been allowed in accordance with this section.

CHAPTER V

Employment of women, children and young persons

20. Children not to work in establishment

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

21. Special provision for young persons

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

22. Daily and weekly hours of work for young persons

Notwithstanding anything in this Act, no young person shall be required or allowed to work in any establishment for more than 7 hours in any day and forty-two hours in any week nor shall such person be allowed to work overtime.

23. Special provision for women

No woman employee shall be required or allowed to work in any establishment before 6-00 a.m. and after 8-30 p.m.

24. Maternity leave

The periods of absence from duty in respect of which a woman employee is entitled to maternity benefit under Section 25, shall be treated as authorised absence from duty, and the woman employee shall be entitled to maternity benefit, but not to any wages for any of those periods.

25. Maternity benefit

Every woman who has been for a period not less than six months preceding the date of her delivery in continuous employment of the same employer whether in the same or different shops or commercial establishments, shall be entitled to receive from her employer for the period of—

(a) six weeks immediately preceding the day of delivery; and

(b) six weeks following the day of; such maternity benefit and in such manner as may be prescribed:

Provided that, no woman employee shall be entitled to receive such benefit for any day during any of the aforesaid periods, on which she attends work and receive wages thereof.

CHAPTER VI

Health and Safety

26. 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.

27. Ventilation

The premises of every establishment shall be ventilated as provided for in the laws relating to the municipalities, gram panchayats or other local authorities for the time being in force.

28. Precautions for the safety of employees in establishments

(1) In every establishment other than such establishment or class of establishments as the Government, may, by notification, specify, such precautions against fire shall be taken as may be prescribed.

(2) If power-driven machinery is used, or any process which, in the opinion of the Government, is likely to expose any employee to serious risk of bodily injury is

carried on in any establishment, such precautions including the keeping of first aid box shall be taken by the employer for the safety of the employees therein, as may be prescribed.

29. Maximum permissible load

(1) No employee in any establishment shall be required or allowed to engage in the manual transport of a load therein which by reason of its weight is likely to jeopardise his health or safety.

(2) The Government may, for the purposes of this section prescribe different maximum limits of weight, for different classes of employees in any establishment.

Explanation:- For the purposes of this section, the term 'manual transport of load' means any transport in which the weight of the load is wholly borne by one employee, inclusive of the lifting and putting down of load.

CHAPTER VII

Leave and Holidays with Wages and Insurance Scheme for Employees

30. Leave

(1) Every employee who has served for a period of two hundred and forty days or more during a continuous period of twelve months in any establishment shall be entitled during the subsequent period of twelve months, to leave with wages for a period of fifteen days, provided that such leave with wages may be accumulated upto a maximum period of sixty days:

Provided that any continuous period of service in an establishment preceding the date on which this Act applies to that establishment shall also count:

Provided further that any leave accumulated by an employee in an establishment under the law applicable to that establishment preceding the date on which this Act applies to it, shall not be affected:

Provided also that every employee in any shop or establishment shall be entitled for encashment of the leave with wages for a period of eight days in every year.

(2) An employee may apply in writing to the employer, not less than seven full working days before the date of availing himself of his leave, to allow all the leave or any portion thereof, to which he is entitled under sub-section (1):

Provided that the number of instalments for taking leave shall not exceed three during a period of twelve months.

(3) An employee who has been allowed leave for not less than five days under sub-section (2) shall, before his leave begins, be paid the wages due for the period of the leave allowed if, he makes a request therefor.

(4) Every employee who has served for a period of not less than two hundred and forty days during a continuous period of twelve months in any establishment shall be entitled for encashment of eight days of leave with wages that has accrued to him under sub-section (1) during the subsequent period of twelve

months. The employer shall pay to the employee the wages for the leave so encashed by the employee within a week of receipt of the application for such encashment from the employee.

(5) Every employee in any establishment shall also be entitled during his first twelve months of continuous service and during every subsequent twelve months of such service

(a) to leave with wages for a period not exceeding twelve days on the ground of any sickness or accident, and

(b) to casual leave with wages for a period not exceeding twelve days or any reasonable ground.

(6) Every employee in an establishment after he has put in not less than six months of service under the same employer shall also be entitled for a special casual leave not exceeding six days only once during his entire service, if he has undergone vasectomy or tubectomy operation, subject to the production of a certificate therefor from an authorised medical practitioner under whom he has undergone the operation.

(7) If any employee entitled to any leave under sub-section (1) is discharged by his employer before he has been allowed such leave, or if the leave applied for by such employee has been refused and if he quits his employment before he has been allowed the leave, the employer shall pay him the amount, payment under this Act in respect of the period of leave.

(8) If an employee is lawfully discharged by his employer when he is sick or suffering from the result of an accident, the employer shall pay him an amount payable under this Act in respect of the period of leave to which he was entitled at the time of his discharge in addition to the amount, if any, payable to him under sub-section (3).

(9) An employee in a hostel attached to a school or college or in an establishment maintained in connection with the boarding and lodging of pupils and resident masters, shall be allowed the privileges referred to in sub-sections (1) to (8), reduced however proportionately to the period for which he was employed continuously in the previous year or to the period for which he will be employed continuously in the current year, as the case may be; and all references to the periods of leave in sub-sections (1) and (5) shall be construed accordingly, fractions of less than half a day being disregarded.

31. Other Holidays

(1) Every employee in any establishment shall also be entitled to nine holidays in a year with wages on the days to be specified by notification, from time to time, by the Government which shall include the 26th January (Republic Day), 1st May (May Day), 15th August (Independence Day), 2nd October (Gandhi Jayanthi) and 1st November (Andhra Pradesh Formation Day) and on every such holiday, all the establishments, either with or without employees shall remain closed.

(2) Notwithstanding anything contained in sub-sec.(1) the Chief Inspector may, having due regard to any emergency or special circumstances prevailing in the

State or any part thereof, notify any other day or days as holidays with wages to employees or class of employees as he may deem fit. The holidays so notified shall be deemed to be additional holidays:

Provided that, any such employee in any residential hostel, restaurant, eating-house, theatre, or any place of public amusement or entertainment may be required to work in such establishment on any such holiday declared under sub-section (1) or sub-section (2), subject to the condition that in lieu thereof, a compensatory holiday with wages shall be allowed to such person within thirty days from the date of such holiday;

Provided further that, such compensatory holidays shall not exceed seven in a year and where any such employee in any such establishment is required to work on any such compensatory holiday he shall be paid additional wages at the ordinary rate of wages in lieu of such holiday.

(3) Nothing in sub-section (1) shall apply in respect of any establishment where the number of holidays with wages allowed by the employer is more than the holidays notified by the Government under that sub-section:

Provided that, every such employer shall send a list of holidays with wages allowed by him, which shall include the five holidays specified in sub-section (1), to the Inspector and to the Chief Inspector and shall also display the list at a prominent place of the establishment.

32. Pay during leave and holidays

Every employee shall, for the period of the leave allowed under sub-sections (1) and (5) of Section 30 or the holidays allowed under Section 31 be paid at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding month exclusive of any earning in respect of overtime.

33. Power to increase the period of leave allowable under Section 30

Notwithstanding anything in Section 30, the Government may, by notification increase the total number of days of leave allowable under sub-sec. (1) of that section and the maximum number of days upto which such leave may be accumulated in respect of any establishment or class of establishments.

34. Compulsory enrolment of employees to Insurance -cum-Savings Scheme

(1) Every employee who has served in an establishment for a period of not less than one year shall subscribe to the Insurance Scheme or Insurance-cum-saving Scheme, as may be notified by the Government, to be applicable to the establishment in which the employee is working, at the rates, stipulated by the Government in the notification either in lumpsum every year or in monthly instalments, as may be prescribed by the Government in the notification. For this purpose the employer shall make the payment to the authority notified by the Government on behalf of the employee on or before the stipulated date and recover the same from the wages payable to the employee.

(2) In addition to the subscription of the employee mentioned in sub-section (1), every employer of the establishment to which the scheme of insurance or insurance-cum-savings is made applicable by the Government, shall also pay

such percentage of annual wages of employee as may be notified by the Government, from time to time to the authority notified for the purpose as employer's contribution on or before the specified date every year.

CHAPTER VIII

Wages, Conditions for termination of services, appeals, suspension and terminal benefits

35. Responsibility for payment of wages

Every employer shall be responsible for the payment by him to employees of all wages and sums, required to be paid under this Act.

36. Fixation of wage period

(1) Every employer shall fix periods (hereinafter referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

37. Wages for overtime work

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

Provided that, where the normal hours of work in an establishment are ordinarily less than eight hours a day and 48 hours a week, he shall be entitled in respect of work in excess of such normal hours upto eight hours a day and forty eight hours a week to wages at the ordinary rate of wages and in respect of work in excess of eight hours a day and forty eight hours a week at twice the ordinary rate of wages, in addition to the wages for the normal hours of work.

Explanation:- For the purpose of this section, the expression 'ordinary rate of wages' shall mean such rate of wages as may be calculated in the manner prescribed.

38. Time of payment of wages

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

(2) Where the service of any employee is terminated by or on behalf of the employer the wages earned by such employee shall be paid before the expiration of the second working day from the day on which his employment is terminated.

(3) The Government may, by general or special order and for reasons stated therein, exempt an employer from the operation of this section in respect of the wages of any employee or class of employees to such extent and subject to such conditions as may be specified in the order.

(4) All payments of wages shall be made on a working day.

39. Wages to be paid in current coin or currency notes

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

40. Deductions which may be made from wages

(1) The wages of an employee shall be paid to him without deduction of any kind except those authorised by or under this Act.

Explanation: - Every payment made by an employee to the employer shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employee shall be made only in accordance with the provisions of this Act and may be of the following kinds only, namely:-

(a) fines and other penalties lawfully imposed;

(b) deductions for absence from duty;

(c) deductions for damages to, or loss of goods expressly entrusted to the employee for custody or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house accommodation provided by the employer;

(e) deductions for such amenities and services supplied by the employer as the Government may, by general or special order, authorise;

(f) deductions for recovery of advances or for adjustment of over payments of wages;

(g) deductions of income tax or profession tax payable by the employee;

(h) deductions required to be made by order of a Court or other authority competent to make such order;

(i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925 applies or any recognised provident fund as defined in Section 2 (38) of the Income-Tax Act, 1961, or any provident fund approved in this behalf by the Government during the continuance of such approval;

(j) deductions for payments to co-operative societies approved in this behalf by the Government or any officer authorised by them in this behalf or to a scheme of insurance maintained by the Indian Post Office or the Life Insurance Corporation of India established under Life insurance Corporation Act, 1956;

(k) deductions made with the written authorisation of the employee in furtherance of any savings scheme approved by the Government or the purchase of securities of the Central or State Government.

41. Fines

(1) No fine shall be imposed on any employee, save in respect of such acts and omissions on his part as the employer, with previous approval of the Government or of the prescribed authority, may have specified by notice, under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on.

(3) No fine shall be imposed on any employee until he has been given an opportunity of showing cause against the fine or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage period on any employee shall not exceed an amount equal to three paise in the rupee of the wages payable to him in respect of that wage period.

(5) No fine shall be imposed on any employee who has not completed the age of fifteen years.

(6) No fine imposed on any employee shall be recovered from him after the expiration of sixty days from the day on which it was imposed.

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

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the employees in the establishment as are approved by the prescribed authority.

Explanation: When the employees are only part of a staff employed under the same management all such realisations may be credited to a common fund maintained for staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

42. Deductions for absence from duty

(1) Deductions may be made under Clause (b) of sub-section (2) of Section 40 only on account of the absence of an employee from the place or places where by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employee in respect of the wage period for which the deduction is made, a larger proportion than the period for which he was absent bears to the total period, within such wage-period during which by the terms of this employment, he was required to work:

Provided that, subject to any rules made in this behalf by the Government, if ten or more employees acting in concert absent themselves without due notice, that is to say, without giving the notice which is required under the terms of their contract of employment and without reasonable cause, such deduction from any such employee may include such amount not exceeding his wages for four days as may, by any such terms, be due to the employer in lieu of due notice.

Explanation: For the purpose of this section, an employee shall be deemed to be absent from the place where he is required to work, if, although present in such place he refuses, in pursuance of a stay in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

43. Deductions for damage or loss

(1) A deduction under Clause (c) of sub-section (2), of Section 40 shall not exceed in respect of the damage of goods, one half of the amount of such damage and in respect of loss of goods or money, the amount of such loss caused to the employer by negligence or default of the employee and shall not be made until the employee has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realizations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

44. Deductions for Services rendered

A deduction under Clause (d) or Clause (e) of sub-section (2) of Section 40 shall not be made from the wages of an employee unless the house accommodation, amenity or service has been accepted by him as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and in the case of a deduction under the said Clause (e) it shall be subject to such conditions, as the Government may impose.

45. Deductions for recovery of advances

Deductions under Clause (f) of sub-section (2) of Section 40 shall be subject to the following conditions, namely:-

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage period, but no recovery shall be made of such advance given for travelling expenses;

(b) recovery of advances of wages not already earned shall be subject to any rules made by the Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

46. Deductions for payments to co-operative societies and insurance schemes etc

Deductions under Clause (j) and Clause (k) of sub-section (2) of Section 40 shall be subject to such conditions as the Government may impose.

47. Conditions for terminating the services of an employee, payment of service compensation for termination, retirement, resignation, disablement, etc., and payment of subsistence allowance for the period of suspension

(1) No employer shall, without a reasonable cause, terminate the service of an employee who has been in his employment continuously for a period of not less than six months without giving such employee at least one month's notice in writing or wages in lieu thereof and in respect of an employee who has been in his employment continuously for the period of not less than one year, a service compensation amounting to fifteen days average wages for each year of continuous employment:

Provided that every termination shall be made by the employer in writing and a copy of such termination order shall be furnished to the Inspector having jurisdiction over the area within three days of such termination.

(2) The service of an employee shall not be terminated by the employer when such employee made a complaint to the Inspector regarding the denial of any benefit accruing to him under any labour welfare enactment applicable to the establishment and during the pendency of such complaint before the Inspector. The services of an employee shall not also be terminated for misconduct except for such acts or omissions and in such manner as may be prescribed.

(3) Every employee who has put in a continuous service of not less than one year shall be eligible for service compensation amounting to fifteen days average wages for each year of continuous employment, (i) on voluntary cessation of his work after completion of 60 years of age, (iii) on his resignation, or (ii) on physical or mental infirmity duly certified by a Registered Medical Practitioner or (iv) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of one year shall not be necessary where the termination of the employment of an employee is due to death or disablement;

Provided further that in case of death of an employee, service compensation payable to him shall be paid to his nominee or if no nomination has been made to his legal heir.

(4) Where a service compensation is payable under this section to an employee, he shall be entitled to receive his wages from the date of termination or cessation of his services until the date on which the service compensation so payable is actually paid.

(5) The payment of service compensation under this section shall not apply in cases where the employee is entitled to gratuity under the Payment of Gratuity Act, 1972 and gratuity has been paid accordingly consequent on the termination or cessation of service.

(6) Where an employee is placed under suspension pending enquiry into grave misconduct, the employer shall pay a subsistence allowance equivalent to fifty per cent of the last drawn wage for the first six months and at seventy five per cent of the last drawn wage beyond six months during the period of suspension. The total period of suspension shall not however exceed one year in any case. If the misconduct is not established or the total period of suspension exceeds one year, the employee shall be entitled to full wages during suspension period and the period of suspension shall be treated as on duty.

Explanation: -

(1) For the purposes of this section

(a) the term ‘employee’ shall include part-time employee also;

(b) the expression ‘average wages’ means the daily average of wages for the days an employee actually worked during the thirty days immediately preceding the date of termination or cessation of service;

(c) the expression 'wages' does not include overtime wages;

(d) an employee in an establishment shall be deemed to have been in continuous employment for a period of not less than six months if he has worked for not less than one hundred and twenty days in that establishment within a period of six months immediately preceding the date of termination or cessation of the service of that employee;

(e) Where the total continuous employment is for a fraction of a year or extends over a fraction of a year in addition to one or more completed years of continuous employment, such fraction, if it is not less than a half year shall be counted as a year of continuous employment in calculating the total number of years for which the service compensation is to be given;

(f) the service compensation of an employee whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of property belonging to the employer, shall be forfeited to the extent of the damage or loss caused;

(g) 'disablement' means such disablement which incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) An employee who has completed the age of sixty years or who is physically or mentally unfit having been so declared by a Registered Medical Practitioner or who wants to retire on medical grounds or to resign his service, may give up his employment after giving to his employer notice of atleast fifteen days and where no such notice is given, the service compensation payable to him shall be forfeited to the extent of fifteen days in lieu of the notice.

48. Appointment of authority to hear and decide appeals arising out of termination of services

(1)

(a) The Chief Inspector may, by notification, appoint for any area as may be specified therein, any authority to hear and decide appeals arising out of the termination of service of employee under Section 47;

Provided that the Chief Inspector may on administrative grounds transfer any appeal arising in the territorial jurisdiction of any authority to the file of another authority for disposal, and such authority to whom the appeal is transferred by the Chief Inspector shall dispose of the appeal so transferred.

(b) Any employee whose services have been terminated may appeal to the authority concerned within such time and in such manner as may be prescribed.

(2) The appellate authority may, after inquiry in the prescribed manner, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period 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;

Provided that the authority concerned shall, without delay, hear such appeal and pass such orders within a period of three months from the date of receipt of such appeal;

Provided further that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing extend such period by such further period as it may think fit;

Provided also that no proceedings before such authority shall lapse merely on the grounds that any period specified in this sub-section had expired without such proceedings being completed.

(3) Against any decision of the authority under sub-section (2), a second appeal shall lie to such authority as may be notified by the Government within thirty days from the date of communication of the decision and the decision of such authority on such appeal shall be final and binding on both the employer and the employee and shall be given effect to within such time as may be specified in the order of that Authority:

Provided that the second appeal shall not be entertained unless the employer deposits the entire amount of back wages as ordered by the appellate authority under sub-section (2) or the amount of compensation ordered as the case may be:

Provided further that if the second appeal is against the order of reinstatement given by the appellate authority under sub-section (2), the employee shall be entitled to wages last drawn by him during the pendency of the proceedings before the appellate authority.

(4) Where in any case, an appellate authority by its award directs reinstatement of any employee and the employer challenges such award in any Court of Law, the employer shall be liable to pay such employee during the pendency of such proceedings, full wages last drawn by him, if the employee had not been employed in any establishment during such period and an affidavit by such employee had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the Court that such employee has been employed and has been receiving remuneration during any such period or part thereof the Court shall order that no wage shall be payable under this section for such period or part, as the case may be.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the authority appointed under sub-section (1) is a Magistrate, by the authority, as if it were a fine imposed by him as Magistrate ; and

(b) if the authority is not a Magistrate, by any Magistrate, to whom the authority makes application in this behalf as if it were a fine imposed by such Magistrate.

49. Notice and payment of service compensation to employees in the case of transfer of establishment

Where the ownership or management of an establishment is transferred, whether by agreement or by operation of law, from the employer in relation to that establishment to a new employer, every employee who has been in continuous employment for not

less than six months in that establishment immediately before such transfer shall be entitled to the notice and the service compensation in accordance with the provisions of sub-section (1) of Section 47:

Provided that nothing in this section shall apply to an employee in any case where there has been a change of employers by reason of the transfer, if—

(a) the employment of the employee has been interrupted by such transfer ;

(b) the terms and conditions of employment applicable to the employee after such transfer are not in any way less favourable to that employee than those applicable to him immediately before such transfer: and

(c) the new employer is under the terms of such transfer or otherwise, legally liable to pay to the employee in the event of termination of his services, service compensation on the basis that his employment has been continued and has not been interrupted by the transfer.

CHAPTER IX
Appointment, powers and duties etc., of the Authority to hear and decide claims relating to wages etc., of Employees in Establishments

50. Appointment of authority to hear and decide claims relating to wages, etc.

The Government may, by notification, appoint an authority to hear and decide for any specified area all claims arising out of deductions from the wages or delay in payment of the wages or service compensation payable under this Act to employees in any establishment in that area.

51. Claims arising out of deductions from wages or delay in payment of wages etc., and penalty for malicious or vexatious claims:-

(1) Where, contrary to the provisions of this Act, any deduction has been made from the wages of an employee in an establishment or any payment of wages or service compensation to him has been delayed, such employee himself, or if he is dead any of his dependents or any legal practitioner, or any official of a registered trade union authorised in writing to act on behalf of such employee or dependent, or any Inspector under this Act or any other person acting with the permission of the authority appointed under Section 50 may apply to such authority for a direction under sub-section (2) :

Provided that every such application shall be presented within one year from the date on which the deduction from wages was made or from the date on which the payment of the wages or service compensation was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of one year when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(2) When any application under sub-section (1) is entertained the authority shall, hear the applicant and the employer or give them an opportunity of making representation either in person or through an authorised representative, and

after such further inquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer is liable under this Act, direct the refund to the employee of the amount deducted, or the payment of the delayed wages or the service compensation together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted or the amount of delayed wages and not exceeding ten rupees in cash of service compensation :

Provided that, no direction for the payment of compensation shall be made in the case of delayed wages or service compensation if the authority is satisfied that the delay was due to—

(a) a bona fide error or a bona fide dispute as to the amount payable to the employee ; or

(b) the existence of exceptional circumstances, such that the employer was unable, though exercising reasonable diligence, to make prompt payment ; or

(c) the failure of the employee to accept payment.

(3) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding five rupees be paid to the employer by the person presenting the application.

(4) Any amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate ; and

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes an application in this behalf, as if it were a fine imposed by such Magistrate.

Explanation: For the purposes of this section, the term 'employee' shall include part-time employee also.

52. Single application in respect of claims from unpaid group

(1) Employees are said to belong to the same unpaid group if they are borne on the same establishment and if their wages or service compensation for the same period or periods have remained unpaid after the day on which they were due.

(2) A single application may be presented under Section 51 on behalf, or in respect of any number of employees belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (2) of that section shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications presented under Section 51 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

53. Appeal

(1) An appeal against an order dismissing either wholly or in part an application made under sub-section (1) of Section 51 or against a direction made under sub-section (2) or sub-section(3) of that section may be preferred before the authority to be notified by Government within thirty days of the date on which the order or direction was served on the applicant or the employer, as the case may be—

(a) by the employer, if the total sum directed to be paid by way of wages, service compensation and compensation exceeds three hundred rupees; or

(b) by the person who had applied under sub-section (1) of Section 51 if the total amount of wages or service compensation claimed to have been withheld from the employee or from the unpaid group to which he belonged exceeds fifty rupees ; or

(c) by any person directed to pay a penalty under sub-section (3) of Section 51.

(2) Save as provided in sub-section (1) any order dismissing either wholly or in part an application made under sub-section (1) of Section 51 or a direction made under sub-section (2) or sub-section (3) of that section shall be final.

54. Conditional attachment of property of employer

(1) Where at any time after an application has been made under sub-section(1) of Section 51, or where at any time after an appeal has been filed under Clause (b) of sub-section (1) of Section 53, the authority referred to in those sections is satisfied that the employer is likely to evade payment of any amount that may be directed to be made under Section 51 or Section 53, the Authority except in cases where it is of opinion that the ends of justice would be defeated by the delay, after giving the employer an opportunity of making representation may direct the attachment of so much of the property of the employer as is in the opinion of the authority sufficient to satisfy the amounts which may be payable under the direction.

(2) The provisions of the Code of Civil Procedure, 1908, relating to attachment before judgment under that Code, shall, so far as may be , apply to any direction for attachment under sub-section (1).

55. Power of authority appointed under Section 50

Every authority appointed under Section 50 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 for the purpose of taking evidence and of enforcing the attendance of witness and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of Section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973.

56. Power of Government to prescribe costs and Court-fees for proceedings under this Chapter

The Government may prescribe the scales of costs which may be allowed and the amount of court-fees which shall be payable in respect of any proceedings under this Chapter.

CHAPTER X

Appointment, powers and duties of the Chief Inspector and Inspectors

57. Appointment of Chief Inspector and Inspectors

The Government may, by notification, appoint a Chief Inspector and such number of Inspectors as may be necessary for the purposes of this Act and fix the local limits of their jurisdiction.

58. Powers and duties of Chief Inspector

The Chief Inspector may exercise and perform in addition to the powers and duties conferred and imposed on him by or under this Act, all the powers and duties of an Inspector under this Act.

59. Powers and duties of Inspectors

An Inspector may within the local limits for which he is appointed,—

(a) enter at all reasonable hours with the assistance of such persons in the service of the Government or any local authority as he thinks fit, any place which is or which he has reason to believe is used as an establishment ;

(b) make such inspection of the premises and of any registers or other records and take on the spot or otherwise evidence of such persons, as he may deem necessary in the manner prescribed ;

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

60. Chief Inspector and Inspectors to be public servants

The Chief Inspector and every Inspector shall be deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code, 1860.

CHAPTER XI

Penalties for offences

61. Penalties

(1) Any employer who makes any false or incorrect statement under Section 3 shall be punishable with fine which may extend to one hundred rupees.

(2) Any employer who contravenes any of the provisions of the Sections 3, 4, 5, 7, 9 to 12, 13, 15 to 32, 34 to 47, 49, 68 and 69 shall be punishable for a first offence with fine which may extend to rupees one hundred, for a second offence with fine which shall not be less than rupees two hundred and fifty but which may extend to rupees five hundred and for the third or subsequent offences with

imprisonment for a term which may extend to three months and with a fine which shall not be less than rupees five hundred but which may extend to rupees one thousand :

Provided that where any employer fails to posses a valid certificate of registration in contravention of the provisions of Sections 3, 4 and 5 he shall on conviction be punishable, in the case of a continuing offence with a further fine which may extend to rupees two hundred and fifty for each day during which the offence continues.

(3) Whoever contravenes the provisions of Section 8 shall be punishable for a first offence with fine which may extend to one hundred rupees, and for a second or subsequent offence with fine which may extend to two hundred and fifty rupees.

(4) Whoever contravenes the provisions of sub-section (2) of Section 48 shall on conviction be punishable with fine which may extend to rupees fifty for each day during which the offence continues.

(5) Whoever contravenes the provisions of sub-section (3) of Section 48, shall on conviction be punishable with a fine which may extend to rupees fifty for each day during which the offence continues.

62. Power to compound offence

The Chief Inspector may authorise by notification any officer to accept from any person who is reasonably believed to have committed an offence under Sections 3, 4, 7, 8, 10, 12, 15, 16, 17, 19, 20, 31 and 63 of this Act or the Rules made thereunder a sum of money not exceeding rupees one hundred in case of each violation by way of compounding such offence. Any proceedings taken against such person in respect of such offence shall on payment of such money be withdrawn and no further proceedings shall be taken in respect of such offence.

63. Penalty for obstructing Inspector, etc

Any person who wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act or any person lawfully assisting such Inspector in the exercise of such power, or who fails to comply with any lawful direction made by such Inspector, shall be punishable with imprisonment for a term which may extend to three months or with both.

64. Procedure in trial of offences

(1) No Court shall take cognizance of a complaint against an employer under sub-section (2) of Section 61 relating to deductions from the wages or delay in payment of wages or service compensation payable under this Act to an employee, unless an application in respect of facts constituting the offence has been presented under Section 51 and has been granted wholly or in part and the authority empowered under the latter section or the appellate authority granting such applications has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against the employer for such an offence, the authority empowered under Section 50 or the Appellate Authority, as the case may be, shall give such employer an opportunity of showing cause

against the granting of such sanction, and the sanction shall not be granted if such employer satisfies the authority or Court that default was due to-

(a) a bona fide error or bona fide dispute as to amount payable to the employee ; or

(b) the existence of exceptional circumstances, such that the employer was unable, though exercising diligence, to make prompt payment ; or

(c) the failure of the employee to accept payment.

(3) No Court shall take cognizance of a complaint against any person for an offence under S. 61, other than the offence referred to in sub-sec. (1) or for a contravention of any rule made under S. 71, except on a complaint made by or with the previous sanction in writing of an Inspector under this Act within six months from the date on which the offence or contravention is alleged to have been committed.

(4) In imposing any fine for an offence referred to in sub-section (1), the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under Section 51.

65. Bar of suits

No Court shall entertain any suit for the recovery of wages or service compensation or of any deduction therefrom in so far as the sum so claimed—

(a) forms the subject of an application under Section 51 which has been presented by the plaintiff and which is pending before the authority appointed under Sec. 50 or of an appeal under Section 53 ; or

(b) has formed the subject of a direction under Section 51 in favour of the plaintiff ; or

(c) has been adjudged, in any proceeding under Section 51 not to be owned to the plaintiff ;or

(d) could have been recorded by an application under Section 51.

66. Contracting out

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

67. Offences to be tried by Magistrate of second class or above

No Court, inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act, or any rule or order made thereunder.

CHAPTER XII

Miscellaneous

68. Maintenance of registers and records and display of notices, etc

(1) Subject to the control of the Government an employer shall maintain such registers and records and display such notices, as may be prescribed. All such registers and records shall be kept, and all such notices shall be displayed on the premises of the establishment to which they relate.

(2) Every employer shall, on demand produce or cause to be produced for inspection by an Inspector all registers, records and notices required to be kept by or under this Act.

(3) Every employer shall submit such returns relating to his business, in such manner, within such period, and to such authority as may be prescribed.

(4) Every employer shall give an order of appointment of his employee in the establishment before such employee joins the service and shall also furnish a copy of such order to the Inspector having jurisdiction over the area, within three days of issue of such order :

Provided that in case of an employee in the service at the commencement of this Act, the employer shall give such order of appointment within a period of three months from the date of such commencement.

69. Restriction on double employment on a Holiday or during leave

No employee shall work in any establishment nor shall any employer knowingly permit an employee to work in any establishment on a day or part of a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

70. Delegation of powers

(1) The Government may, by, notification, authorise any officer or authority subordinate to them to exercise any one or more of the powers vested in them by or under this Act, except the powers mentioned in Section 71 subject to such restrictions and conditions, if any as may be specified in the notification.

(2) The exercise of the powers delegated under sub-section (1) shall be subject to control and revision by the Government or by such persons as may be empowered by them in that behalf. The Government shall also have power to control and revise the acts or proceedings of any persons so empowered.

71. Power to make rules

(1) The Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In making a rule under sub-section (1), the Government may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

72. Rights and privileges under other laws etc., not affected

Nothing in this Act shall effect any rights or privileges which any employee in any establishment is entitled to, on the date on which this Act applies to such establishment, under any other law, contract, custom or usage applicable to such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

73. Exemption

(1) Nothing in this Act shall apply to—

(a) employees in any establishment in a position of management and having control over the affairs of the establishment, whose average monthly wages exceed sixteen hundred rupees ;

(b) establishment under the Central and State Governments, local authorities, the Reserve Bank of India, a railway administration operating any railway as defined in Clause 20 of Article 66 of the Constitution and Cantonment Authorities ;

(c) establishment in mines and oil fields ;

(d) establishments in bazaars in places where fairs or festivals are held temporarily for a period not exceeding one month at a time.

(2) Nothing in Section 7 or Section 15, as the case may be, shall apply to—

(a) hospitals or other institution for treatment or care of the sick, the infirm, the destitute or the mentally unfit ;

(b) such chemists' and druggists' shops as the Government may, by general or special order, specify ;

(c) hair-dressing shops, clubs and residential hotels, educational institutions, hostels attached to schools or colleges and establishments maintained in connection with the boarding and lodging of pupils and resident masters ;

(d) stalls and refreshment rooms at railway stations, docks wharfs, ports, airports or bus stands ;

(e) establishments wholly or principally engaged in the sale of ice or aerated waters;

(f) establishments wholly or principally engaged in the sale of funeral requisites ;

(3) Nothing in Section 7, 9, and 12 or in Section 15 shall apply to—

(a) person whose work is of an intermittent nature such as caretaker, sweeper, travelling staff ;

(b) persons employed for loading and unloading of goods at godowns.

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

(5) Notwithstanding anything in the foregoing sub-sections the Government may, by notification apply or any of the provisions of this Act to any class of persons or establishments mentioned in those sub-sections other than those mentioned in Clause (b) of sub-section (1) and modify or cancel any such notification.

74. Application of the Workmen's Compensation Act, 1923

The provisions of the Workmen's Compensation Act, 1923, and the Rules thereunder shall, so far as may be, apply to every employee to whom this Act applies.

75. Protection of persons acting in good faith

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.

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

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

77. Application of this Act to Co-operative Societies

Notwithstanding anything in the Andhra Pradesh Co-operative Societies Act, 1964, the provisions of this Act shall apply to the Co-operative Societies.

78. Central Act 18 of 1942 not to apply to establishments governed by this Act

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

79. Repeal and Saving

With effect on and from the date on which this Act is brought into force in any area, the Andhra Pradesh Shops and Establishments Act, 1966, (Act 15 of 1966) as in force in that area shall stand repealed:

Provided that—

(a) every appointment, order, rule, notification or notice made, issued or given under the provisions of the Act so repealed shall, insofar 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, notification or notice made, issued or given under this Act ;

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

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[1] Came into force w.e.f. 1-11-1988, vide G.O.Ms.No.104, dt. 29-10-88.

[2] From time to time the State Government has been issuing orders extending the application of the Act to various areas. The Government vide G.O.Ms.No.150, W.D.C.W. & L, dated 27-10-1992, has extended the application of this Act to the entire State, w.e.f. 27-10-1992. And from the said date the provisions of this Act came into force in the entire State.