

**THE GUJARAT SHOPS AND ESTABLISHMENTS ACT,
1948**

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THE GUJARAT SHOPS AND ESTABLISHMENTS ACT, 1948

CHAPTER 1

PRELIMINARY

1. Short title extent and operation

(1) ¹[This Act may be called the ²[Gujarat] Shops and Establishments Act, 1948.]

(2) ³[It extends to the whole of the State of Gujarat.]

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

⁴[Provided that in the areas in which all or any of the provisions of the Saurashtra Shops and Establishments Act, 1955 (Sau. Act No. X of 1955) were in force immediately before the Commencement of the Bombay Shops and Establishment (Gujarat Extension and Amendment) Act, 1961, (Guj. XI of 1962) all the provisions of the Act shall come into force on such commencement.]

(4) The ⁵[State] Government shall by notification published in the Official Gazette Direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(5) The ⁶[State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,—

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

(2) ⁷["Child" means a person who has not completed his fourteenth year;]

(3) ⁸["Closed" means not open for the service of any customer, or For .lily business of the establishment, or for work, by or with the help of any employee, or of Connected with the establishment;]

(4) "Commercial establishment" means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes a society registered under the Societies Registration Act, 1860 (XXI of 1860) and a charitable or other trust, whether registered or not, which carries on, ⁹[whether for purposes of gain or not.] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

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

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

- (6) ¹⁰["Employee" means a person wholly or principally employed, whether directly or through any agency and whether for wages or other consideration, in or in connection with any establishment; and includes an apprentice but does not include a member of the employer's family;]
- (7) "Employer" means a person owning or having ultimate controls over the affairs of an establishment;
- (8) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement, or entertainment to which this Act applies and includes such other establishment as the ¹¹[State] Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act;
- (9) "Factory" means any premises which is a factory within the meaning of ¹²[clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948) or which is deemed to be a factory under section 85 of the said Act];
- (10) "Goods" includes all materials, commodities and articles;
- (11) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;
- (12) "Inspector" means an Inspector appointed under section 48;
- (13) "Leave" means leave provided for in Chapter VII of this Act;
- (14) "Local area" means any area or combination of areas to which this Act Applies;
- (15) ¹³["Local authority" means
 - (i) a municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949; (Bom. LIX of 1949).
 - (ii) ¹⁴[a municipality constituted under the Gujarat Municipalities Act, 1963; (Guj. 34 of 1964); or
 - (iii) a district panchayat constituted under the Gujarat Panchayats Act, 1961] (Guj. 6 of 1962);and includes any other body which the State Government may by notification in the Official Gazette, declare to be a local authority for the purposes of this Act;]
- (16) "Manager" means a person declared to be a manager under section 7.
- (17) "Member of the family of an employer" means the husband, wife, son daughter, father, brother or sister of an employer who lives with and is dependant' on such employer;
- (18) ¹⁵["Opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee of or connected with the establishment;]

- (19) "Period of work" means the time during which an employee is at the disposal of the employer;
- (20) "Prescribed" means prescribed by rules made under this Act;
- (21) "Prescribed authority" means the authority prescribed under the rules made under this Act;
- (22) "Register of establishments" means a register maintained for the registration of establishments under this Act;
- (23) "Registration certificate" means a certificate showing the registration of an establishment ¹⁶[granted or renewed under section 7];
- (24) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes a ¹⁷[residential club];
- (25) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply meals or refreshments to the public or a class of the public for consumption on the premises;
- (26) "Schedule" means a Schedule appended to this Act;
- (27) "Shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, ¹⁸[mainly used] in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment;
- (28) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;
- (29) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;
- (30) "Wages" means wages as defined in the Payment of Wages Act, 1936 (IV of 1936);
- (31) "Week" means the period of seven days beginning at mid-night of Saturday;
- (32) ¹⁹["Year" means a year commencing on the first day of January;]
- (33) "Young person" means a person who is not a child and has not completed his seventeenth year.

3. Reference to time of day

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

4. Exemptions

- (1) ²⁰[Notwithstanding anything contained in this Act-the provisions of this Act mentioned in the third column of Schedule II shall not apply to the

establishments, employees and other persons mentioned against them in the second column of the said Schedule :

Provided that the ²¹[State] Government may, by notification published in the Official Gazette, add to, omit or alter any of the entries of the said Schedule ²²[subject to such conditions, if any, as may be specified in such notification] and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

- (2) ²³[²⁴Every notification issued under the proviso to sub-section (1) shall be laid for less than thirty days before the State Legislature as soon as may be after it is issued and shall be subject to such rescission by the State Legislature or to such modification as the State Legislature may make during the session in which the notification is so laid or the session immediately following.
- (3) Any rescission or modification so made by the State Legislature published in the Official Gazette, and shall thereupon take effect.]

5. Application of Act to other establishments and persons

- (1) Notwithstanding anything contained in this Act, the ²⁵[State] Government may, by notification in the Official Gazette, declare any establishment or class of establishment to which or any person, or class or persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishment or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the ²⁶[State] Government be necessary shall apply from such date as may be specified in the notification.
- (2) On such declaration under sub-section (1), any such establishment or class of such establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of establishment to which, or to be an employee or class of employees to whom, this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specifies in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employed.

6. Suspension of all or any of the provisions of this Act

The ²⁷[State] Government may, by notification in the Official Gazette, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions. Refer Rule 4

CHAPTER II

REGISTRATION OF ESTABLISHMENTS

7. Registration of establishments

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

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

Refer- Rule 5 - Form A

- (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.

²⁸[* * * * *]

- (3) In the event of any doubt or difference of opinion between an employer and the Inspectors as to the category to which an establishment should belong the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.
- (4) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (1) :-

1	2
Establishment	Date from which the period of 30 days to commence
(i) Establishments existing in local area mentioned in Schedule I on the date on which this Act comes into force.	The date on which this section comes into force.
(ii) Establishment existing in local areas on the date on which this section comes into force.	The date on which this Act comes into force. in the local area.
(iii) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work.

- (5) ²⁹[A registration certificate granted under sub-section (2) shall, unless it is cancelled earlier, remain in force from the date of its grant upto the end of the year in which it is granted, and shall be renewable from time to time `for a period not exceeding ³⁰[Five] years at a time so however that any such period shall not include a fraction of a year];

Provided that a registration certificate granted before the commencement of the Bombay Shops and Establishments (Gujarat Extension and Amendment) Act, 1961, (Guj. XI of 1962) and in force immediately before such commencement shall remain in force upto the end of December, 1961 unless it is cancelled earlier.

- (6) An employer, holding a registration certificate shall, except in the circumstances mentioned in section 9, make an application for its renewal in the pre-scribed form to the Inspector not later than fifteen days before the date of its expiry. Such application shall be accompanied by such fee as may be prescribed.
- (7) On receipt of an application in accordance with sub-section (6), the Inspector shall on being satisfied about the correctness of the particulars mentioned in the application renew the registration certificate in the prescribed form.
- (8) The registration certificate renewed under sub-section (7) shall, unless it is cancelled earlier, remain in force, ³¹[for the period] for which it is renewed.
- (9) The registration certificate shall be prominently displayed at the premises of the establishment.]

8. Change to be communicated to Inspector

It shall be the duty of an employer to notify to the Inspector, in a prescribed form ³²[any change in any of the particulars contained in the statement submitted under section 7 within such period, after the change has taken place, as the State Governments may prescribe in respect of any establishment or class of establishment]. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate if necessary.

9. Closing of establishment to be communicated to Inspectors

The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishment and cancel the registration certificate:

³³[Provided that if the Inspector does not receive the information but he is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register and cancel such certificate.]

CHAPTER III

SHOPS AND COMMERCIAL ESTABLISHMENTS

10. Opening hours of shops

- (1) No shop:
 - (i) dealing wholly in milk, vegetable, fruits, fish, meat, bread or any other goods notified by the ³⁴[State] Government shall on any day be opened earlier than 5 a.m.;
 - (ii) ³⁵[* * *] other than those specified in clause (a) of this sub-section shall on any day be opened earlier than 7.00 a.m.;

- (2) Subject to the provisions of sub-section (1), the ³⁶[State] Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

11. Closing hours of shops

- (1) Notwithstanding anything contained in any other enactment for the time being in force, no shop –
- (i) [* * *] other than those specified in clause (b) of this sub-section shall on any day be closed later than 8-30 P.M.;
 - (ii) ³⁷[dealing mainly in] pan, bidi, cigarettes, matches and other ancillary articles shall on any day be closed later than 11.00 P.M.

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

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

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

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

³⁸[Provided that nothing in this sub-section shall apply to the sale of newspapers.]

- (2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector.
- (3) ³⁹[The goods seized under sub-section (2) shall be returned to the person from whom they were seized on his depositing rupees twenty-five as security for his appearance in the Court.
- (4) If the person fails to make the deposits, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.
- (5) Where no prosecution is instituted for contravention of the provisions of sub-section (1) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized.
- (6) Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall so far as they may be applicable, apply to the disposal of the goods seized under this section.]

13. Opening and closing hours of commercial establishments

- (1) No commercial establishment shall on any day be opened earlier than 8-30 A.M. and closed later than 8-30 P.M.

- (2) Subject to the provisions of sub-section (1), the ⁴⁰[State] Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

14. Daily and weekly hours of work in shops and commercial establishments

- (1) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.
- (2) An employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed three hours in any week.
- (3) On not more than six days in a year which the ⁴¹[State] Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking, settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (1), if such excess period does not exceed twenty-four hours.

Refer- Rule 11 & 12.

15. ⁴²[Interval for rest]

- (1) ⁴³[The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had ⁴⁴[an interval for rest of at least :-
- (i) half an hour, if he is employed in a commercial establishment engaged in any manufacturing process, and
 - (ii) one hour in any other case, subject, however, to the provisions of sub-section (2).
- (2) ⁴⁵[In the case of employees other than those employed in a commercial establishment engaged in any manufacturing process, the State Government, on an application made in that behalf by the employees concerned may permit the reduction of the interval for rest to half an hour.]

16. Spread-over in shops

The spread-over of an employee in a shop shall not exceed eleven hours in any day.

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

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

17. Spread-over in commercial establishment

The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day:

Provided that the ⁴⁶[State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

18. Holidays in a week in shops and commercial establishments

(1) ⁴⁷[Every shop and commercial establishment shall remain closed on one day of the week. ⁴⁸[Except where the day is fixed under sub-section (1 B) the employer shall] prepare a calendar or list of such closed days, ⁴⁹[* * *] notify such calendar or list to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. ⁵⁰[Such calendar of list shall be prepared at the beginning of the year but in the case of a shop or establishment to which this Act becomes applicable for the first time after the beginning of a year, the first calendar applicable for the first time after the beginning of a year, the first calendar or list for the remaining part of the year shall be prepared before the expiry of one month from the date of the application of this Act thereto.]

(1A) Notwithstanding anything contained in sub-section (1) ⁵¹[but except where the day is fixed under sub-section (1B)], a shop or commercial establishment may remain open on any day notified as ⁵²[a closed day] under sub-section (1), if –

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

(1B) ⁵³[

(a) Notwithstanding anything contained in sub-section (1) authority and in respect of any other area, the State Government in respect of any area within the jurisdiction of a local authority, the local authority may by an order published in the prescribed manner, fix the day on which a shop or commercial establishment shall remain closed every week; and different days may be fixed with reference to different classes of shops or establishment, different parts of the same area or different periods of the year.

(b) Every shop and commercial establishment to which such order applies shall remain closed accordingly :

Provided that nothing in this clause shall apply to a shop or commercial establishment, the employer of which has notified to the Inspector at the beginning of the year his intention to close the shop or establishment on a public holiday within the meaning of the Negotiable Instruments Act, 1881 (XXVI of 1881).

Refer : Rule 13

- (c) The making of an order under clause (a) shall be subject to the condition of previous publication.]
- (2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.
- (3) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed. ⁵⁴[If any employee is paid a piece rated wage, he shall none the less be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime :]

⁵⁵[Provided that nothing in this sub-section shall apply to any person whose total period of continuous employment is less than six days.]

CHAPTER IV

RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES

19. Opening and closing hours of restaurants and eating houses

- (1) Notwithstanding anything contained in any other enactment for the time being in force, no-restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than 11 p.m. for service :

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4.30 a.m. and shall not be required to work later than 11.30 p.m.

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

- (2) Subject to the provisions of sub-section (1), the ⁵⁶[State] Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.
- (3) Notwithstanding anything contained in this section or any other enactment for the time being in force, or not more than ten days in a year on festive or special occasions, the ⁵⁷[State] Government may, by notification in the Official Gazette, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

20. Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops

Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

21. Daily hours of work in residential hotels, restaurants and eating houses

- (1) Except on the days that may be notified under sub-section (3) of section 19, no employee shall be required or allowed to work in any residential hotels, restaurant or eating house for more than nine hours in any day.
- (2) On the days which may be notified under sub-section (3) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (1), if such excess period does not exceed three hours in any day.

22. ⁵⁸[Interval for rest]

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

⁵⁹[Provided, that, at, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

23. Spread-over

The spread -over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours:

Provided that the ⁶⁰[State] Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (3) of section 19.

24. Holidays in a week

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

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

- (2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.
- (3) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wages, he shall none the less be paid his daily wage for the holiday.

25. Employer to furnish identity card to employee

[Deleted by Guj. 26 of 1977. s. 5.] now refer sec. 62A

CHAPTER V

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT

26. Closing hour of theatres or other places of public entertainment

Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than twelve mid-night.

27. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops

After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

28. ⁶¹[Daily hours of work in theatres or other places of public amusement or entertainment]

(1) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day.

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

29. ⁶²[Interval for rest]

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

⁶³[Provided that, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

30. Spread-over

The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day;

Provided that the ⁶⁴[State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular or other place of public amusement or entertainment.

31. Holidays in a week

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

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

- (2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.
- (3) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

CHAPTER VI

EMPLOYMENT OF CHILDREN, YOUNG PERSONS AND WOMEN

32. No child to work in any establishment

No child shall be required or allowed to work whether as employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

33. Young persons and women to work between 6 a.m. and 7 p.m.

No young person or woman shall be required or allowed to work whether as an employee or otherwise in any establishment before 6-00 a.m. and after 7 p.m. notwithstanding that such young person or woman is a member of the family of the employer.

34. Daily hour of work for young persons

- (1) Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.
- (2) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

34-A. ⁶⁵[Prohibition of employment of young persons and workmen in dangerous work

No young person or women a working in any establishment whether as an employee or otherwise, shall be required or allowed to perform such work as may be declared by the State Government by notification in the Official Gazette, to be work involving danger to life, health or morals.]

CHAPTER VII

LEAVE WITH PAY AND PAYMENT OF WAGES

35. Leave

- (1) ⁶⁶[
 - (a) Subject to the provisions of clause (b), every employee who has been employed for not less than three months in any year, shall for every 60 days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not less than five days;

- (b) every employee who has worked for not less than two hundred and forty days, during a year shall be allowed leave, consecutive or otherwise, for a period of not less than twenty-one days.

Provided that such leave may be accumulated up to a maximum period of ⁶⁷[sixty-three days.]

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

- (1A) ⁶⁸⁶⁹Every employee who has accumulated leave shall, when he goes, on leave for a period of not less than twenty-one days, be entitled to surrender, out of the balance of leave remaining to his credit on the commencement of his leave, any period of leave, not exceeding twenty-one days; and such employee shall, for the period of leave so surrendered by him, be entitled to payment of wages as if the leave so surrendered had been allowed to him under sub-section (1)

Provided that no employee shall be entitled to surrender leave under this sub-section more than once in any period of two years.

- (1B) In addition to the leave permissible under sub-section (1), every employee shall be entitled to leave with wages as follows:-

- (i) casual leave for seven days in a year,
- (ii) leave on medical grounds for not more than seven days in a year, and
- (iii) leave for not more than four days in a year on any of the days which the State Government may, by notification in the Official Gazette, specify to be the National and Festival holidays.]

- (2) If an employee entitled to leave, under sub-section (1) ⁷⁰[retires, resigns or] ⁷¹[**] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

- (3) If an employee entitled to leave under sub-section (1), ⁷²[**] is refused the leave, he may give intimation to the Inspector or any other officer authorised in this behalf by the ⁷³[State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

Refer: Rule 14 and Form F

36. Pay during leave

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

37. Payment when to be made

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

38. Application and amendment of the Payment of Wages Act

- (1) Notwithstanding anything contained in the Payment of Wages Act, 1936, (IV of 1936) herein referred to as "the said Act" the ⁷⁴[State] Government may, by notification published in the Official Gazette, direct that subject to the provisions of sub-section (2) of the said Act ⁷⁵[shall in such local as areas may be specified in the notification apply] to all or any class of establishment or to all or any class of employees to which or whom this Act for the time being applies.
- (2) On the application of the provision of the said Act to any establishment or to any employees under sub-sec. (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of the provisions of the said Act within the local limits of his jurisdiction.

38A. ⁷⁶[Application of Act VIII of 1923 to employee of establishment

The provisions of the Workmen's Compensation Act, 1923 (VIII of 1923) and the rules made from time to time thereunder, shall mutatis mutandis, apply to every employee (other than an employee who is in receipt of monthly wages exceeding ⁷⁷[one thousand rupees) of an establishment to which Act applies ⁷⁸[* * *].

Explanation: For the purposes of this section the expression 'wages' shall have the same meaning as is assigned to it under the Workmen's Compensation Act, 1923. (VIII of 1923).]

Note: Refer Appendix VII and VIII.

CHAPTER VIII

HEALTH AND SAFETY

39. Cleanliness

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

Refer: Rule 15 and Form G

40. Ventilation

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

41. Lighting

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

42. Precautions against fire

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

42A.⁷⁹[First Aid

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

Refer: Rule -18

CHAPTER IX

ENFORCEMENT AND INSPECTION

43. Powers and duties of local authorities

Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the '[State] Government as may be prescribed;

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

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the ⁸⁰[State] Government to enforce the said provisions.

43A.⁸¹[Power of State Government to enforce provisions of Act within areas of local authorities

Notwithstanding anything contained in section 43, the State Government may, by a notification in the Official Gazette, direct that in the areas subject to the jurisdiction of such local authority as may be specified in the notification the provisions of this Act shall be enforced by the State Government from such date and for such period as may be specified in the notification and thereupon such local authority and officers of such local authority shall be discharged from the duty of enforcing the provisions of this Act within such area from the date and for the period as so specified :

Provided that the bye-laws, if any, made by the local authority under sec. 44 and in force in such area before the date so specified shall continue to be in force with amendments, if any, made therein, until such bye laws are amended or superseded by the State Government.]

44. Power to make bye-laws

A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the ⁸²[State] Government, make by-laws, not inconsistent with the provisions of the Act or the rules or orders made by the ⁸³[State] Government thereunder, for the purpose of carrying out the provisions of this Act.

45. Delegation

- (1) The ⁸⁴[State] Government may by order direct that any its functions under any of the provisions mentioned below shall, in such of stances an of subject to such conditions, if any, as may be specified in the order, be exercised ate to it ⁸⁵[in the area or discharged by any local authority or any officers subordinate within the jurisdiction of the local authority], namely:-

⁸⁶[Section 6, sub-section (2) of section 11], sub-section (2) of section 13, section 17, sub-sections (2) and (3) of section 19, section 23 and section 30.

- (2) Nothing in this Act shall derogate from the right of the ⁸⁷[State] Governments to exercise any or all the functions hereby delegated to any local authority or officer subordinate to it.

46. Power of ⁸⁸[State] Government to provide for performance of duties on default by local authority

- (1) If any local authority makes default in the performance of any duty imposed by or under this Act, the ⁸⁹[State] Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.
- (2) If the expense and remuneration are not so paid the ⁹⁰[State] Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank of person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

47. Expenses of local authority to be paid out of its fund

Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality ⁹¹[or any other local authority] under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

48. ⁹²[Appointment of Inspectors]

- (1) For an area ⁹³[within the jurisdiction of a local authority whose duty it is to enforce the provisions of this Act] the local authority and for other areas, the State Government shall, subject to the provisions of sub-section (3), appoint as many Inspectors as the local authority or the State Government, as the case may

be, may deem necessary for the purpose of carrying out the provisions of this Act.

- (2) Notwithstanding anything contained in sub-sec. (1), in the areas within the jurisdiction of a local authority, the State Government may appoint Inspectors for such supervision as the State Government may prescribe.
- (3) A person possessing the prescribed qualifications shall be qualified for being appointed as an Inspector.
- (4) A local authority or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any) as may be specified in the direction, be exercised.
 - (i) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its municipal Commissioner or Deputy Municipal Commissioner; and
 - (ii) in the case of the State Government, by any officer subordinate to it.]

49. Powers and duties of Inspectors

Subject to any rules, made by the ⁹⁴[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 ⁹⁵[Government] or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;
- (b) records and notices, and take on the spot or otherwise evidence of an. prescribed registers (b) make such examination of the premises and 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.

Refer: Rule - 21 & 22

50. Inspectors to be public servants

Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

51. Employer ⁹⁶[and manager] to produce registers, records, etc. for inspection

Every employer ⁹⁷[and in his absence the manager] shall on demand produce for inspection of an Inspector all registers, records and notice required to be kept under and for the purposes of this Act.

CHAPTER X
OFFENCES AND PENALTIES

52. Contravention of certain provisions and offences

- (a) If any employer fails to send to the Inspector a statement within the period specified in section 7 ⁹⁸[or fails to apply for the renewal of his registration certificate as required by sub-section (6) of section 7] or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9; or
- (b) if in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder; or
- (c) if in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31. Or
- (d) if in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, ⁹⁹[33, 34 or 34A] ; or
- (e) ¹⁰⁰[if any employer or manager contravenes the provisions of section 51 or any employer contravenes the provisions of section 62; or 65] ; or
- (f) if in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished with the fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees :

¹⁰¹[Provided that, if the contravention of any of the provisions of section 7 is continued after the expiry of fifteenth day after conviction, the employer shall on conviction be punished with a further fine which may extend to ten rupees for each day on which the contravention is so continued.]

53. Contravention of section 12

If any person contravenes the provisions of section 12, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

54. Employee contravening sections 18(2), 24, 31 and 65

If an employee contravenes the provisions of sub-section (2) of section 18, 24, 31 or 65, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

55. False entries by employer and manager

If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false any material particular, or wilfully, omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder or maintains or causes

or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any statement information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder, which, to his knowledge, is false in any material particular, he shall, on conviction be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees:

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

56. Enhanced penalty in certain cases after previous conviction

If any employer and manager who have been convicted of any offence Sub-section (1) of section 10, 11, 13, 14, 18, 19, 24, 31, or 34 under sub-section (2) or (3) of section 14 or under section 55 of under section 21, 26 28, 32, ¹⁰²[33, 34A], 51, 57, 62 or 65, are again guilty of an offence involving contravention of the same provisions, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees; and if they are again so guilty they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees:

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction :

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

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

57. Penalty for obstructing Inspector

Whoever wilfully obstructs an Inspector in the exercise of any power under section 49, or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupee.

58. Determination of employer for the purposes of his Act

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

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

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

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

Provided that the company may give notice to the Inspector that it has nominated a director or, in the case of private company, a shareholder who is resident in the ¹⁰³[State] to be the employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident to deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector for until he cases to be a director or shareholder.

59. Exemption of employer or manager from liability in certain cases

- (1) Where the employer or establishment is charged with an manager of an offence against this Act or the rules or order made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court
- (i) that he has used due diligence to enforce the execution of this Act, and
 - (ii) that the said other person committed the offence in question without his knowledge consent or connivance, that other person shall be convicted, if the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.
- (2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings
- (i) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act.
 - (ii) by what person the offence has been committed, and
 - (iii) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders; the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment and such person shall be liable, to the like fine as if he were the employer or manager.

59A. ¹⁰⁴[Protection in respect of employment of certain children

If any specified person has been required or allowed to work whether as in employee or otherwise in an establishment, before the commencement of the Bombay Shops

and Establishment (Gujarat Amendment), Act, 1980 (Guj. 35 of 1980) (hereinafter referred to as "the Amending Act") and such act of requiring or allowing such commencement, then noting contained in this Act as amended by the amending Act, shall be deemed to render the continuance of the Act or requiring of allowing such person to so work after such commencement, a contravention of section 32.

Explanation: For the purposes of this section "specified person" means a person who at the time when he was required or allowed to work whether as an employer or otherwise in an establishment had completed his twelfth (12) year but had not completed his fourteenth year.]

60. Cognizance of offences

(1) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the ¹⁰⁵[District Magistrate] or the local authority, as the case may be:

¹⁰⁶[Provided that any local authority may direct that the powers conferred on it by this sub-section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, by exercised by its standing committee or by any committee appointed by it in this behalf or, such local authority is a municipal corporation, by its Municipal Commissioner ¹⁰⁷[or deputy Municipal Commissioner] ¹⁰⁸[or by any other officer as may be specified in the direction.]

(2) No court inferior to that of ¹⁰⁹[* * *] a Magistrate of a Second Class shall try any offence against this Act or rule or order made thereunder.

61. Limitation of prosecution

No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within ¹¹⁰[three months from the date on which the alleged commission of the offence come to the knowledge of an Inspector.]

CHAPTER XI

MISCELLANEOUS AND SUPPLEMENTAL

62. Maintenance of registers and records and display of notice

Subject to the general or special order of the ¹¹¹[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 record: shall be kept on the premises of the establishment to which they relate.

62A. ¹¹²[Employers to furnish identity card to employees]

(1) This section shall apply to every residential hotel, restaurant and eating house in the whole of the State and it shall apply to such other establishment or classes of establishments in the whole of the State or any part thereof as may be specified by a notification in the Official Gazette, from such date as may be specified in such notification.

(2) The employer of every establishment to which this section applies shall furnish each employee therein with an identity card which shall be produced by the

employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :--

- (i) name and address of the employer;
- (ii) the name, if any and postal address of the establishment;
- (iii) full name, address and designation of the employee;
- (iv) date of birth of the employee;
- (v) the date on which the employee joined service in the establishment;
- (vi) recent passport size photograph of the employee; duly signed by the employer;
- (vii) hours of work, the interval for rest and holiday, of the employee;
- (viii) signature (with date) of the employer or manager;

Provided that it shall not be necessary to furnish such identity card to any employee to whom an identity card containing similar particulars and information is furnished under any other law applicable to him.

- (3) The cost of such identity card including the cost of the photograph shall borne by the employer.
- (4) If the identity card furnished by the employer is lost by the employee, a duplicate card shall be furnished free of charge by the employer immediately on production of his passport size photograph by the employee for being affixed on the card.
- (5) No employee shall work as an employee in an establishment to which this section applies unless he holds an identity card required to be furnished under this section and no employer shall permit or require any person who does not hold such card to work in such establishment.
- (6) If an employer of any establishment to which this section applies contravenes any of the provisions of this section, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

62B. Exhibition of signboard

Every employer shall conspicuously display on the main entrance of the establishment, a wooden or metal signboard of such size, painted in such manner and containing such particulars as may be prescribed.] Refer Rule -25

63. Wages for overtime work

- (1) Where an employee in any establishment other than a residential hotel, restaurant or eating house, is required to work in excess of the limit of hour of work, he shall be entitled, in respect of the overtime work, to wages at the rate of one and a half times his ordinary rate of wages.
- (2) Where an employee in a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of twice his ordinary rate of wages.

Explanation:-For the purposes of this section the expression "Limit hours work" shall mean:-

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

64. Evidence as to age

- (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.
- (2) A declaration in writing by a ¹¹³[qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

Explanation: For the purposes of this section, a ¹¹⁴[qualified medical practitioner] shall have the same meaning as in the Factories Act, ¹¹⁵[1948] (LXIII of 1948).

Refer: Rule 24 and Form P

65. Restriction on double employment on a holiday or during leave

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

66. ¹¹⁶[Notice of termination of services]

No employer shall dispense with the services of an employee who has been in his ¹¹⁷[continuous employment:-

- (a) for not less than a year, without giving such person at least thirty days' notice in writing, or wages in lieu of such notice;
- (b) for less than a year but more than three months, without giving such person at least fourteen days' notice in writing, or wages in lieu of such notice]

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

¹¹⁸[Explanation: For the purposes of this section, "misconduct" shall include

- (a) absence from service without notice in writing or without sufficient reasons for seven days or more;
- (b) going on or abetting a strike in contravention of any law for the time being in force; and
- (c) causing damage to the property, of his employer].

67. Rules

- (1) The ¹¹⁹[State] Government may make rules to carry out the purposes of the Act.
- (2) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely
 - (i) the appointment of prescribed authority under clause (21) of section 2;
 - (ii) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6;
 - (iii) the form of submitting a statement, the fees and other particulars under sub-section (1), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (2) of section 7; and ¹²⁰[the form and the period for notifying] a change and the fees under section 8;
 - (ca) ¹²¹[the form of application for the renewal of a registration certificate under section 7;]
 - (iv) fixing six days in a year for additional overtime under sub-section (3) of section 14;
 - (v) fixing ten days in a year for overtime under sub-section (3) of section 19;
 - (vi) further particulars to be prescribed for an identity card under section 25;
 - (g) ¹²²[* * * * *]
 - (h) fixing times and methods for cleaning the establishments under section 39; fixing standards and methods for ventilation under section 40., and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under section 42;
 - (ha) ¹²³[the articles which a first aid box maintained under section 42A shall contain];
 - (i) the supervision which the ¹²⁴[State] Government shall exercise over local authorities under section 43;
 - (j) the qualification of Inspectors appointed under section 48 and their power and duties under section 49;
 - (k) the registers and records to be maintained and notices to be displayed under section 62;
 - (kk) ¹²⁵[the other particulars to be contained in an identity card under sub-section (2) of section 62A;
 - (kkk) the size of, the manner of painting, of, and the particulars to be contained in, the signboard to be displayed under section 62B;]
 - (l) the limit of hours of work under clause (c) of the Explanation to section 63
 - (m) any other matter which is or may be prescribed.

- (3) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.
- (4) ¹²⁶[¹²⁷All rules made under this section shall be laid for not less than thirty days before the State Legislature as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.
- (5) Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.]

68. Protection to persons acting under this Act

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

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

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

70. ¹²⁸[Persons employed in factory to be governed by Factories Act and not by this Act

Nothing in this Act shall be deemed to apply to a factory and the provisions of the Factories Act, 1948 (LXIII of 1948) shall, notwithstanding anything contained in that Act, apply to all persons employed in and in connection with a factory:

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

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

71. Submission of annual report, etc.

It shall be the duty of every local authority to submit, within ¹²⁹[two months] after the close of the year, ¹³⁰[the Commissioner of Labour, Ahmedabad] a report on the Act within the local area under its jurisdiction during such year. ¹³¹[It shall also submit to him] from time to time such annual or periodical returns as may be required.

72. Repeal of Bombay Shops and Establishments Act, 1939

On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939, (Born. XXIV of 1939), shall be repealed.

Provided that-

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

1 For Statement of Objects and Reasons, see Bombay Government Gazette 1948, part-V, page 499.
2 Subs. for "Bombay" by Guj. Act No. 15 of 2011, Sr. No. 30 w.e.f. 1-5-1960
3 Sub-section (2) was substituted for the original by Guj. 1 of 1962, s. 2 (1).
4 This provision was inserted, by Guj. 11 of 1962, s. 2 (2).
5 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
6 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
7 Clause (2) was substituted by Guj. 35 of 1980, s. 2.
8 Clause (3) was substituted for the original by Guj. 11 of 1961, s. 3
9 These words were inserted by Bom. 28 of 1952, s. 2 (1).
10 Clause (6) was substituted for the original by Guj. 11 of 1962, s. 3 (b)
11 This word was substituted for the word "Provincial" by the Adaptation of laws Order, 1950
12 This word was substituted for the word "Provincial" by the Adaptation of laws Order, 1950
13 Clause (15) was substituted for the original by Guj. 11 of 1962, s. 3 (c).
14 These clauses were substituted by Guj. 26 of 1977, s. 2
15 Clause (18) was substituted for the original by Guj. 11 of 1962, s. 3(d).
16 These words and figure were inserted, by Guj. 11 of 1967, s. 3 (e).
17 These words were substituted for the word 'club' by Bom. 9 of 1951, s. 3. Second Schedule.
18 These words substituted for the word "used" by Bom. 28 of 1952, s. 2 (3).
19 Clause (32) was substituted for the original by Guj. 11 of 1962, s.3 (f).
20 Section 4 was renumbered as sub-section (1) of that section by Guj. 26 of 1977, s. 3.
21 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
22 These words were inserted by Bom. 28 of 1952, s. 3.
23 These words were inserted by Bom. 28 of 1952, s. 3.
24 Sub-sections (2) and (3) were substituted for sub-section (2) by Guj. 27 of 1981, s. 2.
25 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
26 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
27 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
28 The words "The Registration certificate shall be prominently displayed at the establishment" is were deleted by Guj. 11 of 1962, s. 4 (1).
29 Sub-sections (5), (6), (7), (8) and (9) were inserted by Guj. 11 of 1962, s. 4 (2).
30 These words were substituted for the words "for one year at a time" by Guj. 26 of 1977, s. 4 (1) and then after substituted for "three Years" by Gujarat. Act No.6 of 2008 refer Appendix- VI
31 These words were substituted for the words "for the year" by Guj. 26 of 1977, s. 4 (2).
32 This portion was substituted for the portion beginning with the words "any change" and ending with the words "taken place" by Bom. 28 of 1952, s. 4.
33 This proviso was added by Bom. 28 of 1952, s. 5.
34 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
35 The words "dealing in goods" were deleted by Bom. 53 of 1949, s. 2 First Schedule.
36 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
37 These words were substituted for the words "dealing in" by Guj. 11 of 1960, s. 5.
38 This proviso was added, by Guj. 11 of 1962, s. 6.
39 Sub-sections (3) to (6) were substituted for the proviso by Bom. 28 of 1952, s. 6.
40 This word was substituted for the words "Provincial" by the Adaptation of Laws Order, 1950.
41 This word was substituted for the words "Provincial" by the Adaptation of Laws Order, 1950.
42 Section 15 was substituted for the original by Bom. 28 of 1952, s. 7.
43 Section 15 was renumbered as sub-section (1) of that section by Guj. 11 of 1962, s. 7.
44 This portion was substituted for the words "an interval for rest of at least one hour". 'ibid., s.7 (1).
45 Sub-section (2) was inserted 'ibid., s. 7 (2).
46 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

47 Sub-sections (1) and (1A) were substituted for the original sub-section (1) by Bom. 28 of 1952, s. 8 (1).
48 These words, brackets, figure and letter were substituted for the words "The employer shall" by Guj. 11 of 1962, s. 8 (1) (i).
49 The words "at the beginning of the year" were deleted, *ibid.*, s. 3 (1) (ii).
50 This portion was added, *ibid.*, s. 8 (1) (iii).
51 These words, brackets, figures and letter were inserted, *ibid.*, S. 8 (2).
52 These words were substituted for the words "closed day", *ibid.*, s. 8 (2).
53 This sub-section was inserted, *ibid.*, s. 8 (3).
54 This portion was added by Bom. 28 of 1952, s. 8 (2).
55 This portion was added. *ibid.*, s. 8 (3).
56 This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950.
57 This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950.
58 Section 22 was subs. for the original by Bom. 28 of 1952, 9.
59 This proviso was added by Guj. 11 of 1962, s. 9.
60 This word was substituted for the word "Provincial" by the Adaptation of Laws Order.
61 Section 28 was substituted for the original, by Bom. 28 of 1952, s. 11.
62 Section 29 was substituted for the original, by Bom. 28 of 1957. s. 12.
63 This proviso was added by Guj. 11 of 1962, s. 10.
64 This word was sub. for the word "Provincial" by the Adaptation of Laws Order, 1950.
65 Section 34A was inserted by Guj. 11 of 1962, S. 11.
66 Sub-section (1) was substituted for the original, *ibid.*, s. 12 (i).
67 The words were substituted for the words "Forty-two days" by Guj. 26 of 1977, s. 6(1).
68 Sub-section (1 A) was deleted by Guj. 11 of 1962, S. 12 (ii).
69 These sub-sections were inserted, by Guj. 26 of 1977, s. 6(2).
70 These words were inserted, *ibid.*, s. 6(3).
71 The word, brackets, figure and letter "or (1A)" were deleted by Guj. 11 of 1967, s. 12 (iii).
72 The word, brackets, figure and letter "or (1A)" were deleted by Guj. 11 of 1967, s. 12 (iii).
73 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
74 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
75 These words were substituted for the words "shall apply" by Bom. 58 of 1954, s. 2, Schedule.
76 Section 38A was inserted by Guj. 11 of 1962, S. 13.
77 These words were substituted for the words "four hundred rupees" by Guj. 26 of 1977, S.7 (i).
78 The words "and in which at least live employees are employed on the date of the accident as if he were a workmen within the meaning of that Act" were deleted, *ibid.*, S. 7 (ii).
79 Section 42A was inserted by Bom. 28 of 1952, s. 14.
80 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
81 Section 42A was inserted by Bom. 28 of 1952, s. 14.
82 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
83 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
84 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
85 These words were inserted by Guj. 11 of 1962, s. 14.
86 These words, brackets and figures were substituted for the words, brackets and figures "Sub- section (2) of section 11" *ibid.*.
87 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
88 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
89 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
90 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
91 These words were substituted for the words "or a local board" by Guj. 26 of 1977, S. 9.
92 Section 48 was substituted for the original by Guj. 11 of 1962, s. 15.
93 These words were substituted for the words "within the jurisdiction of a local authority" by Guj. 26 of 1977, 10.
94 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
95 This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
96 These words were inserted *ibid.* s. 15(2).
97 These words were inserted by Bom. 28 of 1951, s. 15 (1).
98 These words, brackets and figures were inserted by Guj. 11 of 1962, s. 16 (1).
99 These figures, word and letter were substituted for the word and figures "33 or 34", *ibid.*, s. 16 (2).
100 Clause (e) was substituted for the original by Bom. 28 of 1952, s. 16.
101 This proviso was added by Guj. 11 of 1962, 16 (3).
102 These figures and letter were substituted for the figures "33" by Guj. 11 of 1962. S. 17.
103 This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
104 Section 59A was inserted by Guj. 35 of 1980, S. 3.
105 These words were substituted for the words "State Government" by Bom. 9 of 1951, s. 3, Second Schedule.
106 This proviso was added by Bom. 28 of 1952, s. 17.
107 These words were inserted by Guj. 11 of 1962, s. 18.
108 These words were inserted by Guj. 26 of 1977, s. 11.
109 The words "a Presidency Magistrate or" were deleted by the Gujarat Adaptation of Laws (tate and Concurrren Subject) Order, 1960.
110 These words were substituted for the words "six months of the date on which the offence is alleged to have been committed" by Bom. 28 of 1952, s. 18.
111 This word was substituted for the word "Provincial" by the Adaptation of Lows Order, 1950. Refer Appendix V.
112 These section were inserted by Guj. 26 of 1977, s. 12.
113 These word were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.

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- 114 These word were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.
- 115 These figures were substituted for the figures "1964" *ibid.*
- 116 This marginl note was substituted for the marginal note "Notice of dismissal", *ibid.*, s. 19 (2).
- 117 This portion was substituted for the portion beginning with "continuous employment for not less than three Months" and ending with "in lieu of such notice" by Gujarat 11 of 1962, Section 19 (1).
- 118 This explanation was added by Born. 28 of 1952, S. 19.
- 119 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
- 120 These words were substituted for the words "the form for notifying" by Bom. 28 of 1952, s.20(1)
- 121 Clause (ca) was inserted by Guj. 11 of 1962, s. 20 (a) (i).
- 122 Clause (g) was deleted, *ibid.*, s. 20 (a) (ii). 4.
- 123 Clause (ha) was inserted by Bom. 28 of 1952, s. 20 (2).
- 124 Clause (ca) was inserted by Guj. 11 of 1962, s. 20 (a) (i).
- 125 These clauses were inserted by Guj. 26 of 1977, s. 13 (i).
- 126 These Sub-sections were inserted by Guj. 11 of 1962, s. 20 (b).
- 127 The Sub-sections were substituted by Guj. 26 of 1977, s. 13 (ii)
- 128 Section 70 was substituted for the original by Guj. 11 of 1962, s. 21.
- 129 These words were substituted for the words "the State Government" by by Guj. 11 of 1962, S. 22 (b).
- 130 These words were substituted for the words "three months" *ibid.*, S. 22 (a)
- 131 These words were substituted for the words "It shall" submit to it" *ibid.*