

THE FACTORIES (AMENDMENT) ACT, 1954

No. 25 OF 1954

[7th May, 1954]

An Act further to amend the Factories Act, 1948:

BE it enacted by Parliament in the Fifth Year of our Republic as follows:—

1. Short title.—This Act may be called the Factories (Amendment) Act, 1954.

2. Amendment of section 2, Act LXIII of 1948.—In section 2 of the Factories Act, 1948 (hereinafter referred to as the principal Act),—

(i) after clause (b), the following clause shall be inserted, namely:—

“(bb) “calendar year” means the period of twelve months beginning with the first day of January in any year;”

(ii) in clause (k), for sub-clause (iv), the following sub-clause shall be substituted, namely:—

“(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding;”

(iii) in clause (m), for the words, figures and brackets “the Indian Mines Act, 1923 (IV of 1923)”, the words, figures and brackets “the Mines Act, 1952 (XXXV of 1952)” shall be substituted.

3. Substitution of new section for section 4 in Act LXIII of 1948.—For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. *Power to declare different departments to be separate factories or two or more factories to be a single factory.*—The State Government may, on an application made in this behalf by an occupier, direct, by an order in writing, that for all or any of the purposes of this Act different departments or branches of a factory of the occupier specified in the application shall be treated as separate factories or that two or more factories of the occupier specified in the application shall be treated as a single factory.”

4. Amendment of section 7, Act LXIII of 1948.—In section 7 of the principal Act,—

(i) in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(bb) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93;”;

(ii) in sub-section (4), for the words “Chief Inspector a written notice”, the words “Inspector a written notice and to the Chief Inspector a copy thereof” shall be substituted.

5. Amendment of section 21, Act LXIII of 1948.—In section 21 of the principal Act, in the proviso to sub-section (1), for the word and figures “section 22”, the words, figures and brackets “sub-section (1) of section 22” shall be substituted.

6. Amendment of section 22, Act LXIII of 1948.—In section 22 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.”

7. Amendment of section 26, Act LXIII of 1948.—In section 26 of the principal Act,—

(i) in sub-section (2), for the word, brackets and figure “sub-section (1)”, the words, brackets and figures “sub-section (1) or any rules made under sub-section (3)” shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.”

8. Substitution of new section for section 29 in Act LXIII of 1948.—For section 29 of the principal Act, the following section shall be substituted, namely:—

“29. *Lifting machines, chains, ropes and lifting tackles.*—

(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:—

(a) all parts, including the working gear, whether fixed or movable, of every lifting machine and every chain, rope or lifting tackle shall be—

(i) of good construction, sound material and adequate strength and free from defects;

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing; and a register shall be kept containing the prescribed particulars of every such examination;

(b) no lifting machine and no chain, rope or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register; and where this is not practicable, a table showing the safe working loads of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories—

(a) prescribing further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or a chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined.

Explanation.—In this section,—

(a) "lifting machine" means a crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway;

(b) "lifting tackle" means chain slings, rope slings, rings, hooks, shackles and swivels."

9. Amendment of section 45, Act LXIII of 1948.—In section 45 of the principal Act,—

(i) in sub-section (1), after the words "ordinarily employed", the words "at any one time" shall be inserted;

(ii) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Nothing except the prescribed contents shall be kept in a first aid box or cup board.

(3) Each first aid box or cup board shall be kept in the charge of a separate responsible person who is trained in first aid treatment and who shall always be readily available during the working hours of the factory.”;

(iii) sub-section (3) shall be renumbered as sub-section (4).

10. Amendment of section 54, Act LXIII of 1948.—In section 54 of the principal Act, the following proviso shall be added at the end, namely:—

“Provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.”.

11. Amendment of section 55, Act LXIII of 1948.—Section 55 of the principal Act shall be renumbered as sub-section (1) of that section and after that section as so renumbered the following sub-section shall be added, namely:—

“(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.”.

12. Amendment of section 58, Act LXIII of 1948.—In section 58 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The State Government or subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-section (1).”.

13. Amendment of section 59, Act LXIII of 1948.—In section 59 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

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

Explanation 1.—“Standard family” means a family consisting of the worker his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

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

(5) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

14. Amendment of section 61, Act LXIII of 1948.—In section 61 of the principal Act, in sub-section (2), for the figures and word “55 and 56”, the figures and word “55, 56 and 58” shall be substituted.

15. Amendment of section 64, Act LXIII of 1948.—In section 64 of the principal Act,—

(i) in sub-section (2),—

(a) in clause (d), the words “throughout the day” shall be omitted;

(b) the following clauses shall be added at the end, namely:—

‘(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of sections 51, 54 and 56.

Explanation.—In this clause the expression “news-papers” has the meaning assigned to it in the Press and Registration of Books Act, 1867 (XXV of 1867).”;

(j) of workers engaged in the loading or unloading of railway wagons, from the provisions of sections 51, 52, 54, 55 and 56.’;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

‘(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime:—

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the spreadover, inclusive of intervals for rest, shall not exceed twelve hours in any one day:

Provided that the State Government may, in respect of any or all of the categories of workers referred to in clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by clause (i) and clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

(iii) the total number of hours of overtime shall not exceed fifty for any one quarter.

Explanation.—“Quarter” means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.

16. Amendment of section 65, Act LXIII of 1948.—In section 65 of the principal Act, in sub-section (3), for the words “weekly hours of work”, the words “working hours” shall be substituted.

17. Amendment of section 66, Act LXIII of 1948.—In section 66 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(c) there shall be no change of shifts except after a weekly holiday or any other holiday.”

18. Amendment of section 70, Act LXIII of 1948.—In section 70 of the principal Act, in sub-section (1), the following proviso shall be added at the end, namely:—

‘Provided that no such adolescent who has not attained the age of seventeen years shall be employed or permitted to work in any factory during night.

Explanation.—For the purpose of this sub-section “night” shall mean a period of at least twelve consecutive hours which shall include an interval of at least seven consecutive hours falling between 10 P.M. and 7 A.M.’

19. Amendment of section 71, Act LXIII of 1948.—In section 71 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

‘(b) during the night.

Explanation.—For the purpose of this sub-section “night” shall mean a period of at least twelve consecutive hours which shall include the interval between 10 P.M. and 6 A.M.’

20. Substitution of new Chapter for Chapter VIII in Act LXIII of 1948.—For Chapter VIII of the principal Act, the following Chapter shall be substituted, namely:—

“CHAPTER VIII

ANNUAL LEAVE WITH WAGES

78. Application of Chapter.—(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that when such award, agreement or contract of service provides for a longer annual leave with wages than provided in this Chapter, the worker shall be entitled only to such longer annual leave.

(2) The provisions of this Chapter shall not apply to workers in any workshop of any railway administered by the Government, who are governed by leave rules approved by the Central Government.

79. *Annual leave with wages.*—(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of—

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation 1.—For the purpose of this sub-section—

(a) any days of lay off, by agreement or contract or as permissible under the standing orders;

(b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

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

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service during the course of the year he shall be entitled to leave with wages at the rates laid down in sub-section (1) even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earn leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

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

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

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

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

Provided that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947):

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

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6); and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of leave allowable under this section may be regulated.

(9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in the factory and shall be in force for a period of twelve months from the date on which it comes into force, and may thereafter be renewed with or without modification for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of

the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

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

80. *Wages during leave period.*—(1) For the leave allowed to him under section 79, a worker shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles.

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

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

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

(3) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

81. *Payment in advance in certain cases.*—A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

82. *Mode of recovery of unpaid wages.*—Any sum required to be paid by an employer, under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (IV of 1936).

83. *Power to make rules.*—The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

84. *Power to exempt factories.*—Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision it may, by

written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order."

21. Substitution of new section for section 93 in Act LXIII of 1948.—For section 93 of the principal Act, the following section shall be substituted, namely:—

"93. Liability of owner of premises in certain circumstances.—

(1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

(i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;

(ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;

(iii) safe means of access to the floors or flats and maintenance and cleanliness of stair cases and common passages;

(iv) precautions in case of fire;

(v) maintenance of hoists and lifts; and

(vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 14 and 15;

(ii) Chapter IV, except sections 22, 23, 27, 34, 35 and 36:

Provided that in respect of the provisions of sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.