

# Bombay Shops and Establishments Act, 1948

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## **Chapter: Preliminary**

### **Section 1: Short title extent and operation**

(1) This Act may be called the Bombay Shops and Establishments Act 1948.

[(2) It extends to the whole of the State of Maharashtra]

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

[Provided that, on the commencement of the Bombay Shops and Establishments (Extension and Amendment) Act, 1960, Mah.XXVI of 1961, all the provisions of this Act shall also come into force in each of the areas in which the Central Provinces and Berar Shops and Establishments Act, 1947, C.P and Berar Act, XXII of 1947, or the Hyderabad Shops and Establishments Act 1951, Hyd. X of 1951, was in force immediately before such commencement.]

(4) The [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 population of twenty-five thousand and more as may be specified in the notification.

(5) The [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 of less than twenty-five thousand as may be specified in the notification.

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## **Chapter: Preliminary**

### **Section 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) "Child" means a person who has not completed his fifteenth year of age; but does not include a person who has, before the date of commencement of the Bombay Shops and Establishments (Amendment) Act, 1977, completed his twelfth year of age even though he has not completed his fifteenth year of age, if he is on the day immediately preceding the said date an employee in any establishment to which this Act applies;]

[(3) "Closed" means not open 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;]

(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 establishment of any legal practitioner, medical practitioner, architect, engineer, accountant, tax consultant or any other technical or professional consultant and also includes) a society registered under the Societies Registration Act, 1866 (XXI of 1860), and charitable or other trust, whether registered or not, which carries on (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 midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;
- [ (6) "Employee" means a person wholly or principally employed, whether directly or through any agency, and whether for wages or other consideration in or in connection with any establishment; and includes an apprentice, but does not include a member of the employers family;]
- (7) "Employer" means a person owning or having ultimate control 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 [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 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 applies;
- (15) "Local authority" means a body specified in Schedule I-A and includes any other body which the State Government may, by notification in the Official Gazette declare to be a local authority for the purpose 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, mother, brother or sister of an employer who lives with and dependent on such employer;
- (18) "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 establishment" means a register maintained for the registration of establishments under this act;
- (23) "Registration Certificate" means a certificate showing the registration of establishment;
- (24) "Residential Hotel" means any premises used for the reception of guests and travelers desirous of dwelling or sleeping therein and includes (residential club)
- (25) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply of meal 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, (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 midnight of Saturday;
- (32) "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.
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**Chapter: Preliminary****Section 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 Green-wich mean time.

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**Chapter: Preliminary****Section 4: Exemption**

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 (State) Government may, by notification published in the Official Gazette, add to, omit or alter any of the entries of the said Schedule (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.

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**Chapter: Preliminary****Section 5: Application of Act to other establishments and persons**

(1) Notwithstanding anything contained in this Act, the (State) Government may, by notification in the Official Gazette, declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptation as may in the opinion of the (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 establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees.

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**Chapter: Preliminary****Section 6: Suspension of all or any of the Provisions of this Act**

The [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.

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**Chapter: Registration of Establishments****Section 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 -

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

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and

shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

[(2-A) A registration certificate granted under sub-section (2), shall be valid up to the end of the year for which it is granted. An application for the renewal of a registration certificate shall be submitted not less than fifteen days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed.]

[(2-AA) If the application for the renewal of a registration certificate is submitted after the expiry of the period specified in sub-section (2A) but within thirty days after the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, such application shall be accompanied by an additional fee as late fee equal to half the fee payable for the renewal of a registration certificate.

[(2-B) Notwithstanding anything contained in the preceding sub-sections of this section, any registration certificate granted under sub-section (2) or renewed under sub-section (2A) may, at the option of the employer, be granted or renewed for a period of three years at a time, on payment of the fees for that period, so as to be valid up to the end of the third year from and including the year in which it is granted or renewed, as the case may be.]

(3) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the 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) :

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(1) (2) Establishments Date from which the period of 30 days to commence

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(i) Establishments existing in local areas mentioned in The dae on which this Act comes into Schedule I on the date on which this Act comes into force. force.

(ii) Establishments existing in local areas on the date on The date on which this section come which this section comes into force. force in the local areas

(iii) New establishments in local areas mentioned in The date on which the establishment Schedule I and other local areas in which this section has commences its work. come into force.

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**Chapter: Registration of Establishments**  
**Section 8: Change to be communicated to Inspector**

It shall be the duty of an employer to notify to the Inspector, in prescribed form. (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 Government may prescribed in respect of any establishment or class of establishments]. 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.

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**Chapter: Registration of Establishments**  
**Section 9: Closing of establishment to be communicated to Inspector**

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 establishments and cancel the registration certificate.

[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 register and cancel such certificate.]

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## **Chapter: Shops and Commercial Establishments**

### **Section 10: Opening hours of shops**

(1) No shop -

(a) dealing wholly in milk, vegetable, fruits, fish, meat, bread or any other goods notified by the (State) Government shall on any day be opened earlier than 5 a.m.

(b) (\*\*\*\*\*) other than those specified in clause (a) of this sub-section, shall on any day be opened earlier than 7 a.m.

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

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## **Chapter: Shops and Commercial Establishments**

### **Section 11: Closing hours of shops**

(1) Notwithstanding anything contained in any other enactment for the time being in force, no shop -

(a) [\*\*\*] other than those specified in clause (b) of this sub-section shall on any day be closed later than 8.30 p.m.;

(b) [dealing mainly] in pan bidi, cigarettes, matches and other ancillary articles shall on any day be closed later than 11 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 period of the year.

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## **Chapter: Shops and Commercial Establishments**

### **Section 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:

[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) 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 deposit, 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 his 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]

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## **Chapter: Shops and Commercial Establishments**

### **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 [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.

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**Chapter: Shops and Commercial Establishments****Section 14: Daily and weekly hours of work in shops and commercial establishment**

- (1) Subject to the (other) 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) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed [six] hours in any week.
- (3) On not more than six days in a year which the [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.
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**Chapter: Shops and Commercial Establishments****Section 15: Interval for rest**

The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period for 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]:

[Provided that:-

- (a) in the case of employees in a commercial establishment engaged in any manufacturing process, the interval for rest shall be at least half an hour; and
- (b) in the case of any other employee the State Government may, on an application made in that behalf [by the union recognised under any law for the time being in force where there is such union, or where there is no such union by a majority of the employees concerned] permit the reduction of the interval for rest to half an hour.)
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**Chapter: Shops and Commercial Establishments****Section 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.

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**Chapter: Shops and Commercial Establishments****Section 17: Spread-over in commercial establishments**

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

Provided that the [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 establishment.

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**Chapter: Shops and Commercial Establishments****Section 18: Holidays in a week in shops and commercial establishments**

[(1) Every shop and commercial establishment shall remain closed on one day of the week.  
{Except where the day is fixed under the provisions of sub-section (1B), the employer shall prepare] a calendar or

list of such closed days at the beginning of the year, 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:

[Provided that, if no change is made in the calendar or list of closed days for any year, it shall not be necessary to notify again such calendar or list as aforesaid.]

Provided further that, where any shop or commercial establishment comes after the beginning of any year within the purview of this Act for the first time, the employer shall also prepare a calendar or list of such closed days for the remaining part of the year, and notify it to the Inspector within a month of the date on which the shop or establishment so comes within the purview of this Act.]

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

(a) it remains closed on any day of the week; and

(b) 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].

[(1-B) A local authority in respect of any area within its jurisdiction and the State Government in any local area elsewhere, may, by order published in the prescribed manner, after consultation with representative associations or otherwise as appear to such authority or the State Government to be most appropriate for ascertaining the views of the employers and employees affected by the order, fix the day on which a shop or commercial establishment is to be closed, and any such order may either fix the same day for all shops or establishments therein, or may fix -

a) different days for different classes of shops or establishments, or

b) different days for different parts of the area nor local area, or

c) different days for different periods of the year,

and thereupon, every shop or commercial establishment shall, on such day so fixed remain closed; but nothing in this sub-section 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 commercial establishment on a public holiday within the meaning of the Negotiable Instruments Act 1881, (XXVI of 1881)]

(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 nonetheless be paid his daily wage for the day on which such shop or commercial establishment remains closed. [If any employee is paid a piece rated wage, he shall nonetheless be paid his wage for the day on which the shop or commercial establishment remain closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime:]

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

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## **Chapter: Residential Hotels, Restaurants and Eating Houses**

### **Section 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 twelve midnight 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 Before and [00.30 a.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 [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 [State] Government may, by notification in the Official Gazette, fix such opening and closing and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

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### **Chapter: Residential Hotels, Restaurants and Eating Houses**

#### **Section 20: Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hour**

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.

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### **Chapter: Residential Hotels, Restaurants and Eating Houses**

#### **Section 21: Daily [and weekly] hours of work in residential hotels, restaurants and eating houses**

(1) [Subject to other provisions of this Act] no employee shall be required or allowed to work in any residential hotel, restaurant or eating houses for more than nine hours in any day [and forty eight hours in any week].

(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.

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### **Chapter: Residential Hotels, Restaurants and Eating Houses**

#### **Section 22: 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 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]:

[Provided that, the State Government may, on an application made in that behalf [by the union recognised under any law for the time being in force where there is such union or where there is no such union by a majority of the employees concerned] permit the reduction of the interval for rest to half an hour.]

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### **Chapter: Residential Hotels, Restaurants and Eating Houses**

#### **Section 23: Spread-over**

The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed [twelve] hours: Provided that the (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.

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### **Chapter: Residential Hotels, Restaurants and Eating Houses**

#### **Section 24: Holiday 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 wage, he shall nonetheless be paid his daily wage for the holiday.

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#### **Chapter: Residential Hotels, Restaurants and Eating Houses**

##### **Section 25: Employer to furnish identity card to employee**

The employer shall furnish every employee in a residential hotel, restaurant or eating house 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:

- (a) the name of the employer;
  - (b) the name, if any, and the postal address, of the establishment;
  - (c) the name and age of the employee;
  - (d) the hours of work, the interval for rest and holiday of the employee;
  - (e) [the signature (with date) of the employer or manager].
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#### **Chapter: Theatres or Other Places of Public Amusement or Entertainment**

##### **Section 26: Closing hours of theatres or other places of public amusement or 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 [00.30 a.m]

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#### **Chapter: Theatres or Other Places of Public Amusement or Entertainment**

##### **Section 27: Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the close**

After the hour fixed for the closing of shop 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.

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#### **Chapter: Theatres or Other Places of Public Amusement or Entertainment**

##### **Section 28: Daily [and weekly] 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 [and forty-eight hours in any week]

(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].

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#### **Chapter: Theatres or Other Places of Public Amusement or Entertainment**

##### **Section 29: 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.

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.

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**Chapter: Theatres or Other Places of Public Amusement or Entertainment****Section 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 [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 theatre or other place of public amusement or entertainment.

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**Chapter: Theatres or Other Places of Public Amusement or Entertainment****Section 31: Holiday in a week**

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

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in 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 an employee is employed on a daily wage, he shall nonetheless be paid his daily wage for the holiday given to him.

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**Chapter: Employment of Children, Young Persons and Women****Section 32: No child to work in an establishment**

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

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**Chapter: Employment of Children, Young Persons and Women****Section 33: Opening and closing hours for young persons and women**

(1) No young person or woman, notwithstanding that such young person or woman is a member of the family of the employer, shall be required or allowed to work, whether as an employee or otherwise, in any establishment before 6.00 a.m.

(2) No such young person shall be required or allowed to work in any establishment after 7.00 p.m.

(3) No such woman shall be required or allowed to work in any establishment after 8.30 p.m.]

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**Chapter: Employment of Children, Young Persons and Women****Section 34: Daily hours 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.

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**Chapter: Employment of Children, Young Persons and Women****Section 34A: Prohibition of employment of young persons and women in dangerous work**

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

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**Chapter: Leave with Pay and Payment of Wages****Section 35: Leave**

[(1) (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 more than five days.

(b) every employee who has worked for not less than two hundred and forty days during a year [irrespective of the date of commencement of his service,] 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 forty-two 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 sub-section (1) of section 18, or on which he is entitled to a holiday under sub-section (1) of section 24 or section 31.]

(2) If an employee entitled to leave under sub-section (1) [or (1-A)] 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) [or (1-A)] is refused the leave, he may give intimation to the Inspector or any other officer authorised in this behalf by the [State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed. [The employee shall also send a copy of such intimation to his employer and , thereupon, the employee shall be entitled to carry forward the unavailed leave without any limit.]

(4) Notwithstanding anything contained in this section, every employee, irrespective of his period of employment , shall be entitled to additional holiday on the 26th January, [1st May, 15th August and 2nd October every year. For holiday on these days, he shall be paid wages at a rate equivalent to the daily average of his wages (excluding overtime), which he earns during the month in which such compulsory holiday falls.

Provided that the employer may require any employee to work in the establishment on all or any of these days, subject to the conditions that for such work the employee shall be paid double the amount of the daily average wages and also leave on any other day in lieu of the compulsory holiday.]

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## **Chapter: Leave with Pay and Payment of Wages**

### **Section 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 earnings in respect of overtime.

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## **Chapter: Leave with Pay and Payment of Wages**

### **Section 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.

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## **Chapter: Leave with Pay and Payment of Wages**

### **Section 38: Application and amendment of the Payment of Wages Act**

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936, (V of 1936) herein referred to as "the said Act", the [State] Government may, by notifications published in the Official Gazette, direct that subject to the provisions of sub-sections (2) of the said Act [shall, in such local areas as may be specified in the notification, apply] to all or any class of establishments 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 provisions of the said Act to any establishment or to any employees under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said act within the local limits of his jurisdiction.

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**Chapter: Leave with Pay and Payment of Wages****Section 38A: Application of Act VIII of 1923 to employees of establishment**

The provisions of the Workmens compensation Act, 1923 (VIII of 1923), and the rules made from time to time thereunder, shall, mutatis mutandis, apply to employees of an establishment to which this act applies, as if they were workmen within the meaning of the Workmens Compensation Act, 1923.

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**Chapter: Leave with Pay and Payment of Wages****Section 38B: Application of Industrial Employment (Standing Orders) Act to establishments**

The provisions of the Industrial Employment (Standing Orders) Act, 1946, in its application to the State of Maharashtra [(hereinafter in this section referred to as "the said Act"), and the rules and standing orders (including model standing orders) made thereunder from time to time, shall, mutatis mutandis, apply to [all establishments wherein fifty or more employees are employed and] to which this Act applies, as if they were industrial establishment within the meaning of the said Act.

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**Chapter: Leave with Pay and Payment of Wages****Section 38C: Application of Maternity Benefit Act of women employees in establishment**

Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter in this section referred to as "the said Act", the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to women employed for wages in all or any of the establishments to which his Act applies. For that purpose, such women employees shall be deemed to be women within the meaning of the said Act. On such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act also within the limits of his jurisdiction.]

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**Chapter: Health and Safety****Section 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, disinfection and deodorising.

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**Chapter: Health and Safety****Section 40: Ventilation**

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

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**Chapter: Health and Safety****Section 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.
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**Chapter: Health and Safety****Section 42: Precautions against fire**

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

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**Chapter: Health and Safety****Section 42A: First-Aid**

In every establishment wherein a manufacturing process as defined in clause (k) of section 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 may be prescribed.]

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**Chapter: Enforcement and Inspection**

**Section 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 be order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions, if any, as may be specified in the order, by its Chief Executive Officer or any other 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 (State) Government to enforce the said provisions.

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**Chapter: Enforcement and Inspection**

**Section 44: Power to make by-laws**

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

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**Chapter: Enforcement and Inspection**

**Section 44A: Provisions for taking over administration of the Act from local authorities**

Notwithstanding anything contained in sections 43 and 44, with a view to implementing the policy of the State Government of taking over the administration of this Act gradually from all the local authorities in the State, the State Government may, from time to time, by notification in the Official Gazette, without the necessity of giving any further notice or reasons, declare that any local authority or authorities or class of local authorities specified in such notification shall cease to perform the duty of enforcing the provisions of this Act from a State Government to enforce the said provisions, in respect of the areas subject to the jurisdiction of such local authorities also.]

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**Chapter: Enforcement and Inspection**

**Section 45: Delegation of powers**

The State Government may by order published in the Official Gazette, direct that any power exercisable by it under this Act or the rules made thereunder (except the power to make rules) shall in relation to such matter and subject to such conditions, if any, as may be specified in the order, be exercised also by any local authority, or by any officer subordinate to the State Government, as may be specified in the order.]

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**Chapter: Enforcement and Inspection**

**Section 46: Power 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 (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 (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 form 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 on behalf of the local authority by way of deposit by such bank or 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.

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### **Chapter: Enforcement and Inspection**

#### **Section 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 or a local board under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

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### **Chapter: Enforcement and Inspection**

#### **Section 48: Appointment of Inspectors**

(1) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

(2) In areas which are not subject to the jurisdiction of any local authority, the (State) Government shall appoint Inspectors with the prescribed qualifications (and in areas which are subject to the jurisdiction of any local authority, the State Government may appoint Inspectors with the prescribed qualifications for such supervision as the State Government.]

(3) 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.

(a) 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

(b) in the case of State Government, by any officer subordinate to it.

(4) Notwithstanding anything contained in the Minimum Wages Act, 1948, (XI of 1948), Inspectors appointed, whether by a local authority, or the State Government under this Act in relation to any area, shall be deemed to be also Inspectors for the purposes of the Minimum Wages Act, 1948, in respect of establishments to which this Act applies, and the local limits within which an Inspector shall exercise his functions under that Act shall be the same as the area for which he is appointed under this Act XI of 1948.]

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### **Chapter: Enforcement and Inspection**

#### **Section 49: Powers and duties of Inspectors**

Subject to any rules made by the [State Government] in this behalf an Inspector may, within the local limits for which he is appointed.

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

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

[(bb) if he has reason to suspect that any employer of an establishment to which this Act applies has committed an offence punishable under section 52 or 55 seize, with the previous permission of such authority as may be prescribed such registers, records or other documents of the employer, as he may consider necessary, and shall grant a receipt therefor and shall retain them only for so long as may be necessary for examination thereof, or for prosecution; 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.

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**Chapter: Enforcement and Inspection****Section 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).

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**Chapter: Enforcement and Inspection****Section 51: Employer [and manager] to produce register, records etc. for inspection**

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

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**Chapter: Offences and Penalties****Section 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 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 sections 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, 33 or 34; or
- [(e) If any employer or manager contravenes the provisions of Section 51 or any employer contravenes the provisions of section 62 or 65; or]
- (e) 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 [for each offence] with fine which shall not be less than fifty rupees and which may extend to five hundred rupees]:

[Provided that, if the contravention of the provisions of sub-section (1) of section 7 is continued after the expiry of the tenth day after conviction, the employer shall on conviction be punished with a further fine which may extend to [twenty] rupees for each day on which the contravention is so continued.

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**Chapter: Offences and Penalties****Section 53: Contravention of section 12**

If any person contravenes the provisions of section 12, he shall, on conviction, [be punished for each offence with fine which shall not be less than] [fifty rupees] and which may extend may extend to one hundred rupees.

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**Chapter: Offences and Penalties****Section 54: Employee contravening section 18(2), 24, 31 and 65**

any employee contravenes the provisions of sub-section (2) of section 18, 24, 31 or 65 he shall on conviction [be punished for each offence with fine which shall not be less than [fifty rupees] and which may extend to one hundred rupees.

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**Chapter: Offences and Penalties****Section 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 in any material particular, or wilfully omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any

statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder which, to his knowledge, is false in any material particular, he shall on conviction, be punished with fine which shall not be less than [one hundred rupees and which may extend to five hundred rupees :

Provided that if both employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed [five hundred rupees]

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#### **Chapter: Offences and Penalties**

##### **Section 56: Enhanced penalty in certain cases after previous conviction**

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

Provided further that, for the purposes of this section, no cognizance 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.

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#### **Chapter: Offences and Penalties**

##### **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 fifty rupees and which may extend to five hundred rupees.

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#### **Chapter: Offences and Penalties**

##### **Section 58: Determination of employer for the purpose of this 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 or 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 a private company, a share holder who is resident in the [State to be employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident be 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 or until he ceases to be a director or shareholder.

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**Chapter: Offences and Penalties****Section 59: Exemption of employer or manager from liability in certain cases**

(1) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders 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.

(a) that he has used due diligence to enforce the execution of this Act; and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of 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 -

(a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act.

(b) By what person the offence has been committed, and

(c) 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.

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**Chapter: Offences and Penalties****Section 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 [District Magistrate/Additional District Magistrate, Sub-divisional Magistrate, Commissioner of Labour, Additional Commissioner of Labour or Deputy Commissioner of Labour, or the local authority, as the case may be [or without any such sanction, by an aggrieved person, or by a representative of the registered union of which the aggrieved person, is a member:

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, be exercised 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, [Deputy Municipal Commissioner or Assistant Municipal Commissioner.

(2) No court inferior to that of a [Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence against this Act or any rule or order made thereunder:

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**Chapter: Offences and Penalties****Section 61: Limitation of Prosecutions**

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

(2) Notwithstanding anything contained in sub-section (1) the aggrieved person or a representative of the registered union of which the aggrieved person is a member may within three months from the date on which the alleged commission of the offence took place give intimation of the offence to the Inspector and request him to institute prosecution. On receipt of such intimation and request, the Inspector may himself institute the prosecution within the period of limitation specified in sub-section (1) or inform the applicant before the expiry of the said period or as soon as possible thereafter that he does not propose to institute prosecution. On receipt of such intimation, the applicant shall be entitled to institute prosecution, and the Court shall take cognizance of the

offence, if complaint thereof is made to it within two months from the date of receipt of the intimation of the Inspector by the applicant.

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**Chapter: Miscellaneous and Supplemental**

**Section 62: Maintenance of registers and records and display of notices**

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

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**Chapter: Miscellaneous and Supplemental**

**Section 63: Wages for overtime work**

[Where an employee in any establishment to which this Act applies is required to work in excess of limit of hours of work, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages.

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

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

**Chapter: Miscellaneous and Supplemental**

**Section 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 accused to prove that such person is not under or over such age.

(2) A declaration in writing by a [qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

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

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**Chapter: Miscellaneous and Supplemental**

**Section 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.

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**Chapter: Miscellaneous and Supplemental**

**Section 66: Notice of termination of service**

No employer shall dispense with the services of an employee who has been in his [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:
- c) Provided that such notice shall not be necessary where the services of such employees are dispensed with for misconduct.

[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.
- 

## **Chapter: Miscellaneous and Supplemental**

### **Section 67: Rules**

- (1) The [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:
    - a) the appointment of prescribed authority under clause (21) of section 2;
    - b) 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;
    - c) 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 [the form and the period for notifying] a change and the fees under section 8;
    - d) fixing six days in a year for additional overtime under sub-section (3) of section 14.
    - e) Fixing ten days in a year for overtime under sub-section (3) of section 19;
    - f) Further particulars to be prescribed for an identity card under section 25; [deleted]
    - g) fixing times and methods for cleaning the establishments under section 69; 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) the articles which a first-aid-box maintained under section 42-A shall contain;
    - i) the supervision which the [State] Government shall exercise over local authorities under section 43;
    - j) the qualification of Inspectors appointed under section 48 and their powers and duties under section 49;
    - k) the registers and records to be maintained and notices to be displayed under section 62;
    - l) the limit of hours of work under clause 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) All rules made under this Act shall be laid before each House of the State Legislative as soon as possible after they are made, and shall be subject to such modifications as the State legislature may make during the session in which they are so laid or the session immediately following and published in the Official Gazette].
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## **Chapter: Miscellaneous and Supplemental**

### **Section 68: Protection to persons acting under this Act**

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

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## **Chapter: Miscellaneous and Supplemental**

### **Section 69: Right and privileges under other law etc. not affected**

Nothing in this Act shall affect any right 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.

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## **Chapter: Miscellaneous and Supplemental**

### **Section 70: Persons employed in factory to be governed by Factories Act and not be this Act**

Nothing in this Act shall be deemed to apply to a factory [to which the provisions of the Factories Act, 1948 (LXIII of 1948) apply :

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.

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**Chapter: Miscellaneous and Supplemental**

**Section 71: Submission of annual report etc**

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

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**Chapter: Miscellaneous and Supplemental**

**Section 72: Repeal of Bombay Shops and Establishments Act**

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

Provided that -

2(a) every appointment order, rule, bye-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 superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act.

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

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