

Bill No. 104 of 2005

THE FACTORIES (AMENDMENT) BILL, 2005

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further to amend the Factories Act, 1948.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Factories (Amendment) Act, 2005.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. For section 66 of the Factories Act, 1948, the following section shall be substituted, namely:—

Substitution of new section for section 66 of Act 63 of 1948.

“66. The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

Further restrictions on employment of women.

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) there shall be no change of shifts except after a weekly holiday or any other holiday;

(c) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M. :

Provided that where the occupier of the factory makes adequate safeguards in the factory as regards occupational safety and health, equal opportunity for woman workers, adequate protection of their dignity, honour and safety and their transportation from the factory premises to the nearest point of their residence, the State Government or any person authorised by it in this behalf may, by notification in the Official Gazette, after consulting the concerned employer or representative organisation of such employer and workers or representative organisations of such workers, allow employment of woman workers between the hours of 7 P.M. and 6 A.M. in such factory or group or class or description of factories subject to such conditions as may be specified therein."

STATEMENT OF OBJECTS AND REASONS

Section 66 of the Factories Act, 1948 prohibits employment of women in factories between 7.00 P.M. and 6.00 A.M. This section was incorporated in the Act, after India's ratification of the International Labour Organisation (ILO) Convention No. 89. The State Governments, however, have the power to vary the limits laid down under clause (b) of sub-section (1) of the said section so as to permit employment of women in any factory or class of factories, but no such authorisation can permit employment of women between 10.00 P.M. and 5.00 A.M.

2. In the recent past, many women's organisations have filed Writ Petitions in certain High Courts seeking, *inter alia*, directions for amending the Factories Act, 1948 with a view to permitting night work by women on the ground that the provisions of the Act are discriminatory and gender biased. Some of the Courts have allowed employment of women during the night shift and two High Courts have struck down clause (b) of sub-section (1) of section 66 of the aforesaid Act as unconstitutional.

3. In June, 1990, the General Conference of ILO also had adopted a Protocol relating to Convention No. 89, known as the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948. Under the provisions of the Protocol, the competent authority in a country under its national laws and regulations is authorised to modify the duration of the night shifts or to introduce exemption from the prohibition within certain limits. The Protocol has since been ratified by India and has come into effect on 21st November, 2004.

4. In order to provide flexibility in the matter of employment of women during night, it is necessary to amend section 66 of the Factories Act, 1948. It is, therefore, proposed to amend the said section so as to provide certain flexibilities. However, the occupier has to ensure certain occupational safety and adequate protection to the women so employed. The proposed amendment will also result in optimal utilisation of the installed capacity, promotion of exports and generation of employment opportunities for women.

5. The Bill seeks to achieve the above objects.

K. CHANDRA SEKHAR RAO.

NEW DELHI;
The 5th August, 2005.

ANNEXURE

EXTRACT FROM THE FACTORIES (AMENDMENT) ACT, 1948

(63 OF 1948)

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Further
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employment
of women.

66. (1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M. :

Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.;

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

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

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further to amend the Factories Act, 1948.

(Shri K. Chandra Sekhar Rao, Minister of Labour and Employment)

MGIPMRND—2367LS(S3)—11-8-2005.