

THE FACTORIES (GUJARAT AMENDMENT) BILL, 2020.

GUJARAT BILL NO. 17 OF 2020.

A BILL

further to amend the Factories Act, 1948 in its application to the State of Gujarat.

It is hereby enacted in the Seventy-first Year of the Republic of India as follows:-

1. (1) This Act may be called the Factories (Gujarat Amendment) Act, 2020.
- (2) It shall be deemed to have come into force on the 3rd July, 2020.

Short title and commencement.

- Amendment of section 2 of LXIII of 1948.** **2.** In the Factories Act, 1948, in its application to the State of Gujarat (hereinafter referred to as “the principal Act”), in section 2, in clause (m),-
- (i) in sub-clause (i), for the word “ten”, the word “twenty” shall be substituted;
- (ii) in sub-clause (ii), for the word “twenty”, the word “forty” shall be substituted.
- Amendment of section 85 of LXIII of 1948.** **3.** In the principal Act, in section 85, in sub-section (1), in clause (i), for the words “ten” and “twenty”, the words “twenty” and “forty” shall be substituted, respectively.
- Insertion of new section 106B in LXIII of** **4.** In the principal Act, after section 106A, the following section shall be inserted, namely:-
- Compounding of offences.** **“106B.** The State Government may, by notification in the *Official Gazette*, specify such offences, which shall be compounded by such officer or authority for such amount as may be specified in the said notification:
- Provided that such amount shall not exceed the maximum amount of fine fixed for the offence:
- Provided further that where the offence is so compounded –
- (a) before the institution of the prosecution, the offender shall not be liable to prosecution, for such offence;
- (b) after the institution of the prosecution, the compounding shall amount to acquittal of the offender:
- Provided also that no offence shall be compounded if a factory is involved in a hazardous process as specified in Chapter IV and Chapter IVA. ”.
- Repeal and saving.** **5.** (1) The Factories (Gujarat Amendment) Ordinance, 2020 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

**LXIII of
1948.**

**Guj. Ord.
6 of 2020.**

STATEMENT OF OBJECTS AND REASONS

Under sub-clauses (i) and (ii) of clause (m) of section 2 of the Factories Act, 1948 “factory” has been defined as any premises, including the precincts thereof (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on. Because of the existing limit, small units are also covered under the definition of “factory”. Due to increase in manufacturing activities by small units in the State, the existing threshold limit of “ten” and “twenty” is proposed to be amended by “twenty” and “forty” respectively, so that establishing of small manufacturing units be promoted resulting in creation of more employment opportunities for workers. Consequently, the existing section 85 of the Act is proposed to be amended.

The Factories Act, 1948 does not provide for compounding of offences and it results in higher number of prosecution cases. For speedy disposal of offences and to minimise the number of litigation, a new provision, *i.e.* section 106B is also proposed to be inserted in the said Central Act of 1948 for compounding of offences.

As the Legislative Assembly of the State of Gujarat was not in session, at that time, the Factories (Gujarat Amendment) Ordinance, 2020 was promulgated to achieve the aforesaid objects.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

DILIPKUMAR THAKOR,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative power in the following respect:--

Clause 4.- New section 106B proposed to be inserted in the Factories Act, 1948 by of this clause empowers the State Government to specify, by notification in the *Official Gazette*, such offences which shall be compounded by such officer or authority for such amount not exceeding the maximum amount of fine fixed for such offence.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Dated the 11th September, 2020.

DILIPKUMAR THAKOR.

*ANNEXURE***EXTRACT FROM THE FACTORIES ACT, 1948.****(LXIII of 1948)**

| | | | | |
|----------------------|-----|-----|-----|------------------------|
| 2. (a) to (l) | XXX | XXX | XXX | Interpretation. |
|----------------------|-----|-----|-----|------------------------|

(m) "factory" means any premises including the precincts thereof-

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,

35 of 1952. but does not include a mine subject to the operation of the Mines Act, 1952, or a mobile unit belonging to the armed forces of the union, a railway running shed or a hotel, restaurant or eating place.

Explanation I : For computing the number of workers for the purposes of this clause all the workers in different groups and relays in a day shall be taken into account.

Explanation II: For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if no manufacturing process is being carried on in such premises or part thereof;

| | | | |
|------------|-----|-----|-----|
| (n) to (r) | XXX | XXX | XXX |
|------------|-----|-----|-----|

**Power to
apply the
Act to
certain
premises.**

85. (1) The State Government may, by notification in the *Official Gazette*, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that-

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner:

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

GUJARAT LEGISLATURE SECRETARIAT

GUJARAT BILL NO. 17 OF 2020.

A BILL

*further to amend the Factories Act, 1948 in its
application to the State of Gujarat.*

**[SHRI DILIPKUMAR THAKOR,
MINISTER FOR LABOUR AND
EMPLOYMENT]**

**(As published in the Gujarat Government
Gazette of 14th September, 2020)**

D.M.PATEL,

Secretary,

Gujarat Legislative Assembly.