



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

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असाधारण क्रमांक ७८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the factories (Maharashtra Amendment) Bill, 2015 (L. A. Bill No. XXXVI of 2015), introduced in the Maharashtra Legislative Assembly on the 21st July 2015, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

DR. MANGALA THOMBARE,
I/c. Draftsman-cum-Joint Secretary
to Government,
Law and Judiciary Department.

L. A. Bill No. XXXVI OF 2015.

A BILL

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

63 of 1948. WHEREAS it is expedient further to amend the Factories Act, 1948, in its application to the State of Maharashtra, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :—

1. (1) This Act may be called the Factories (Maharashtra Amendment) Act, 2015.

Short title and commencement.

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

Amendment of section 2 of 63 of 1948.

2. In section 2 of the Factories Act, 1948, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), in clause (m),—

63 of 1948.

(a) in sub-clause (i), after the words "whereon ten or more workers" the words "or such number of workers as may be specified by the State Government by notification, from time to time" shall be inserted ;

(b) in sub-clause (ii), after the words "whereon twenty or more workers" the words "or such number of workers as may be specified by the State Government by notification, from time to time" shall be inserted ;

(c) after sub-clause (ii), the following proviso shall be inserted, namely :—

"Provided that, the number of workers to be specified by the State Government in sub-clauses (i) and (ii) shall not exceed twenty and forty workers, respectively."

Amendment of section 65 of 63 of 1948.

3. In section 65 of the principal Act,—

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

"(2) On such terms and conditions as may be prescribed, any or all of the adult male workers in any factory or group or class or description of factories may be exempted from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.";

(b) in sub-section (3), in clause (iv), for the words "shall not exceed seventy-five" the words "shall not exceed one hundred and fifteen" shall be substituted.

Amendment of section 66 of 63 of 1948.

4. In section 66 of the principal Act, in sub-section (1), in clause (b), for the existing proviso, the following proviso shall be substituted, namely :—

"Provided that, the women workers may be required or allowed to work even between the hours of 7.00 p.m. and 6.00 a.m. in any factory in which adequate safety and security measures or safeguards as may be prescribed are provided;"

Amendment of section 79 of 63 of 1948.

5. In section 79 of the principal Act, in sub-section (1),—

(a) for the figures and word "240 days" the figures and word "90 days" shall be substituted;

(b) in *Explanation 1*, for the figures and word "240 days" the figures and word "90 days" shall be substituted.

Amendment of section 85 of 63 of 1948.

6. In section 85 of the principal Act, in sub-section (1), in clause (i),—

(a) after the words "less than ten" the words "or such number of workers as may be specified by the State Government under sub-clause (i) of clause (m) of section 2" shall be inserted;

(b) after the words "less than twenty" the words "or such number of workers as may be specified by the State Government under sub-clause (ii) of clause (m) of section 2," shall be inserted.

Insertion of section 92A in 63 of 1948.

7. After section 92 of the principal Act, the following section shall be inserted, namely :—

Compounding of certain offences.

"**92A.** (1) The State Government may, by notification in the *Official Gazette*, prescribe in respect of the offences specified in the Fourth Schedule, which may before the institution of the prosecution, be compounded by such officer not below the rank of Deputy Chief Inspector

of Factories and for such amount as may be prescribed but the amount of fine shall not be more than the fine prescribed under section 92 :

Provided that, the State Government may, by notification in the *Official Gazette*, amend the Fourth Schedule by way of addition, omission or variation of any offence specified in the said Schedule.

(2) Where an offence has been compounded under sub-section (1), no further proceedings shall be taken against the offender in respect of such offence.”.

8. In section 105 of the principal Act, in sub-section (1), for the words “an Inspector” the words “the Chief Inspector” shall be substituted. Amendment of section 105 of 63 of 1948.

9. After the THIRD SCHEDULE appended to the principal Act, the following SCHEDULE shall be added, namely :— Addition of FOURTH SCHEDULE to 63 of 1948.

“ THE FOURTH SCHEDULE

(See section 92A)

List of Compoundable Offences

Serial number (1)	Section and rules framed thereunder and orders issued thereunder (2)	Nature of offence (3)
1.	Section 11 - Cleanliness.	Not maintaining cleanliness as per the provisions.
2.	Section 18 - Drinking water.	Not providing and maintaining arrangements for drinking water as per the provisions.
3.	Section 19 - Latrines and urinals.	Not providing latrine and urinal accommodation as per the provisions.
4.	Section 20 - Spittoons.	(a) Not providing the spittoons as per the provisions. (b) Spitting in contravention of sub-section (3) of section 20.
5.	Section 42 - Washing facilities.	Not providing and maintaining washing facilities as per the provisions.
6.	Section 43 - Facilities for storing and drying of wet clothing.	Not providing facilities as per the provisions.
7.	Section 44 - Facilities for sitting.	Not providing facilities as per the provisions.
8.	Sub-sections (1), (2) and (3) of section 45 - First-aid appliances.	Not providing and maintaining first-aid appliances as per the provisions.
9.	Section 46 - Canteens.	Not providing and maintaining canteen as per the provisions.
10.	Section 47 - Shelters, rest rooms and lunch rooms.	Not providing and maintaining shelters, rest rooms and lunch rooms as per the provisions.
11.	Section 48 - Creches.	Not providing and maintaining creches as per the provisions.
12.	Section 50 - Power to make rules to supplement Chapter V.	Not complying with the rules framed under section 50.
13.	Sub-section (2) of section 53-Compensatory holidays.	Not displaying the notice and not maintaining the register for compensatory holiday.

(1)	(2)	(3)
14.	Sub-section (5) of section 59 - Extra wages for overtime.	Not maintaining the prescribed registers.
15.	Section 60 - Restriction on double employment.	Allowing a worker a double employment on any day.
16.	Section 61 - Notice of periods of work for adults.	Not complying with the provisions.
17.	Section 62 - Register of adult workers.	Not maintaining register as per the provisions.
18.	Section 63 - Hours of work to correspond with notice under section 61.	Not complying with the provisions.
19.	Section 64 - Power to make exempting rules.	Not complying with the rules framed under section 64.
20.	Section 65 - Power to make exempting orders.	Not complying with the orders issued under section 65.
21.	Section 79 - Annual leave with wages.	Not complying with the provisions.
22.	Section 80 - Wages during leave period.	Not complying with the provisions.
23.	Section 81 - Payment in advance in certain cases.	Not complying with the provisions.
24.	Section 82 - Mode of recovery of unpaid wages.	Not complying with the provisions.
25.	Section 83 - Power to make rules.	Not maintaining registers as per rules and not complying with the provisions.
26.	Section 84 - Power to exempt factories.	Not complying with the conditions specified in the exempting order.
27.	Section 93 - Liability of owner of premises in certain circumstances.	Not complying with the provisions contained in sub-section (1) and clauses (i) and (vi) of sub-section (3).
28.	Section 97 - Offences by workers.	Not complying with the provisions.
29.	Section 108-Display of notices.	Not complying with the provisions.
30.	Section 110>Returns.	Not complying with the provisions.
31.	Section 111 - Obligation of workers.	Not complying with the provisions.
32.	Section 111A - Right of workers, etc.	Denial of rights of workers.
33.	Section 114 - No charge for facilities and conveniences.	Demanding charge from worker for providing any facility under the Act.”.

STATEMENT OF OBJECTS AND REASONS

The Factories Act, 1948 (63 of 1948) is a comprehensive Central Legislation on Safety, Health and Welfare of labour as well as regulation of conditions of work in factories. The State Governments are vested with executive powers under the said Act. It is in force in the State of Maharashtra from the very beginning.

The increased use of technology and new innovation in the various industrial and manufacturing sectors and the expansion mode of Indian economy has necessitated the changes in safety and health norms of the work force. Also meeting the rising needs of increasing employment opportunities and capacities in the industrial sector to absorb and gainfully employ the increasing work force is a priority of the Government. This require major investment in the manufacturing and capital goods sector. To attract these investments, the industrial policy needs to move in a fast forward mode and ensure the ease of doing business in the State, without compromising on the safety and health standards of workers in the manufacturing sector. Therefore, there is a felt need for comprehensive reforms in the legal framework of various labour laws, especially the Factories Act, 1948.

2. In order to achieve more effective occupational health and safety standards of the workers, to ensure maximum benefits legitimately due to the workers under the Act, to ensure more job opportunities and strengthening the working conditions of the women workers, to remove the redundancy in the process and ensure transparency and effective implementation of the provisions of the said Act, as well as to provide impetus to the industrial growth to achieve the better economic level development in the State, it is proposed further to amend the Factories Act, 1948 (63 of 1948), in its application to the State of Maharashtra, so as to,—

(a) amend sub-clauses (i) and (ii) of clause (m) of section 2 of the said Act to insert the words “or such number of workers as may be specified by the State Government by notification, from time to time” after the words “whereon ten or more workers” and “whereon twenty or more workers”, respectively, and to insert proviso after the said sub-clause (ii), to increase the number of workers to maximum upto twenty and forty in sub-clauses (i) and (ii), respectively, with a view to exclude factories working on small scale from the purview of the said Act, for encouraging such factories ;

(b) substitute sub-section (2) of section 65 of the said Act, so as to provide that, on such terms and conditions as may be prescribed, any or all of the adult male workers in any factory or group or class or description of factories may be exempted from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work; and amend clause (iv) of sub-section (3) of section 65 of the said Act, with a view to increase the maximum limit of total number of hours of overtime work in any quarter from 75 hours to 115 hours, so that the workers will be benefitted financially ;

(c) substitute proviso to clause (b) of sub-section (1) of section 66 of the said Act, with a view to require or allow the women workers to work between the hours of 7.00 p.m. and 6.00 a.m. in any factory in which

adequate safety and security measures or safeguards, as may be prescribed are provided to provide equal opportunities to the women workers and more employment opportunities to them ;

(d) amend sub-section (1) of section 79 of the said Act, for decreasing the limit of annual leave with wages from “240” days to “90” days, so that the maximum workers are benefitted for getting annual leave with wages ;

(e) amend clause (i) of sub-section (1) of section 85 of the said Act to insert the words “or such number of workers as may be specified by the State Government under sub-clause (i) of clause (m) of section 2” and “or such number of workers as may be specified by the State Government under sub-clause (ii) of clause (m) of section 2” after the words “less than ten” and “less than twenty”, respectively, so that more workers will get the benefits regarding safety, health and welfare facilities under the said Act;

(f) insert new section 92A in the said Act, with a view to provide for the compounding of certain offences as may be specified in the Fourth Schedule proposed to be appended thereto, for speedy disposal of the cases regarding contravention of the provisions of the said Act and also to reduce the prosecutions in the Court of Law; and

(g) amend sub-section (1) of section 105 of the said Act, with a view to authorise the Chief Inspector of Factories instead of the Inspector of Factories to lodge complaint for taking cognizance of an offence under the said Act by the Court, for bringing more transparency in the procedure.

3. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 15th July 2015.

PRAKASH MEHTA,

Minister for Labour.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely:—

Clause 1(2).—Under this clause, power is taken to the State Government to bring the Act into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Clause 2(a) and (b).—Under this clause, which seeks to amend sub-clauses (i) and (ii) of clause (m) of section 2 of the Factories Act, 1948, in its application to the State of Maharashtra (hereinafter referred to as “the said Act”), power is taken to the State Government to specify by notification, the number of workers for the purposes of the definition of the term “factory”.

Clause 3(a).—Under this clause, power is taken to the State Government to prescribe the terms and conditions on which any or all of the adult male workers in any factory or group or class or description of factories may be exempted from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

Clause 4.—Under this clause, which seeks to substitute the proviso to clause (b) of sub-section (1) of section 66 of the said Act, power is taken to the State Government to prescribe by rules, the adequate safety and security measures or safeguards as may be provided to the women workers in the factory, who may be required or allowed to work even between the hours of 7.00 p.m. and 6.00 a.m.

Clause 7.—Under this clause, which seeks to insert a new section 92A in the said Act, in sub-section (1), power is taken to the State Government,—

(a) to prescribe by notification in the *Official Gazette*, the offences specified in the FOURTH SCHEDULE, which may, before the institution of the prosecution, be compounded by such officer not below the rank of Deputy Chief Inspector of Factories for the amount which may be prescribed by the rules;

(b) to prescribe by rules, the amount of fine for the compounding of offences specified in the FOURTH SCHEDULE which shall not be more than the fine prescribed under section 92 of the said Act;

(c) in the proviso, to amend, by notification in the *Official Gazette*, the FOURTH SCHEDULE by way of addition, omission or variation of any offence specified in the said Schedule.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.