KLJ Publications

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961

[KARNATAKA ACT No. 8 OF 1962]

Along with

- KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS RULES, 1963 [AS AMENDED BY NOTIFICATION No. LD 429 LET 2017, DATED 24-3-2018]
- KARNATAKA LABOUR WELFARE FUND ACT, 1965 [AS AMENDED BY ACT No. 21 OF 2017] AND RULES, 1968
- KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963
- KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963 AND RULES, 1964
- KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND RULES, 2013
- KARNATAKA STATE THIRD PARTY CERTIFICATION OF COMPLIANCE UNDER LABOUR LAWS SCHEME, 2016
- AMENDMENT ACTS AMENDMENT RULES NOTIFICATIONS, COMMENTS & CASE LAWS

YASHPAL PULIANI
Managing Editor,
KARNATAKA LAW JOURNAL

2024
TWENTY-FIRST EDITION

KARNATAKA LAW JOURNAL PUBLICATIONS
BENGALURU

KLJ Publications

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961

[KARNATAKA ACT No. 8 OF 1962]

[AS AMENDED BY KARNATAKA ACT No. 8 OF 2021]

Along with

- KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS RULES, 1963 [AS AMENDED BY NOTIFICATION No. LD 429 LET 2017, DATED 24-3-2018]
- KARNATAKA LABOUR WELFARE FUND ACT, 1965 [AS AMENDED BY ACT No. 21 OF 2017] AND RULES, 1968
- KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963
- KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963 AND RULES, 1964
- KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND RULES, 2013
- KARNATAKA STATE THIRD PARTY CERTIFICATION OF COMPLIANCE UNDER LABOUR LAWS SCHEME, 2016
- AMENDMENT ACTS AMENDMENT RULES NOTIFICATIONS, COMMENTS & CASE LAWS

YASHPAL PULIANI
Managing Editor,
KARNATAKA LAW JOURNAL

PULIANI AND PULIANI
Ground Floor, Sujatha Complex, 1st Cross
Gandhinagar, BENGALURU - 560 009
Ph: 22254052, 22265500, 22872881
E-mail: pulianilawbooks@gmail.com

2021
TWENTY-FIRST EDITION

KLJ Publications

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961

[KARNATAKA ACT No. 8 OF 1962]

[AS AMENDED BY KARNATAKA ACT No. 8 OF 2021]

Along with

- KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS RULES, 1963 [AS AMENDED BY NOTIFICATION No. LD 429 LET 2017, DATED 24-3-2018]
- KARNATAKA LABOUR WELFARE FUND ACT, 1965 [AS AMENDED BY ACT No. 21 OF 2017] AND RULES, 1968
- KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963
- KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963 AND RULES, 1964
- KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 AND RULES, 2013
- KARNATAKA STATE THIRD PARTY CERTIFICATION OF COMPLIANCE UNDER LABOUR LAWS SCHEME, 2016
- AMENDMENT ACTS AMENDMENT RULES NOTIFICATIONS, COMMENTS & CASE LAWS

YASHPAL PULIANI
Managing Editor,
KARNATAKA LAW JOURNAL

2024
TWENTY-FIRST EDITION

KARNATAKA LAW JOURNAL PUBLICATIONS
Ground Floor, Sujatha Complex, 1st Cross, Gandhinagar, Bengaluru-560 009
☎ Off: 22254052, 22265500 ❖ Fax: 080-22872881 ❖ Res: 23204320, 23204321
E-mail pulianilawbooks@gmail.com

© **PULIANI AND PULIANI,** Bengaluru-560 009

Published by:
YASHPAL PULIANI
For Karnataka Law Journal Publications
Bengaluru-560 009

FIRST EDITION	1993	EIGHTH EDITION	2007
SECOND EDITION	1994	NINTH EDITION	2008
THIRD EDITION	1997	TENTH EDITION	2010
FOURTH EDITION	2000	ELEVENTH EDITION	2011
FIFTH EDITION	2001	TWELFTH EDITJION	2012
SIXTH EDITION	2003	THIRTEENTH EDITION	2013
SEVENTH EDITION	2005	FOURTEENTH EDITION	2014
FIFTEENTH EDITION	2015	REPRINT	2016
SIXTEENTH EDITION	2018	SEVENTEENTH EDITION	2020
EIGHTEENTH EDITION	2021	NINETEENTH EDITION	2021
TWENTIETH EDITION	2023		

TWENTY-FIRST EDITION 2024

Price: ₹695/-

Also available with:
PULIANI AND PULIANI
Ground Floor, Sujatha Complex,
1st Cross, Gandhinagar, Bengaluru-9
Phone: 22254052/22265500 / 22872881
Mobile: 6364576767
e-mail pulianilawbooks@gmail.com
karnatakalawjournal@gmail.com

Note:

All rights reserved. No part of this work may be copied, reproduced, adapted, abridged or translated, stored in any retrieval system, computer system, photographic or other system or transmitted in any form by any means whether electronic, mechanical, digital, optical, photographic or otherwise without a prior written permission of PULIANI & PULIANI, Sujatha Complex, Ground Floor, 1st Cross, Gandhinagar, Bangalore-560 009. Any breach will entail legal action and prosecution without further notice..

This publication is sold subject to the condition that it or any part of it, shall not by way of trade or otherwise, be sold, lent, re-sold displayed, advertised or otherwise circulated, without the publisher's prior written consent, in any form of binding cover or title other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser(s). Any breach of any of these rights or conditions will entail civil and criminal action without further notice.

While every effort has been made to avoid any mistake or omission, this publication is being sold on the condition and understanding that neither the author nor the publishers or printers would be liable in any manner to any person by reason of any mistake or omission in this publication or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this publication. For any error in the text or any defect in printing or binding, the publishers will be liable only to replace the defective copy by another correct copy of this work then available. All disputes subject to the exclusive jurisdiction of courts, tribunals and forums at Bengaluru only.

Sole & Exclusive Rights of Publication reserved with PULIANI & PULIANI, Bengaluru.

Printed at: Bangalore Printers & Binders and Prints India Process, Bengaluru-44

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961

GENERAL CONTENTS

Page No.

KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961 **[Karnataka Act No. 8 of 1962]** 1

- Karnataka Shops and Commercial Establishments (Amendment) Act, 1966 [Karnataka Act No. 36 of 1966] 46
- Karnataka Shops and Commercial Establishments (Amendment) Act, 1969 [Karnataka Act No. 4 of 1969]. 47
- Karnataka Shops and Commercial Establishments (Amendment) Act, 1982 [Karnataka Act No. 33 of 1982] 48
- Karnataka Shops and Commercial Establishments (Amendment) Act, 1986 [Karnataka Act No. 17 of 1986] 49
- Karnataka Shops and Commercial Establishments (Amendment) Act, 1997 [Karnataka Act No. 25 of 1997] 50
- Karnataka Shops and Commercial Establishments (Amendment) Act, 2001 [Karnataka Act No. 11 of 2001] 53
- Karnataka Shops and Commercial Establishments (Amendment) Act, 2002 [Karnataka Act No. 14 of 2002] 54
- Karnataka Shops and Commercial Establishments (Amendment) Act, 2005 [Karnataka Act No. 28 of 2005]. 55
- Karnataka Shops and Commercial Establishments (Amendment) Act, 2007 [Karnataka Act No. 12 of 2007] 57

Page No.

- Karnataka Shops and Commercial Establishments (Amendment) Act, 2020 [Karnataka Act No. 40 of 2020] 59
- Karnataka Shops and Commercial Establishments (Amendment) Act, 2020 [Karnataka Act No. 08 of 2021] 61

KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS RULES, 1963 63

- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1967, dated 6-6-1967 91
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1975, dated 26-12-1975 91
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1976, dated 19-2-1977 92
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1982, dated 18-10-1982 93
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1982, dated 10-1-1983 94
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1984, dated 19-1-1984 98
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1985, dated 11-1-1985 100
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1985, dated 20-1-1986 100
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 1998, dated 31-8-1998 101
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2002, dated 6-7-2002 107
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2003, dated 18-9-2003 107
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2005, dated 1-3-2006 110
- Corrigendum, dated 9-5-2006 114
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2007, dated 6-3-2007 119

Page No.

- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2008, dated 31-12-2008 121
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2010, dated 22-4-2010 122
- Karnataka Shops and Commercial Establishments (Amendment) Rules, 2018, dated 24-3-2018 . . . . . 123 - 124

NOTIFICATIONS . . . . . 125 - 286

PROCEEDINGS:

Implementation of reforms under Ease of Doing Business; Action Plan, 2019, dated 11-6-2019 287

Online service delivery of various industry services under Ease of Doing Business, dated 16-1-2021. 288

CIRCULARS 293

KARNATAKA LABOUR WELFARE FUND ACT, 1965 **[Karnataka Act No. 15 of 1965]** 295

- Karnataka Labour Welfare Fund (Amendment) Act, 1976 [Karnataka Act No. 73 of 1976] 311
- Karnataka Labour Welfare Fund (Amendment) Act, 1993 [Karnataka Act No. 10 of 1994] 314
- Karnataka Labour Welfare Fund (Amendment) Act, 2010 [Karnataka Act No. 7 of 2011] 315
- Karnataka Labour Welfare Fund (Amendment) Act, 2017 [Karnataka Act No. 21 of 2017] 315

Notification, dated 17-1-2005, KGD 24-2-2005 317

KARNATAKA LABOUR WELFARE FUND RULES, 1968 321

- Karnataka Labour Welfare Fund (Amendment) Rules, 1969, dated 11-11-1969. 338
- Karnataka Labour Welfare Fund (Amendment) Rules, 1980, dated 23-9-1980 338
- Karnataka Labour Welfare Fund (Amendment) Rules, 1981, dated 27-8-1981 339

Page No.

- Karnataka Labour Welfare Fund (Amendment) Rules, 2004, dated 19-7-2004 341
- Karnataka Labour Welfare Fund (Amendment) Rules, 2009, dated 25-9-2009 346

KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1963 **[Karnataka Act No. 24 of 1963]** 349

KARNATAKA INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) RULES, 1964 359

NOTIFICATIONS 362

KARNATAKA DAILY WAGE EMPLOYEES WELFARE ACT, 2012 [KARNATAKA ACT No. 19 OF 2013] 365

KARNATAKA DAILY WAGE EMPLOYEES WELFARE RULES, 2013 369

WEEKLY HOLIDAYS ACT, 1942 [CENTRAL ACT 18 OF 1942] 371

KARNATAKA STATE THIRD PARTY CERTIFICATION OF COMPLIANCES UNDER LABOUR LAWS SCHEME, 2016 . . . . 375 - 397

KARNATAKA STATE SELF-CERTIFICATION-CUM-CONSOLIDATED PERIODIC RETURNS SCHEME, 2015 . . . . . 399 - 436

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961

[KARNATAKA ACT No. 8 OF 1962]

CONTENTS

Sections *Page No.*

CHAPTER I
Preliminary

1. Short title, extent, commencement and application 6
2. Definitions 6
   - (a) Adult 6
   - (b) Apprentice 7
   - (ba) Banking company 7
   - (c) Child 7
   - (d) Closed 7
   - (e) Commercial establishment 7
   - (f) Day 7
   - (g) Employee 8
   - (h) Employer 8
   - (i) Establishment 8
   - (j) Family 8
   - (k) Inspector 8
   - (l) Leave 8
   - (m) Night 8
   - (n) Notification 8
   - (o) Opened 8
   - (p) Period of work 8
   - (q) Prescribed 8

(r) Prescribed authority [Omitted] . . . 8
(s) Register of establishments . . . 8
(t) Registration certificate . . . 8
(u) Shop . . . 8
(v) Spread-over . . . 9
(w) Wages . . . 9
(x) Week . . . 9
(y) Year . . . 9
(z) Young person . . . 9
3. Exemptions . . . 13

CHAPTER II
Registration of Establishments

4. Registration of Establishments . . . 22
5. Change to be communicated to Inspector . . . 23
6. Closing of establishment to be communicated to Inspector . . . 24
6-A. Issue of appointment orders . . . 24

CHAPTER III
Hours of Work

7. Daily and Weekly hours . . . 24
8. Extra wages for overtime work . . . 25
9. Interval for rest . . . 25
10. Spread-over . . . 25
11. Opening and closing hours . . . 26
12. Weekly Holidays . . . 27
13. Selling outside establishments prohibited after closing hours . . . 28

CHAPTER IV
Annual Leave with Wages

14. Application of Chapter . . . 28
15. Annual leave with wages . . . 29
16. Wages during leave period . . . 32
17. Payment in advance in certain cases . . . 33
18. Mode of recovery of unpaid wages . . . 33
19. Power to make rules . . . 33

20. Power to exempt establishments. 33

CHAPTER V
Wages and Compensation

21. Application of the Payment of Wages Act 33
22. Application of the Workmen's Compensation Act 34
23. Application of the Maternity Benefit Act [Omitted] 34

CHAPTER VI
Employment of Children and Women

24. Prohibition of employment of children 34
25. Regulation of employment of women during night 34

CHAPTER VII
Enforcement and Inspection

26. Inspectors 35
27. Powers and duties of Inspectors 36
28. Inspectors to be public servants 36
29. Employer to produce registers, records, etc., for inspection 36

CHAPTER VIII
Offences, Penalties and Procedure

30. Penalties 36
31. Procedure 37
32. Limitation of prosecutions 37
33. Penalty for obstructing Inspectors, etc. 38
33-A. Compounding of offences 39

CHAPTER IX
Miscellaneous

34. Maintenance of registers and records and display of notices 39
35. Saving of certain rights and privileges 39
36. Indemnity 40
37. Delegation of powers 40
38. Power of Government to suspend provisions of the Act during fairs and festivals 40
39. Notice of dismissal 40
40. Power to make rules 42

41. Notifications and rules to be laid before the State Legislature. 43
42. Repeal and savings 43
43. Repeal of Central Act XVIII of 1942 44
44. Power to remove difficulties 44
SCHEDULE 45
AMENDMENT ACTS . . . . . 46 - 61

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1961

[KARNATAKA ACT No. 8 OF 1962]

(As amended by Karnataka Act Nos. 36 of 1966; 4 of 1969; 33 of 1982; 17 of 1986; 25 of 1997; 11 of 2001; 14 of 2002; 28 of 2005; 12 of 2007; **40 of 2020 and 8 of 2021.**)

(First Published in the Karnataka Gazette on the First day of March, 1962)

(Received the assent of the President on the Fifteenth day of February, 1962)

An Act to provide for the regulation of conditions of work and employment in shops and commercial establishments.

Whereas, it is expedient to provide for the regulation of conditions of work and employment in shops and commercial establishments and other incidental matters;

Be it enacted by the Karnataka State Legislature in the Twelfth Year of the Republic of India as follows—

COMMENTS

Synopsis

1. *Scope and Object*
2. *Legislative competence*
3. *Validity under Part III of Constitution*

Scope and Object

Act being a beneficial legislation is aimed to secure and intended to ensure welfare of the worker — An urgent social need. ***M/s. Phillipos & Co. v State of Karnataka*, 1989(3) Kar. L.J. 473.**

Legislative competence

Act is covered by Entries 23 and 24 of Concurrent list, ***Jugal Kishore v Labour Commissioner*, 1958 BLJR 223.**

Provisions relating to closure fall within Entry 26 of List II and Entry 24 of List III (corresponding to Entry 27 of State List and Entry 27 of Concurrent List of Government of Ind. Act, 1935, ***Manohar Lal v State*, 1951 SCR 671 : 1951 MWN 763.**

Validity under Part III of Constitution

Act does not violate Article 14, *Matrumal Sharma v Chief Inspector of Shops,* **1952 AEJ 409.**

Provision regarding close day does not violate Article 14, because certain establishments are exempt, *Manohar Lal v State of Punjab,* **58 Pun. L.R. 528.**

Provisions relating to weekly holiday is a reasonable restriction on the right of the employer within Article 19(6) Constitution, *Manohar Lal v State of Punjab,* 62 Pun. L.R. 660 SC; *Ramdhandas v State of Punjab,* (1961)2 LLJ 102; *Matrumal Sharma v Chief Inspector of Shops,* 1952 ALJ 409; *Grandhi Mangaraju v Assistant Labour Inspector,* (1959)2 LLJ 257 (AP); *State of Bombay v M. Jawadekar,* 62 Bom. L.R. 183; *Sadasivam v State of Madras,* ILR 1956 Mys. 359; *Manohar Lal v State,* 58 Pun. L.R. 528 and *P.A. Paul v State of Punjab,* **64 Pun. L.R. 113.**

CHAPTER I
Preliminary

1. Short title, extent, commencement and application.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments Act, 1961.**

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force on such date[1] as the State Government may by notification appoint.

(4) (a) It shall apply, in the first instance, to the areas specified in the Schedule to this Act, and to such other areas in which any of the Acts repealed by Section 42 applied.

(b) It shall apply, to any other area with effect from such date as the State Government may by notification specify which date shall not be earlier than the expiry of three months from the date of publication of such notification in the Official Gazette.

COMENTS

Area

S. 1(4).—Area is not limited to areas comprised in Cantonments or Municipalities, *Mazdoor Union v Sakseria Biswan Sugar Factory,* (1951)2 LLJ 603. Whether it should not mean areas of local authorities see ***Diamond Sugar Mills v State of U.P.,*** **(1961)2 SCA 61.**

2. Definitions.—In this Act, unless the context otherwise requires.—

(a) **"Adult"** means a person who has completed his eighteenth year;

1. Shall come into force from 1st October, 1964 by Notification No. PLM 119 LET 64, dated 29-8-1964.

(b) **"Apprentice"** means a person aged not less than [1][fourteen years], 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][(ba) **"Banking company"** means,—

(i) the Reserve Bank of India;

(ii) the banking company as defined under the Banking Regulations Act, 1949;

(iii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iv) a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(v) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(vi) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.]

(c) **"Child"** means a person who has not completed his [3][fourteenth year];

(d) **"Closed"** means not open for the service of any customer or for any business connected with the establishment;

(e) **"Commercial establishment"** means a commercial or trading or banking or insurance establishment, an establishment or administrative service in which persons employed are mainly engaged in office work, a hotel, restaurant, boarding or eating house, a cafe or any other refreshment house, a theatre or any other place of public amusement or entertainment and includes such establishments as the State Government may by notification declare to be a commercial establishment for the purposes of this Act;

(f) **"Day"** means a 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 a period of twenty-four hours beginning from the time when such employment commences irrespective of midnight;

---

1. Substituted for the words "twelve years" by Act 25 of 1997, s. 2(i).
2. Clause (ba) inserted by Act 33 of 1982, s. 2, w.e.f. 4-12-1982.
3. Substituted for the words "twelfth year" by Act 25 of 1997, s. 2(ii).

(g) **"Employee"** means a person wholly or principally employed in or in connection with, any establishment whether working on permanent, periodical, contract or piece-rate wages, or on commission basis, even though he receives no reward for his labour and includes an apprentice, any clerical or other member of the staff of a factory or industrial establishment who falls outside the scope of the Factories Act, 1948, but does not include a member of the employer's, family; and "employed", shall be construed accordingly;

(h) **"Employer"** means a person having charge of or owning or having ultimate control over the affairs of an establishment and includes members of the family of an employer, a manager, agent or other person acting in the general management or control of an establishment;

(i) **"Establishment"** means a shop or a commercial establishment;

(j) **"Family"** in relation to an employer means the husband or wife, son, daughter, father, mother, brother or sister of such employer who lives with and is dependent on him;

(k) **"Inspector"** means an Inspector appointed under Section 26 and includes the Chief Inspector and an Assistant Inspector;

(l) **"Leave"** means leave provided for in Chapter IV of this Act;

(m) **"Night"** means a period of at least twelve consecutive hours which shall include the interval between 8 p. m. and 6 a. m.;

(n) **"Notification"** means a notification published in the Official Gazette;

(o) **"Opened"** means opened for the service of any customer or for any business, connected with the establishment;

(p) **"Period of work"** means the time during which an employee is at the disposal of the employer;

(q) **"Prescribed"** means prescribed by rules made under this Act;

[1][(r) **"Prescribed authority"** x x x x x ;]

(s) **"Register of establishments"** means a register maintained for the registration of establishments under this Act;

(t) **"Registration certificate"** means a certificate showing the registration of an establishment;

(u) **"Shop"** means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, storerooms, godowns, or warehouses, whether in the same premises or otherwise, used in connection with such trade or business, but does not include a commercial

1. Clause (r) omitted by Act 36 of 1966, s. 2.

establishment or a shop attached to a factory where the persons employed in the shop fall within the scope of the Factories Act, 1948;

(v) **"Spread over"** means the period between the commencement and the termination of the work of an employee on any day;

(w) **"Wages"** shall have the meaning assigned to it in the Payment of Wages Act, 1936 (Central Act IV of 1936);

(x) **"Week"** means a period of seven days beginning at midnight of Saturday or such other night as may be approved in writing for a particular area by the prescribed authority;

(y) **"Year"** means the year commencing on the first day of January;

(z) **"Young person"** means a person who is not a child and who has not completed his eighteenth year.

COMMENTS

Synopsis

1. *Closure*
2. *Decisions*
3. *Commercial Establishment*
4. *College hostel*
5. *Profession and Trade*
6. *Charitable institution*
7. *Employee*
8. *Contract*
9. *Excludes workers to whom Factories Act applies*
10. *Employer*
11. *Shop*
12. *Business*
13. *Chartered Accountant*
14. *Trade means buying or selling*
15. *Mere association*

Closure

Closure must be both for business with customer and also business connected with the establishment, ***Pathak v Ramchandra,* (1961)2 LLJ 57.**

Decisions

Decisions like *Puttaiah v State of Mysore,* **1961 Mys. L.J. 578;** *State of U.P. v B.S. Jain,* **(1960)1 LLJ 50 and** *State v S.R. Chaudhury,* **(1961)1 LLJ 673** holding that writing accounts and the like without doing any business with customers does not amount to keeping open, may not be correct under this definition.

Commercial Establishment

S. 2(e) — Commercial Establishment — Definition is exhaustive. Banks are, *Commercial and Industrial Bank v Authority under Payment of Wages Act,* **1958 An. LT 614 and** *South India Bank v Pichuthayayappan,* **1953 MWN 744.**

Railway out-agency not forming establishment of railway is, *Shankaranarayanan v State,* 1953 MWN 148 Cr. 32; but if it is part of Railway establishment it is not, ***State of U.P. v Brijlal Gulati,* 1960 ALJ 429.**

Nursing homes and clinics are, ***P.A. Paul v State of Punjab,* 64 PLR 113** but under Mysore Act are exempt under Section 3(d).

Establishment may be scattered in several premises, ***Madras State Electricity Board v Commissioner of Labour, (1960)2 LLJ 357 and on appeal 1961 MWN 184.***

College hostel

S. 2(e) & (u) — College hostel — If establishment — Unless the premises is used for trade or business purposes or there is an element of commerce, it cannot be considered either as a shop or as a commercial establishment. Hence a College hostel intended only for the benefit of the students of the College is neither a shop nor a commercial establishment as defined by Clause (u) and (e) of Section 2 of the Act. It cannot, therefore be an establishment as defined under Clause (i) of Section 2 of the Act. ***National Institute of Engineering (Society) v Labour Inspector,* (1973)2 LLJ 604 : (1975)1 Kar. L.J. 239.**

Profession and Trade

S. 2(e)(i) & (v) — Profession and Trade — Distinguishing Features — Carrying on Profession not same as carrying on a trade or business — Office of a Chartered Accountant or of a Firm of Chartered Accountants does not come within the expression of 'Shop' or 'Commercial establishment' and provisions of the Act not applicable to them — Explained. ***M/s. Phillipos & Co. v State of Karnataka,* 1989(3) Kar. L.J. 473.**

Charitable institution

S. 2(e) & 3(d) — Charitable institution — If exempt. The dominant activity of the Sabha was to run an orphanage for boys and girls, educate them on trained them in vocational activities and also employ their services for making certain edible articles and if those articles are found surplus to its requirements, to sell them and make some money on those sales. More than 10 persons were employed by the Sabha.

Held, Charitable institutions as such were not exempt under Section 3(d) of Karnataka Shops and Commercial Establishments Act. Because the Sabha's constitution provided for the welfare or the treatment of infirm persons, that would not make the Sabha an establishment within the meaning of clause 3(d) of Establishment Act.

The element of profit making or trading activity is not necessary to make an establishment a commercial establishment. The Sabha was an establishment covered by Section 2(e) of the Shops and Establishments Act and its employees would be entitled to gratuity under the payment of Gratuity Act. ***Narayana Rao v Commissioner of Labour,*** **1983(2) Kar. L.J. Sh. N. 32.**

Employee

S. 2(g) — Duties of employee must have proximate connection with the business of establishment. Thus a Medical Officer engaged to attend on employees of an Oil Company at a prescribed time for a retainer and for which work he could depute another is not an employee, ***Lakshmipathi v S.V.O.C.,*** **1961 MWN 621.**

In connection with' sweepers in employees.—Colony are not, ***BIC Ltd. v Workmen,*** **(1954)1 LLJ 123.**

Contract

Contract and piece rate workers are also employees, ***State v Chandra Prakash,*** **(1958)2 LLJ 679.**

Excludes workers to whom Factories Act applies

Thus field workers of a sugar factory to whom Factories Act does not apply are employees under Act, ***State of U.P. v M.P. Singh,*** **(1954)2 LLJ 123.**

Members of employer's family as defined in Section 2(j) are also not employees.

Industrial Establishment

Industry, what is, Tests, see *Corporation of City of Nagpur v Employees,* (1960)2 SCR 942 and *State of Bombay v Hospital Mazdoor Union,* **(1960)1 LLJ 251.**

Employer

S. 2(h) — Need not have employees, *Emperor v Md. Kassam,* ILR 1942 Bom. 107; *Pathak v Ramchandra,* **(1961)2 LLJ 57 (M.P.)**; *Radhey Shyam v State,* 1962 All. W.R. HC 62; *Shambu Prasad v State of U.P.,* **(1960)1 LLJ 431**; *State of Bihar v Gopal Singh,* 1957 BLJR 43. But see *Abid Ali v State of U.P.,* **1958 ALJ 332.**

An employee himself could be the statutory employer, *Kemp and Co. v Commissioner for Workmens Compensation,* **1955 MWN 724.**

Ss. 2(h) & 3(1)(h) — Manager of a bank is an employer within Section 2(h) and is not exempt under Section 3(1)(h). ***G.S. Joshi v State of Mysore,*** **1971 Mys. L.J. Sh. N. 188.**

S. 2(o) and (d).—Closure must be both for business with customer and also business connected with the establishment, *Pathak v Ramchandra,* **(1961)2 LLJ 57.**

Decisions

Decisions like *Puttaiah v State of Mysore,* 1961 Mys. L.J. 578, *State of U.P. v B.S. Jain,* (1960)1 LLJ 50 and *State v S.R. Chaudhury,* **(1961)1 LLJ 673** holding that writing accounts and the like without doing any business with customers does not amount to keeping open, may not be correct under this definition.

Shop

S. 2(u) — In common parlance a place where goods are stored and sold in retail *Amulya Pal v B.N. Ray,* **ILR (1951)2 Cal. 194 : 54 CWN 850.**

Premises would include even open area, if the occupant has a fixity of tenure. Tenements which could be occupied for only a few hours in the day would not be premises, ***Abdul Gani v State,* 63 Bom. L.R. 317.**

'Includes offices' etc.—This portion merely links on to the main definition ancillary places, *Kalidas Dhanji v State of Bombay,* **(1955)1 SCR 887.**

Carrying on trade or business and rendering of service must be on the premises. Where the owner canvassed orders by going to customers and delivered the manufactured parts to the customers it is not a shop *(Ibid).*

But if on a defined premises articles are received for and on behalf of customers and are returned after doing the required work, service is rendered on the premises, *Homi J. Bhajiwala v State,* **62 Bom. L.R. 1021.**

Godown of a shop though situate in another premises is a shop requiring separate registration, *State v Jamnadas,* **ILR 1955 Bom. 423.**

Premises where cycles are stocked for hire is not a shop, as there is no selling, and giving bicycles on hire does not amount to Servicing unit maintained by a transport company in separate premises is, *Chandrasekharan v State,* **1961 MWN 193 : Cr. 27.**

S. 2(u).— Trade means buying or selling, *Gulzari Lal v Karam Chand,* **AIR 1951 J & K 17.**

Business

Rendering services is, *Lakshminarayan v Government of Hyderabad,* **(1955)1 SCR 393.**

Occupation for profits is the essence of business, *Bata Shoe Co. v Union of India,* ILR 1953 Bom. 1157 : 55 Bom. L.R. 746; *Gannon Dunkerly v State of Madras,* **1954 MWN 885 : ILR 1955 Mad. 832.**

Chartered Accountant

S. 2(u) — Definition of term 'Shop' to be restricted in its scope — Definition envisages an activity which is understood as associated with carrying on trade or commerce and cannot take in premises where

professional services are rendered — Office of a Chartered Accountant or a firm of Chartered Accountants not within the purview of Section 2(u). *M/s. Phillipos & Co. v State of Karnataka,* **1989(3) Kar. L.J. 473.**

S. 2(u) & (e).—College hostel — If establishment — Unless the premises is used for trade or business purposes or there is an element of commerce, it cannot be considered either as a shop or as a commercial establishment. Hence a College hostel intended only for the benefit of the students of the College is neither a shop nor a commercial establishment as defined by Clause (u) and (e) of Section 2 of the Act. It cannot, therefore be an establishment as defined under Clause (i) of Section 2 of the Act, *National Institute of Engineering (Society) v Labour Inspector,* **(1973)2 LLJ 604 : (1975)1 Kar. L.J. 239.**

S. 2(v) & (e).—Profession and Trade — Distinguishing Features — Carrying on Profession not same as carrying on a trade or business — Office of a Chartered Accountant or of a Firm of Chartered Accountants does not come within the expression of 'Shop' or 'Commercial establishment' and provisions of the Act not applicable to them — Explained, *M/s. Phillipos & Co. v State of Karnataka,* **1989(3) Kar. L.J. 473.**

Mere association

S. 2(3).—Mere association of some persons without providing any public amusement or entertainment' is not a commercial establishment, *T.A. Appaji v State of Mysore,* **1971 Mys. L.J. Sh. N. 160.**

---

3. Exemptions.—(1) Nothing in this Act shall apply to,—

(a) offices of or under the Central or State Governments or local authorities, except commercial undertakings;

(b) any railway service, water transport service, postal, telegraph or telephone service, any system of public conservancy or sanitation or any industry, business or undertaking which supplies power, light or water to the public;

(c) railway dining cars;

(d) establishments for the treatment or care of the sick, infirm, or the mentally unfit;

[1][(dd) establishments of the Food Corporation of India;]

(e) officers of legal practitioners and medical practitioners in which not more than three persons are employed;

(f) officers of [2][a banking company;]

(g) any person employed about the business of any establishment mentioned in clauses (a) to (f) aforesaid;

---

1. Clause (dd) inserted by Act 17 of 1986, s. 2, w.e.f. 8-5-1986
2. Substituted for the words "the Reserve Bank of India" by Act 33 of 1982, s. 3, w.e.f. 4-12-1982.

(h) persons occupying positions of management in any establishment;

(i) persons whose work is inherently intermittent, such as drivers, care-takers, watch and ward staff, or canvassers; and

(j) persons directly engaged in preparatory or complementary work, such as, clearing and forwarding clerks responsible for the despatch of goods.

(2) Nothing contained in Section 11 or sub-section (1) of Section 12 shall apply to,—

(a) shops dealing mainly in medicines or medical or surgical requisites or appliances;

(b) clubs, residential hotels, boarding houses, hostels attached to schools or colleges, and establishments maintained in boarding schools in connection with the boarding and lodging of pupils and resident-masters;

Explanation.—"residential hotel" means any premises in which business is carried on *bona fide* for the supply of dwelling accommodation and meals on payment of a sum of money to a traveller or any member of the public or class of the public.

(c) stalls and refreshment rooms at railway stations, bus stands, ports or aerodromes;

(d) shops of barbers and hairdressers;

(e) shops dealing mainly in meat, fish, poultry, eggs, dairy produce (except ghee), bread, confectionery, sweets, chocolates, ice, ice-cream, cooked food, fruits, flowers, vegetables or green fodder;

(f) shops dealing in articles required for funerals, burials or cremations;

(g) shops dealing in pan (betel leaf), pan with beedies or cigarettes, or liquid refreshments sold in retail for consumption on the premises;

(h) shops dealing in newspapers or periodicals, editing sections of newspaper offices and offices of news agencies;

(i) cinemas, theatres and other places of public entertainment and stalls and refreshment rooms attached to such cinemas, theatres and places of public entertainment;

(j) establishments for the retail sale of petrol;

(k) shops in regimental institutes, garrison shops and troop canteens in cantonments;

(l) tanneries;

(m) retail trade carried on at an exhibition or show, if such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show;

(n) oil mills and flour-mills not registered under the Factories Act, 1948;

(o) brick and lime kilns;

(p) commercial establishments engaged in the manufacture of bronze and brass utensils so far as it is confined to the process of melting in furnaces.

[1][(q) Information Technology Establishments;

(r) Information Technology enabling services or establishments;

(s) Bio-Technology and Research Centres or establishments of epidemic and other diseases.]

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the State Government may by notification declare that any establishment or person specified therein shall not be exempt from the operation of such provisions of this Act as may be specified in the notification and that the provisions of this Act specified in such notification shall apply to such establishment or person.

(4) The State Government may by notification exempt establishments where the nature of work is.—

(i) intermittent, or

(ii) seasonal, or

(iii) for a short duration, not exceeding two months, and it is difficult to enforce the provisions of this Act,

from all or any of the provisions of this Act, subject to such conditions as may be specified in the notification.

COMMENTS

Synopsis

1. *Exemptions*
2. *Ayurvedic Aushadalaya*
3. *Charitable institution*
4. *Position of Management*
5. *Chairman and Secretary of Co-operative Society*
6. *Exemption valid*
7. *Club activities carried on by Club*

1. Clauses (q), (r) and (s) inserted by Act No. 11 of 2001, w.e.f. 1-6-2001

8. *Subject to conditions*

Exemptions

S. 3. — Exemptions — Clauses (a) to (f) exempt establishment from Act and sub-section (2) exempts establishments from provisions relating to closing, opening and weekly holidays. Clauses (g) to (j) of Section 3(1) exempt persons.

Whether non-exempted establishments can be carried on through exempted persons even on close days? see *State v Hiralal,* ILR 1956 Bom. 787 and *P.A. Paul v State of Punjab,* **64 Pun. L.R. 113** that if establishments are not exempt, even exempted person cannot work on close day.

S. 3(1)(a).—Workshop of municipal transport undertaking would not be exempt, *Banerji v Mukkerji,* 1953 SCA 302, *Baroda Borough Mun. v Workmen,* 1957 SCR 33; *Corporation Nagpur City v Employees,* **(1960)2 SCR 942.**

Sections 3(4) and 42 — Karnataka General Clauses Act, 1899, Section 24 — Payment of Gratuity Act, 1972, Sections 1(3)(c), 4, 5 and 14 — Mysore Shops and Establishments Act, 1948 (since repealed), Section 6 — Commercial establishments — Power conferred on State Government to issue notification granting exemption from operation of Act, in respect of — Power is confined to establishments where nature of work is intermittent or seasonal or for short duration not exceeding two months and there is no provision for granting general exemption, as contained in repealed Act of 1948, in respect of any particular class of establishments — Notification dated 17-5-1952 issued by State Government in exercise of power under repealed Act of 1948, exempting co-operative institutions as a class, from operation of Act of 1948, survives no longer as notification is inconsistent with provision of new Act of 1961 which came into force with effect from 1-10-1964 — Employees of co-operative institutions, held, are entitled to be paid gratuity on retirement.

N.K. Jain, C.J., V.G. Sabhahit and H.G. Ramesh, JJ., Held: The provision enabling the State Government to exempt applicability of the Act to any establishment, by notification under Section 6 of the repealed Act, is not contained in the re-enacted 1961 Act. Under sub-section (3) of Section 3, the Government has only power to apply the provisions of the Act to the establishment, exempted under sub-sections (1), (2) and (4) enables the State Government to exempt establishments from applicability of all or any of the provisions of the Act only where nature of work is intermittent or seasonal or for a short duration not exceeding two months and it is difficult to enforce the provisions of the Act. Apart from sub-section (4) of Section 3, the Government is not empowered under any other provision in the 1961 Act, to exercise the power of exemption which had been contained in the 1948 Act. Hence, it is clear that the provisions of the 1961 Act, are inconsistent with the provisions of the 1948 Act and hence, the notification issued under the 1948 Act would not continue even in accordance with the provisions of Section 24 of the Karnataka General Clauses Act. . . . There is no provision for general exemption as contained in Section 6 of the 1948 Act and in the 1961 Act, and

hence, a Co-operative Society is not exempt from the application of the Payment of Gratuity Act. . . . The notification dated 17-5-1952 issued under the 1948 Act, would not continue to operate under the 1961 Act for the reasons stated above. — *N.S. Srinivasamurthy and Others v The Registrar of Co-operative Societies in Karnataka, Bangalore and Others,* **2004(1) Kar. L.J. 179A (FB) : ILR 2003 Kar. 4858 (FB).**

Section 3(1), clause (a) read with Karnataka Shops and Commercial Establishments Rules, 1963 and Karnataka Labour Welfare Fund Act, 1965, Section 2(4)(iii) — Life Insurance Corporation of India assailed show-cause notice and demand notice issued by respondent-Labour Inspectors — Whether petitioner-Life Insurance Corporation is an establishment under Central Government exempt from application of Act of 1961 and Act of 1965 — Under Section 49 of the Life Insurance Corporation Act, 1956, it is beyond cavil of doubt that Central Government has all pervasive control over Life Insurance Corporation — This Court under a considered opinion that petitioner-Corporation an establishment under Central Government and applying exclusion clause (a) of sub-section (1) of Section 3 of Act of 1961, exempt from application of said Act — Impugned show-cause notices and demand notices quashed — Writ petition allowed.

Ram Mohan Reddy, J., Held: The Court do not see any reason to deviate from the view taken by the Kerala High Court. The petitioner-Corporation, is an establishment under the Central Government and applying the exclusion clause (a) of sub-section (1) of Section 3 of the Act of 1961, is exempt from the application of the said Act. Sub-section (4)(iii) of Section 2 of the Act of 1965 specifically defines 'establishment' to mean a factory, motor omni, any establishment including a society registered under the Karnataka Societies Registration Act, 1960 *etc.*, but not to include an establishment of the Central or State Government. Having held that the petitioner is an establishment under the Central Government, though the word 'of' is used in the said section the same is to be read as 'under', whereby the petitioner stands excluded from the application of the said Act. The writ petitions are allowed and it is declared that the establishment of the petitioner is exempt from the application of the provisions of Karnataka Labour Welfare Fund Act, 1965 and the Karnataka Shops and Commercial Establishments Act, 1961 and the Rules 1963. The impugned show-cause notices and demand notices stand quashed. — *Life Insurance Corporation of India, Divisional Office, Mysore v State of Karnataka and Others,* **2005(5) Kar. L.J. 564 : ILR 2005 Kar. 2701.**

Definition of 'Commercial establishment'

Section 3(1)(b) — Definition of 'Commercial establishment' — Mainly engaged in office work *etc.* — Definition clause is exhaustive clause — Question of exemption — Held, rendering of telephone service by petitioner cannot be held that it would be entitled to seek exemption from application of the Act thus writ petitions are dismissed.

Aravind Kumar, J., Held: Section 2(e) of the Shops and Commercial Establishments defines "Commercial establishment" to mean a commercial or trading or banking or insurance establishment, an establishment or

administrative service in which persons employed are mainly engaged in office work *etc.*, and activity of the petitioner as seen from the agreement referred to *supra* cannot be construed so as to exclude the petitioner-establishment from the purview of the Act and definition clause is exhaustive clause and in the instant case the nature of the activity of the petitioner-establishments are based on a commercial venture and that too for a consideration as specified in the agreement itself and rendering of telephone service along with other services by petitioner as a licensee cannot be held that it would be entitled to seek exemption from the application of the Act. The contention of learned Senior Counsel appearing for petitioner that petitioner-establishments are exempted under Section 3(1)(b) of the Act cannot be accepted and it stands rejected. Hence, it is held that exemption provided under Section 3(1)(b) of Karnataka Shops and Commercial Establishments Act is not applicable to the facts on hand and same would be inapplicable to the petitioner-establishments. - *Mr. Prashob Balakrishnan P. v The Senior Labour Inspector, Bangalore,* **2013(3) Kar. L.J. 304B.**

To quash further proceedings on the file of the Metropolitan Magistrate

Section 3(1)(b) — Indian Telegraph Act, 1885, Section 4 — Constitution of India, Articles 226 and 227 — To quash further proceedings on the file of the Metropolitan Magistrate — State Government has no powers — Appropriate Government is the Central Government — Definitions laid down in different Acts considered — Petitioners-establishment is registered under the Karnataka Shops and Commercial Establishments Act — No exemption is allowed — Held, petitioner-establishment would not be entitled for exemption under provisions of the Minimum Wages Act, thus writ petitions are dismissed.

Aravind Kumar, J., Held: A short but an interesting point of law is involved in these writ petitions and said question being common to all these writ petitions they are taken up together for consideration and disposed off by this common order. . . . . Quashing of the complaint in C.C. No. 813 of 2008 on the file of the Metropolitan Magistrate Traffic Court I, Bangalore, at Annexure-A and for a declaration that Central Government is the 'appropriate Government' under the Minimum Wages Act, 1948, to initiate proceedings against petitioner-establishment in respect of its activities and not the State Government and for a further declaration to declare that provisions of the Minimum Wages Act, 1948, are inapplicable to the petitioner-establishment/Industry. . . . . In the said writ petitions petitioners therein had sought for quashing of the proceedings initiated by Senior Labour Inspector, Government of Karnataka before the Jurisdictional Magistrate for alleged violation of certain provisions under the Karnataka Shops and Commercial Establishments Act. Said writ petitions came to be disposed of on 27-6-2011 and a direction was issued. . . . . On such direction being issued, the matter came to be re-examined by the respondent-authorities herein and an order came to be passed on 19-9-2011 and 14-9-2011 respectively by concluding that petitioner is an establishment to which Minimum Wages Act is applicable and not exempted under Section 3(1)(b) of the Karnataka Shops and Commercial Establishments Act, 1961

and prayer for exemption sought for by the petitioner *vide* their representation dated 8-7-2011 came to be rejected..... In these writ petitions the petitioners have raised similar grounds as was urged in W.P. No. 5039 of 2009 and W.P. No. 18344 of 2005 and have sought for quashing of the criminal complaint lodged by the respondent-authorities for alleged violation of the provisions of Minimum Wages Act..... The contention raised by the learned Counsel for petitioner that appropriate authority to issue notice or initiate proceedings against petitioner-establishments would be the Central Government and not the State Government cannot be accepted and its stands rejected..... Thus, the words 'telephone service' found in Section 3(1)(b) of the Shops and Commercial Establishments is to be understood in the context in which it has been inserted and other services which are also exempted under clause (b) also has to be taken into consideration for example Railway services, postal, telegraph, any industry, business or undertaking which supplies power, light, or water to the public is also included in the said exemption clause..... Petitioner-establishments in the instant case undisputedly had got themselves registered under the provisions of the Karnataka Shops and Commercial Establishments Act and later on did not continue the registration on the premise that they fall under exempted category as defined under Section 3(1)(b) of said Act. In view of the fact that the establishment of the petitioner is held to be establishment as defined under the Act and schedule employment under the Minimum Wages Act, it cannot be held or construed that the petitioner-establishment would be entitled for claiming exemption from the provisions of Minimum Wages Act, 1948, and it is inapplicable to them. In that view of the matter Point No. 3 formulated hereinabove is to be answered against the petitioner and in favour of the respondent-State. - *Mr. Prashob Balakrishnan P. v The Senior Labour Inspector, Bangalore,* **2013(3) Kar. L.J. 304A.**

Ayurvedic Aushadalaya

S. 3(1)(d).—Would include Ayurvedic Aushadalaya, *Vaidya Ambashankar v Municipality of Ujjain,* **MBLJ 1956 HCR 918.**

Charitable institution

S. 3(1)(d) & 2(e).— Charitable institution — If exempt.

The dominant activity of the Sabha was to run an orphanage for boys and girls, educate them on train them in vocational activities and also employ their services for making certain edible articles and if those articles are found surplus to its requirements, to sell them and make some money on those sales. More than 10 persons were employed by the Sabha.

Held, Charitable institutions as such were not exempt under Section 3(d) of Karnataka Shops and Commercial Establishments Act. Because the Sabha's constitution provided for the welfare or the treatment of infirm persons, that would not make the Sabha an establishment within the meaning of clause 3(d) of Establishment Act.

The element of profit making or trading activity is not necessary to make an establishment a commercial establishment. The Sabha was an

establishment covered by Section 2(e) of the Shops and Establishments Act and its employees would be entitled to gratuity under the payment of Gratuity Act, *Narayana Rao v Commissioner of Labour,* WP 6269 of 1981, DD: 5-10-1982. 1983(2) Kar. L.J. Sh.N. 32.

Position of Management

S. 3(1)(h) — Position of Management —Owner of shop cannot be said to occupy, *Emperor v Md. Kassam,* **ILR 1942 Bom. 107.**

Should he be not regarded as an employee? *Ibid.*

Need not be ultimate manager, but would include persons having certain amount of control of the affairs of the establishment, e.g., departments or classes of workers, *Chandra v Commissioner of Workmen's Compensation,* 69 L.W. 779 on appeal 1957 MWN 503; *S.V.O.C. v Commissioner of Labour,* (1959)2 LLJ 771 on appeal 1960 MWN 440 and *Jayems Engineering Co. v Additional Commissioner for Workmen's Compensation,* **1960 MWN 587.**

Test of status is, nature and duties of function assigned and discharged, *Loyds Bank v Pannalal,* (1961)1 LLJ 18; *Salem Sri Ramaswami Bank v Additional Commissioner for Workmen's Compensation,* **(1956)2 LLJ 40.**

Person occupying position of management does not instanties handing over charge on orders of transfer cease to be, *Jayems Engineerring Co. v Additional Commissioner for Workmen's Compensation,* **1960 MWN 587.**

Chairman and Secretary of Co-operative Society

S. 3(1)(h).—Chairman and Secretary of Co-operative Society - If employers or persons in management — The question whether the Chairman and Secretary of a Co-operative Society prosecuted for contravention of the Karnataka Shops and Commercial Establishments Act and Rules, are persons occupying or employed in a position of management is a question of fact which has to be decided after evidence is let in, *Murigappa Karabasappa v State of Mysore,* **(1971)2 LLJ 139 : (1970)2 Mys. L.J. 462.**

Ss. 3(1)(h) & 2(h).—Manager of a bank is an employer within Section 2(h) and is not exempt under Section 3(1)(h), *G.S. Joshi v State of Mysore,* **1971 Mys. L.J. Sh. N. 188.**

Exemption valid

S. 3(1)(i).—Exemption under is valid, *Philipose v Commissioner for Workmen's Compensation,* **72 L.W. 379.**

Club activities carried on by Club

S. 3(2)(b).—Club activities carried on by Club — No element of trade or business — Goods distributed among members — Member not a customer — Such club not commercial establishment or shop — Where services and amenities provided only to members it cannot come within the class 'club' referred to in Section 3(2)(b) of the Act.

The expenses of the club are met from the contributions made by the members in the shape of entrance fees and periodical subscriptions and other

charges . . . . . Incidental to the objects of the club they maintain establishments for preparing and supplying to their members refreshments. It also maintains Bars for the benefit of their members. Goods are purchased for the consumption of their members out of the club's funds. Only members or their guests are supplied with refreshments and drinks. The members are charged for the supplies made. No sale is effected to non-members. Normally cash transactions are not permitted. The value of the articles supplied is ordinarily charged in the monthly bills of the members. The prices of the articles are fixed by the committee of the club. . . . . Under the Act an establishment is defined under Section 2(i) to mean a shop or a commercial establishment. Again shop or commercial establishments are separately defined. A commercial establishment is defined under Section 2(e) which means (i) commercial or trading or banking or insurance establishment; (ii) an establishment or administrative service in which persons are engaged or employed in office work; (iii) a hotel, restaurant, boarding or eating house, a cafe or any other refreshnment house; (iv) a theatre or any other place of public amusement or entertainment; and (v) all the establishments as the State Government may by notification declare to be a commercial establishment for the purposes of the Act. . . . . A shop is defined under Section 2(u) of the Act. (i) where any trade or business is carried on; (ii) or where services are rendered to customers and includes officers, storerooms, godowns and warehouses . . . . In order to attract the definition of commercial establishment it must be in a place of work and an activity is carried on which has an element of commerce or trade . . . . . In order to come within the first clause of the definition referred to above, it must be rendering administrative service in which persons are engaged in office work or a hotel or a restaurant. . . . . What we are concerned in the present case is whether a club where services of the nature referred to by me earlier are rendered or amenities provided as referred to earlier is an establishment for the purpose of the Act. If it is not an establishment for the purpose of the Act, the question of profit motive or absence thereof would be irrelevant. . . . . If a club engages itself in sale of goods to non-members or render certain services to non-members such a club can certainly be classified as an establishment for the purpose of the Act. But as long as services are rendered or amenities provided only to members or their guests thereof, it is by reasons of contract entered into by them being members of the association and not otherwise. Such service cannot by any stretch of imagination come within that class of club which is referred to in Section 3(2) of the Act. Hence, the communication sent to the petitioner making applicable the provisions of the Act is quashed, *Bangalore Club v Senior Labour Inspector, VIII Circle, Bangalore,* DD: **17th December, 1993, 1994(1) Kar. L.J. 365.**

Subject to conditions

S. 3(3).—Instance of exemption subject to conditions, see *Thangavelu v Tiruchirapalli City Corporation Bank,* **(1960)2 LLJ 209.**

CHAPTER II
Registration of Establishments

4. Registration of Establishments.—(1) Within the period specified in sub-section (3), the employer of every establishment shall send to the Inspector of the area concerned, a statement in the 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; and

(d) 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.

(3) 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).

Establishments		Date from which the period of thirty days to commence	
(1)		(2)	
(i)	Establishment existing on the date on which this Act comes into force	(i)	The date on which this Act comes into force.
(ii)	New establishments.	(ii)	The date on which the establishment commences its work.

[1][(3-A) In case the Inspector is not satisfied about the correctness of the statement together with fees under sub-section (3) shall within thirty days from the date of receipt of the same communicate to the employer his decision for refusing to register the establishment with the reasons therefor, failing which the establishment shall be deemed to have been registered.]

[2][(4) A registration certificate issued under sub-section (2), shall be valid for [3][five years] and shall be renewed [4][before the expiry of the period of

1. Sub-section (3-A) inserted by Act No. 28 of 2005, w.e.f. 1-4-2006
2. Sub-sections (4) and (5) inserted by Act 33 of 1982, s. 4, w.e.f. 4-12-1982.
3. Substituted for the words "one year" by Act 25 of 1997, s. 3(1)(i)
4. Substituted for the words "from year to year" by Act 25 of 1997, s. 3(1)(ii)

registration certificate] on payment of such fees and in such manner as may be prescribed.

[1][(5) The registration certificate issued or renewed before the commencement of the Karnataka Shops and Commercial Establishments (Amendment) Act, 1997 shall, on such commencement, continue to be valid till the expiry of the period of registration certificate already granted and the employer of every such establishment shall renew his registration certificate before the expiry of such period in accordance with sub-section (4)]].

[2][(6) In case the Inspector is not satisfied about the correctness of the statement or the renewal application or the payment fee prescribed or any other condition of renewal shall within thirty days from the date of receipt of statement together with fees from the employer seeking renewal of registration certificate communicate to the employer his decision for refusing to renew the registration with the reasons therefor, failing which the registration certificate shall be deemed to have been renewed.

(7) In case the certificate of registration or renewal of registration is not received by any employer within the period specified in sub-section (3-A) or (6), the employer shall display a self-certification statement sent by registered post with acknowledgement due to the Registering Authority for registration or renewal, as the case may be, along with the acknowledgement to that effect stating that he has got the deemed benefit. In case the certificate of registration or renewal of registration as the case may be, is received by the employer subsequently, such self-certification shall be replaced with a regular certificate as soon as the same is received.

(8) If any employer has falsely claimed the benefit of deemed registration and has displayed such self-certificate under sub-section (7), he shall on conviction be punished with an imprisonment of not less than six months and with a fine which may extend to five thousand rupees.]

COMMENTS

Sections 4 and 30

S. 4.—To prove contravention punishable under Section 30 it must be established that the person had an establishment, *Sheo Shanker v Supdt. of Labour,* **1961 BLJR 151.**

5. Change to be communicated to Inspector.—It shall be the duty of an employer to notify to the Inspector, in the prescribed form, any change in respect of any information contained in his statement under Section 4, within fifteen days after the change has taken place. The Inspector shall, on receiving such notice and on being satisfied about its correctness, make the change in the register of establishments and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

1. Sub-section (5) substituted by Act 25 of 1997, s. 3(1)(iii)
2. Sub-sections (6), (7) and (8) inserted by Act No. 28 of 2005, w.e.f. 1-4-2006

6. Closing of establishment to be communicated to Inspector.—The employer shall, within fifteen days of his closing the establishment, notify to the Inspector in writing the date of such closure and return the registration certificate. 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 is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register.

[1][**6-A. Issue of appointment orders.**—Every employer, employing any person in or in connection with his establishment, shall issue an appointment order in writing indicating the name, designation, wage scale of such person and terms and conditions of his employment and serve the same on such person within thirty days from the date of appointment in his establishment:

Provided that in case of employees appointed in any establishment prior to the commencement of the Karnataka Shops and Commercial Establishments (Amendment) Act, 1997, the employer of such establishment shall, if he has not yet issued any appointment order in writing to such employee, communicate in writing to the employee incorporating therein his name, designation and wage scale and the terms and conditions of employment and serve the same on him within thirty days from the date of such commencement].

CHAPTER III
Hours of work

7. Daily and weekly hours.—(1) No employee in any establishment shall be required or allowed to work for more than nine hours on any day and forty-eight hours in any week:

Provided that the total number of hours of work including overtime shall not exceed ten hours in any day except on days of stock-taking and preparation of accounts:

Provided further that the total number of overtime hours worked by an employee does not exceed fifty in a period of three continuous months.

(2) No young person [2][x x x x x] shall be allowed to work in any establishment for more than five hours in a day.

COMMENTS

Fix the limit for overtime work with overtime wage

Ss. 7 and 8.—The provisos to Section 7 fix the limit for overtime work with overtime wage, *Cf. P.V.N. Upadhya v C.P. Fernandes,* AIR 1957 Bom. 64 and *Lakshmaiah Naidu v State,* **1958 An. L.T. 104.**

---

1. Section 6-A inserted by Act 25 of 1997, s. 4
2. The words "between the age of twelve and fifteen" omitted by Act 25 of 1997, s. 5

8. Extra wages for overtime work.—(1) Where an employee works in any establishment for more than nine hours in any day or for more than forty-eight hours in any week he shall in respect of such overtime work be entitled to wages at twice the rate of normal wages.

(2) For the purposes of this section "normal wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus.

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

Explanation 1.—"standard family" means a family consisting of an employee, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2.—"adult consumption unit" means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of $^{U}8$ and $^{U}6$ respectively of one adult consumption unit.

(4) The State Government may make rules prescribing,—

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

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

COMMENTS

Sections 8 and 7

Ss. 8 and 7.—The provisos to Section 7 fix the limit for overtime work with overtime wage, *Cf. P.V.N. Upadhya v C.P. Fernandes,* AIR 1957 Bom. 64 and *Lakshmaiah Naidu v State,* **1958 An. L.T. 104.**

9. Interval for rest.—The periods of work of an employee in an establishment each day shall be so fixed that no period shall exceed five hours and that no such person shall work for more than five hours before he has had an interval of rest at least one hour.

10. Spread-over.—The periods of work of an employee in an establishment shall be so fixed that, inclusive of his interval for rest, they shall not spread-over more than twelve hours in any day.

11. Opening and closing hours.—(1) No establishment shall on any day, be opened earlier than and closed later than such hours as may be fixed by a notification issued by the State Government:

Provided that any customer who was being served or was waiting to be served in any establishment at the hour fixed for its closing may be served during the quarter of an hour immediately following such hour.

(2) Before issuing a notification under sub-section (1), the State Government shall hold an enquiry in the prescribed manner.

(3) The State Government may, for the purpose of this section, fix different hours for different establishments or different classes of establishments or for different areas or for different times of the year.

COMMENTS

Synopsis

1. *Working hours*

2. *S. 11, Proviso*

Working hours

Section 11 — Karnataka Shops and Commercial Establishments Rules, 1963, Rule 7 — Restriction on the working hours — Constitution of India, Articles 226 and 227 — Writ petition — Fixing of hours of opening and closing of place of public entertainment — Violation of Articles 14, 16, 19(1)(g) and 21 — Karnataka Police Act, 1963, Section 2(15) — Place of public entertainment — Opening and closing timings of — Fixing under the Police Act — Whether illegal — Whether violation of Constitution — Petitioner-owner of a chain of Hotels/Restaurants — Commissioner of Police issued notification under Section 2(15) of the Police Act imposing restriction on opening and closing timings of Hotels — Ordered that hotels shall remain open from 6.00 to 24.00 hours only and shall remain closed from 00.00 to 06.00 hours every day — Notification challenged in writ petition — Petitioner contended that power imposing such restriction is under provision of the Karnataka Shops and Commercial Establishments Act and not under the Police Act — Hence the notification is violative of Articles 14, 16, 19(1)(g) and 21 — Held — The restriction imposed is uniformly applied to all places of public entertainment as defined under Section 2(15) of the Police Act — Provision of Karnataka Shops and Commercial Establishments Act to fix opening and closing hours is applicable to the employees who are working in the establishment — Exercising the power is well-within the provision of Police Act — Orders issued in order to keep peace and tranquility in the area — Commissioner has rightly taken decision to control and regulate the timings by looking into reality — No grounds to interfere with the order — Writ petitions dismissed. - *N.K.P. Abdul Haq v State of Karnataka and Another*, **2009(6) Kar. L.J. 557.**

S. 11.—Working hours cannot be changed by agreement, *Workmen of Hindustan Shipyard v Industrial Tribunal*, **(1961)2 LLJ 526.**

Working hours cannot be reduced by Industrial Tribunal, *May and Baker (India), Ltd. v Their Workmen,* **(1961)2 LLJ 94.**

Applies to all establishments even if no employees are employed, *Emperor v Md. Kassam,* **ILR 1942 Bom. 107.**

S. 11, Proviso

S. 11, Proviso.—Employee is entitled to over-time wages for the extra fifteen minutes, *Dalmiya In re,* **(1951)2 LLJ 473.**

---

12. Weekly Holidays.—(1) Every establishment shall remain closed for one day of the week. The employer shall fix such date at the beginning of the year, [1][or within thirty days from the date of commencement of establishments, as the case may be] notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the establishment. The employer shall not alter such date more often than once in three months, shall notify the alteration to the Inspector, and shall make the necessary change in the notice in the establishment.

(2) Notwithstanding anything contained in sub-section (1), the State Government may allow an establishment to remain open throughout the week if it is satisfied that the establishment employs additional staff for meeting the requirements of sub-section (3) of this section.

(3) Every employee in an establishment shall be given at least one whole day in a week as a holiday for rest:

Provided that in establishments in which rest for one-and-a-half days in a week is allowed, such period of rest shall be continued.

(4) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his establishment or any other place for any work in connection with the business of his establishment on a weekly holiday given to the employee under sub-section (3) or on a day on which such establishment remains closed.

(5) No deduction shall be made from the wages of an employee in any establishment on account of the holiday given to him under sub-section (3). If any employee is employed on daily wages, he shall nonetheless be paid his wages for the weekly holiday.

COMMENTS

Applicability of the provision

S. 12.—Applies even if only contract or piece rate workers are employed, *Emperor v Hasanali,* 44 Bom. L.R. 50; *State v Chandra Prakash,* 1958 ALJ 484 and *Tulsi Ram v Emperor,* **AIR 1944 Lah. 376.**

---

1. Inserted by Act 25 of 1997, s. 6

Applies to shops without employees, *Shambu Prasad v State of U.P.*, (1960)1 LLJ 431, *Radhey Shyam v State*, 1962 A.W.R.H.C. 62 and *State of Bihar v Gopal Singh*, **1957 B.L.J.R. 43.**

Weekly holiday is to be given irrespective of number of hours of work put in, *Raghubar Dayal v Rex*, **ILR (1951)2 All. 12.**

Employer has choice of weekly holiday, *Ghulam Hussain v Rex*, 1950 ALJ 255; *Babu Lal v Dt. Magistrate*, 1956 ALJ 10 and *Abid All v State of U.P.*, **(1958)1 LLJ 734.**

Is section contravened by members of family working? see *Radhey Shyam v State*, **(1962) A.W.R.H.C. 62.** Under Mysore Act they are also 'employer' and hence cannot work.

Contravention—Proof required —*Rudhmal v Inspector Indore*, **1957 JLJ 453.**

---

13. Selling outside establishments prohibited after closing hours.—Save as provided by or under any other enactment for the time being in force, no person shall carry on, in or adjacent to a street or public place, the sale of any goods after the hour fixed under Section 11 for the closing of establishments dealing in the same class of goods in the locality in which such street or public place is situated:

Provided that nothing in this section shall apply to the sale of newspapers and such other articles as may be exempted by notification by the State Government.

COMMENTS

Statutory rules

S. 13.—Any other enactment, would include statutory rules, **ILR 1942 Bom. 614 : 44 Bom. L.R. 446.**

Effect of section is to protect an employer who has been compelled to close his shop from competition and also to prevent him from re-opening his business in the street or public place, *Emperor v Md. Kassam*, **ILR 1942 Bom. 107.**

CHAPTER IV
Annual Leave with Wages

14. Application of Chapter.—The provisions of this Chapter shall not operate to the prejudice of any rights to which an employee may be entitled under any other law or under the terms of any award, agreement or contract of service:

Provided that where such award, agreement or contract of service provides for a longer leave with wages or weekly holidays than are provided in this Chapter, the employee shall be entitled to only such longer leave or weekly holidays, as the case may be.

COMMENTS

Protects

S. 14.—Protects not only existing benefits but also does not prohibit future arrangements, *Alembic Chemical Works v Workmen*, **20 FJR 78 : (1961)1 LLJ 328.**

---

15. Annual leave with wages.—[1][(1) Every employee in an establishment shall be entitled to leave with wages and shall be to avail such leave for the number of days calculated at the rate of.—

(i) one day for every twenty days work performed by him in case of an adult;

(ii) one day for every fifteen days of work performed by him in case of young person;

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

(a) any day of lay-off, by agreement or contract as permissible under the standing order or for any other reasons beyond the employer's control;

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

(c) the leave earned in the year prior to that in which the leave is injoyed;s.

shall be deemed to be days on which the employee has worked in an establishment for the purposes of computation of leave under this section, but the employee shall not earn leave for that period].

[2][(2) x x x x]

(3) Every employee shall also be entitled during the first twelve months of continuous service and during every subsequent twelve months of such service in any establishment to leave with wages for a period not exceeding twelve days, on the ground of any sickness incurred or accident sustained by him or for any other reasonable cause.

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

(5) If an employee entitled to any leave under sub-section (3) is discharged or dismissed from service when he is sick or suffering from the result of an accident, the employer shall pay him the amount payable under this Act in respect of the period of the leave to which he was entitled at the time of his

---

1. Sub-section 1 substituted by Act 25 of 1997, s. 7(a)
2. Sub-section (2) omitted by Act 25 of 1997, s. 7(b)
3. The words, figure and brackets "or sub-section (2)" omitted by Act 25 of 1997, s. 7(c)

discharge or dismissal, in addition to the amount, if any, payable to him under sub-section (4).

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

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

[1][Provided that the total number of the days of leave that may be carried forward to a succeeding year shall not exceed forty-five days:]

Provided further that an employee who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-sections (10) and (11) shall be entitled to carry forward the unavailed leave without any limit.

(8) An employee may at any time apply in writing to the manager of the establishment, not less than ten days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

Provided that the number of times in which leave may be taken during any year shall not exceed three or such number as may be agreed upon between the employer and the employee.

(9) If any employee wants to avail himself of the leave with wages due to him under sub-section (3), he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (8), and in such a case, wages as admissible under Section 17 shall be paid not later than fifteen days from the date on which the leave begins.

(10) For the purpose of ensuring continuity of work in an establishment, the employer in agreement with the representatives of employees therein, chosen in the prescribed manner, may formulate a scheme in writing whereby the grant of leave allowable under this section may be regulated.

(11) A scheme formulated under sub-section (10) shall be posted in convenient places in the premises of the establishment and shall be in force for a period of twelve months from the date on which it comes into force and may thereafter be renewed, with or without modification, for a further period of twelve months at a time by the employer in agreement with the representatives of the employees as specified in sub-section (10).

(12) An application for leave which does not contravene the provisions of sub-section (8) shall not be refused, unless the refusal is in accordance with the scheme for the time being in operation under sub-sections (10) and (11).

1. First proviso substituted by Act No. 8 of 2021, w.e.f. 19-2-2021

(13) If the employment of an employee who is entitled to leave under sub-section (1) [1][x x x x x] is terminated by the employer before he has taken the entire leave to which he is entitled or if having applied for and having not been granted such leave, the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under Section 16 in respect of the leave not taken, and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination, and where an employee quits his employment, on or before the next pay day.

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

COMMENTS

Synopsis

1. *Industrial Tribunal*
2. *Leave wages*
3. *Contemplate a definite period of work per working day*
4. *Cessation of work*
5. *Employee to accumulate earned leave*

Industrial Tribunal

S. 15.—Industrial Tribunal cannot grant leave in excess of maximum provided by Act, *Management of Marina Hotel v Workmen,* **(1961)2 LLJ 94, 130 and 431 SC.**

But where a minimum is prescribed. Tribunal can grant more, *Dalmia Cement (Bharat), Ltd., New Delhi v Their Workmen and Another,* **(1961)2 LLJ 130.**

See also *Alembic Chemical Works v Workmen,* **20 FJR 78 : (1961)1 LLJ 328** under Section 79 of Factories Act.

Leave under sub-section (1) arises as a matter of right, *Budichand v 1st Civil Judge, Nagpur,* **AIR 1961 SC 644 : (1961)2 LLJ 86.**

If employment should be continuous, *Mawana Sugar Works v Workmen,* **(1953)2 LLJ 289.**

Leave wages

Ss. 15 & 16.—Leave wages are wages within Payment of Wages Act, *Hindustan Journals v Govindram,* **1962 MPC 107.**

But is not entitled to preferential payment in the liquidation of employer-company, *Lakshminarayana Sastry v Vijaya Commercial Bank,* **1957 An. L.T. 719.**

1. The words, figure, brackets and punctuation mark "or sub-section (2), as the case may be," omitted by Act 25 of 1997, s. 7(d)

Contemplate a definite period of work per working day

Ss. 15 & 16.—Contemplate a definite period of work per working day. Where employer had no control over hours of work or days of work or quantity of work and workman could come and go according to his will, wages for leave period cannot be calculated, *Shankar Balaji v State of Maharashtra,* **1962 MWN 124 SC.**

Cessation of work

S. 15(3).—Cessation of work even for 2 to 4 hours amounting to illegal strike would amount to interruption of service, *B.& C Co. v Workmen,* **1953 SCR 219 : (1953)1 LLJ 181.**

Employee to accumulate earned leave

Ss. 15(7) & 35.—The right of an employee to accumulate earned leave under Rule 18(3)(iii) Co-operative Societies Rules is not affected by Section 15(7); but is specifically saved by Section 35 of Karnataka Shops and Commercial Establishments Act, *Thimmappa Rai v Labour Court,* **(1976)1 Kar. L. J. 330.**

16. Wages during leave period.—(1) For the leave allowed to him under Section 15, an employee shall be paid at the rate equal to the daily average of his total full-time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime wages and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the employee of foodgrains and other articles.

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

Explanation.—The explanations to sub-section (3) of Section 8 shall be applicable for purposes of determining standard family under this sub-section.

COMMENTS

1. *Leave wages*
2. *Contemplate a definite period of work per working day*

Leave wages

Ss. 16 & 15.—Leave wages are wages within Payment of Wages Act, *Hindustan Journals v Govindram,* **1962 MPC 107.**

But is not entitled to preferential payment in the liquidation of employer-company, *Lakshminarayana Sastry v Vijaya Commercial Bank,* **1957 An. L.T. 719.**

Contemplate a definite period of work per working day.

Ss. 16 & 15.—Contemplate a definite period of work per working day. Where employer had no control over hours of work or days of work or quantity of work and workman could come and go according to his will, wages for leave period cannot be calculated, *Shankar Balaji v State of Maharashtra,* **1962 MWN 124 SC.**

17. Payment in advance in certain cases.—An employee who has been allowed leave for not less than four days in the case of an adult, and for not less than five days in the case of a young person, shall before his leave begins, be paid the wages due for the period of leave allowed.

COMMENTS

Offence

Ss. 17 & 33.—Offence — Where there is no evidence as to what direction the Labour Inspector gave and if so whether they were lawful directions, no offence (of not complying with the directions) under Section 33 is made out.

Where there is no evidence of tender of the wages for the period of the leave before the leave begins and the employer expressed his inability to pay and the employee agreed to take it later, held, there is no compliance with Section 17, *Manjunatha Navada v State of Mysore,* **(1974)2 Kar. L.J. Jr. 51 Sh. N. 180.**

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

19. Power to make rules.—The State Government may, to carry out the purposes of this Chapter, make rules directing employers to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

20. Power to exempt establishments.—Where the State Government is satisfied that the leave rules applicable to employees in an establishment provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision, it may, by notification, exempt the establishment from all or any of the provisions of this Chapter, subject to such conditions as may be specified in the notification.

COMMENTS

Favourable benefits

S. 20.—Is not limited to more favourable benefits existing on date of Act, *Alembic Chemical Works v Workmen,* **(1961)1 LLJ 328.**

CHAPTER V

[1][Wages and Compensation]

21. Application of the Payment of Wages Act.—(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936), (referred to in this section as 'the said Act'), the State Government

1. Substituted for the heading "Wages, Compensation and Maternity Benefit" by Act 4 of 1969, s. 2(i).

may, by notification, direct that subject to the provisions of sub-section (2), the said Act or any of the provisions thereof as in force on the date of passing of this Act by the State Legislature shall apply to all or any class of employees and their employers in establishments to which this Act applies, and thereupon, the said Act or the provisions thereof shall be applicable to the employers and employees, as if enacted in this Act.

(2) On the application of the provisions of the said Act to any establishment 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.

COMMENTS

Notification

S. 21.—Notification is essential for exercise of jurisdiction by authority, *Commercial and Industrial Bank v Authority under Payment of Wages Act, 1936,* **1958 An. L.T. 614.**

Effect of extension of Payment of Wages Act to Co-operative Societies, see *Farkhundalli v Potdar,* (1962)1 LLJ 51, overruling *Bagicha Mills Co-operative Society v Natwarlal,* **60 Bom. L.R. 1363.**

22. Application of the Workmen's Compensation Act.—The provisions of the Workmen's Compensation Act, 1923 (Central Act VIII of 1923), as in force on the date of passing of this Act by the State Legislature, and the rules made thereunder by the State Government for the time being in force shall *mutatis mutandis* apply to employees and employers of shops and commercial establishments.

[1][**23. Application of the Maternity Benefit Act.**—x x x x x.]

CHAPTER VI

Employment of Children and Women

24. Prohibition of employment of children.—No child shall be required or allowed to work in any establishment.

[2][**25. Regulation of employment of women during night.**—(1) A woman employee who is so willing may be allowed to work in a shop or commercial establishment during night subject to the following conditions, namely.—

(a) The regulation stipulated under Sections 7, 8, 9, 10 and 12 of the Act shall continue to apply to the women employee working during night shift;

(b) Willingness of women employees shall be obtained in writing;

(c) The establishment shall provide transport facilities from the residence of the woman employee to the workplace and back free of cost and with adequate security. Such transport facility shall have GPS for tracking and monitoring;

(d) Employment of women employee shall be on rotation basis;

(e) Adequate number of security guards shall be posted during night shift;

(f) Sufficient rest rooms, electricity, latrines lockers, dispensary facility and washing facilities with adequate water supply shall be provided separately for women employees so as to secure privacy;

1. Section 23 omitted by Act 4 of 1969, s. 2(ii).
2. Section 25 substituted by Act No. 40 of 2020, w.e.f. 19-10-2020

(g) The establishment shall bear the cost of crèche obtained by the women employees from voluntary or other organisations;

(h) The establishment shall obtain Bio-data of each driver and conduct pre-employment screening of the antecedents of all drivers employed on their own. As regards the driver employed through outsourcing, the company shall ensure to its satisfaction that the collection of Bio-data and conduct pre-employment screening of the antecedents of the drivers is carried out by the service provider;

(i) The Schedule of route of pick-up and drop shall be decided by the supervisory office of the company only. In case of exigencies, change of drivers/routes/shifts shall be allowed only with the prior knowledge of supervisory officers/employees;

(j) The telephone number, particularly mobile phone numbers e-mail ID and address of the women employees shall not be disclosed to unauthorised persons;

(k) Careful selection of routes shall be made in such a way that no women employees shall be picked up first and dropped last;

(l) The company shall provide security guards at work place and night shift vehicles when women employees are being picked up first or dropped last;

(m) The designated supervisors of the company or service provider shall randomly check the vehicles on various routes as for as possible;

(n) The establishment shall have a control room/travel desk for monitoring movement of vehicles;

(o) An App in mobile may be developed and adopted by the establishment through which the women employee can contact the concerned at the time of emergency by giving signal; and

(p) Any other condition as may be prescribed.

(2) If any establishment fails to comply with the above conditions, it shall lead to cancellation of the Registration Certificate."

CHAPTER VII
Enforcement and Inspection

26. Inspectors.—(1) The State Government may by notification appoint such persons or such class of persons as it thinks fit, to be Inspectors and Assistant Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

[1][(2) The State Government may, by Notification, appoint such public officers as it thinks fit to be Additional Inspectors, for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(3) In any area where there are more Inspectors than one, the State Government may, by Notification, declare the powers which such Inspectors shall respectively exercise.

(4) The Commissioner of the Labour in Karnataka shall be the Chief Inspector for the purposes of this Act, for the whole of the State of Karnataka.]

1. Sub-sections (2), (3) and (4) substituted for sub-section (2) as by Act 4 of 1969, s. 3

27. Powers and duties of Inspectors.—Subject to any rules made by the State Government in this behalf, an Inspector may, within the area in his jurisdiction,—

(a) enter, at all reasonable times and with such assistants, if any, being persons in the service of the State Government, as he thinks fit, any place which is or which he has reasons 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 person as he may deem necessary, for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no person shall be required under this section to answer any question or give any evidence tending to incriminate himself.

28. Inspectors to be public servants.—Every person appointed or declared under Section 26 to be an Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

29 Employer to produce registers, records, etc., for inspection.—Every employer shall on demand, produce for inspection of an Inspector, all registers, records and notices required to be kept under and for the purposes of this Act.

CHAPTER VIII

Offences, Penalties and Procedure

30. Penalties.—(1) Whoever contravenes any of the provisions of Sections 4, 5, 6, [1][6-A], 7, 9, 10, 11, 12, 13, 15, 16, [2][x x], 25 and 39, shall, on conviction, be punished with fine, which, for a first offence, may extend to [3][one thousand rupees] and for a second or any subsequent offence, may extend to [4][two thousand rupees].

(2) Whoever contravenes any of the provisions of Sections 8, 17, 29 and 34 shall, on conviction, be punished with a fine which may extend to [5][two hundred and fifty rupees].

[6][(3) Whoever contravenes the provisions of [7][Sections 24 and 25], shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to six months or with fine which shall not be less than ten thousand rupees, but which may extend to twenty thousand rupees or with both, for the first offence and for the second and subsequent offences, he shall be punishable with imprisonment of a term which shall not be less than six months but which may extend to one year].

COMMENTS

Partner

S. 30.—Partner, whether active or sleeping partner, would be employer, *Deoraj v State,* **AIR 1959 Bom. 509.**

1. Inserted by Act 25 of 1997, s. 9(a)(i)
2. The figure "24" omitted by Act 25 of 1997, s. 9(a)(ii)
3. Substituted for the words "two hundred and fifty rupees" by Act 25 of 1997, s. 9(a)(iii)
4. Substituted for the words "five hundred rupees" by Act 25 of 1997, s. 9(a)(iii)
5. Substituted for the words "fifty rupees" by Act 25 of 1997, s. 9(b)
6. Sub-section (3), inserted by Act 25 of 1997, s. 9(c)
7. Substituted for the word and figures "Section 24" by Act No. 12 of 2007

31. Procedure.—(1) No prosecution under this Act or the rules or orders made thereunder shall be instituted save on a complaint in writing by an Inspector.

(2) No court inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act or any rules or orders made thereunder.

COMMENTS

S. 31 and Rule 21

S. 31 and Rule 21.—Circular dated 11-3-1970 of Labour Commissioner requiring prior sanction for prosecution-Validity-Constitution, Article 226 — Challenging Department head's circular — The circular dated 11-3-1970 issued by the Labour Commissioner required that the Labour Inspectors should obtain prior sanction of the Commissioner for launching prosecutions in respect of statutory corporations, banks and public sector undertakings. That the circular was *ultra vires* of the Act and therefore invalid. The responsibility for enforcement of the provisions of the Act and Rules was primarily on the Labour Inspector. He was answerable to the law and to the law alone, and if he committed acts contrary to law or instituted prosecutions by abusing his power, it was open to the Commissioner to take action against such Labour Inspector, but he cannot command the Labour Inspector to obtain his prior sanction to institute prosecutions in the guise of supervising his activities. There was no classification under the Act or the Rules in respect of statutory corporations, banks and public sector undertakings, and all the employers and their establishments must be treated alike for the enforcement of the Act and the Rules.

The Labour Inspector, though a subordinate official, could challenge the validity of the circular issued by the Head of the Department, *Annaji Jadav v State of Mysore,* **(1975)1 Kar. L.J. 514.**

---

32. Limitation of prosecutions.—No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months from the day on which the offence is alleged to have been committed.

COMMENTS

Synopsis

1. *Limitation*
2. *Continuing offence*

Limitation

S. 32.—Limitation starts from date of offence and not from date of detection, *Ranjit Singh v State of Uttar Pradesh,* **1957 All. L.J. 962.**

Section 12 of Limitation Act would apply and first day of the period must be excluded, *Thakur v State of Uttar Pradesh,* **(1959)2 LLJ 34.**

Complaint by post not proper, *Baldeodas v State,* ILR (1954)1 All. 13 : 1952 ALJ 534. But See *State v Satnarain,* 1960 BLJR 480 : (1960)2 LLJ 583 and *State of Madhya Pradesh v Rukhabsa,* **ILR 1952 Nag. 550.**

Limitation is for filing complaint and not for taking cognisance. *State v N.K. Govil,* **1956 All. L.J. 188 overruling 1953 ALJ 481.**

Requires complaint within time and not that cognisance should be taken, *Shiv Behari v State,* 1954 ALJ 145; *Gopal Das v State,* 1955 ALJ 687; *State Government of Madhya Pradesh v Rukhabsa,* ILR 1952 Nag. 550; *State v Satnarain,* **1960 BLJR 480 : (1960)2 LLJ 583.**

Continuing offence

Continuing offence — What is, *State v Bhiwandiwala,* ILR 1955 Bom. 192 : 56 Bom. L.R. 1172; *P.P. v Veerabhadrappa,* 1952 MWN 745 : Cr. 193 : ILR 1953 Mad. 561 and *Vasudeva Rao v State of Mysore,* **1961 Mys. L.J. 549.**

Continues from day to day, *State v Kunja Behari,* ILR 233 Pat. 507 : 1954 BLJR 459.

Jurisdiction of First Class Magistrate extends throughout District, *State Government of Madhya Pradesh v Krishnadas,* ILR 1955 Nag. 58; *Chinnappa v State of Mysore,* **1960 Mys. L.J. 529.**

---

33. Penalty for obstructing Inspectors, etc.—Any person who wilfully, obstructs an Inspector in the exercise of any power conferred on him under this Act, or any person lawfully assisting an Inspector in the exercise of such power or who fails to comply with any lawful direction made by an Inspector, shall be punishable with fine which may extend to [1][five hundred rupees].

COMMENTS

Synopsis

1. *No evidence relating to direction of Labour Inspector*
2. *Offence*

No evidence relating to direction of Labour Inspector

S. 33.—Where there is no evidence as what direction the Labour Inspector gave and if so whether they were lawful, offence of non-compliance is not made out, *Manjunatha Navada v State of Mysore,* **(1974)2 Kar. L. J. Jr. 51 Sh. N. 180.**

Offence

Ss. 33 & 17.—Offence — Where there is no evidence as to what direction the Labour Inspector gave and if so whether they were lawful directions, no offence (of not complying with the directions) under Section 33 is made out.

Where there is no evidence of tender of the wages for the period of the leave before the leave begins and the employer expressed his inability to pay and the employee agreed to take it later, held, there is no compliance with Section 17, *Manjunatha Navada v State of Mysore,* **(1974)2 Kar. L.J. Jr. 51 Sh. N. 180.**

---

1. Substituted for the words "two hundred and fifty rupees" by Act 25 of 1997, s. 10,

[1][**33-A. Compounding of offences.**—(1) The jurisdictional Labour Officer in lieu of prosecution may compound the offences punishable under this Act or the rules made thereunder, except the offences punishable under Sections 24 and 25, at the option of the offending employer before or after the institution of the prosecution by levying a sum not exceeding rupees two thousand but not less than rupees one thousand for the first offence and for the second or subsequent same offence, a sum not exceeding rupees five thousand but not less than rupees two thousand.]

CHAPTER IX
Miscellaneous

34. 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.

35. Saving of certain rights and privileges.—Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to 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.

COMMENTS

Saving of certain rights

S. 35.—Saves rights under other law, *Ahmedabad Manufacturing and Calico Ptg. Co. v Textile Labour Association,* **(1954)2 LLJ 580.**

Saves right under usage, *Globe Theatres v Workmen,* **(1956)1 LLJ 210.**

A concession which can be unilaterally withdrawn is not a right saved, *Workmen of Hindustan Shipyard v Industrial Tribunal,* **(1961)2 LLJ 526.**

Ss. 35 & 15(7).—The right of an employee to accumulate earned leave under Rule 18(3)(iii) Co-operative Societies Rules is not affected by Section 15(7); but is specifically saved by Section 35 of Karnataka Shops and Commercial Establishments Act, *Thimmappa Rai v Labour Court,* **(1976)1 Kar. L. J. 330.**

Ss. 35 & 39(7).—Sections 10(1)(c) & 33C(2) of Industrial Disputes Act, 1947 — Section 35 provides an alternative forum for workmen to approach Labour Court under Industrial Disputes Act, if it is established that he is also a workman covered under that Act — Section 39(7) does not expressly or impliedly act in derogation of Section 35 which confers a right on workmen to approach forum available under Industrial Disputes Act, if he is a

1. Section 33-A inserted by Act No. 12 of 2007

workman covered by that Act — Scope explained, *Gopal Naidu A. v State of Karnataka & Others*, **1989(1) Kar. L.J. 189.**

36. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the State Government for anything which is in good faith done or intended to be done under this Act.

37. Delegation of powers.—(1) The State Government may, by notification, authorise any officer or authority, subordinate to it, to exercise any one or more of the powers vested in it by or under this Act, except the powers under sub-sections (3) and (4) of Section 1, sub-sections (3) and (4) of Section 3, Section 19, Section 20, Section 21, Section 26 and Section 40 subject to such restrictions and conditions, if any, as may be specified in the notification.

(2) The exercise of the powers delegated under sub-section (1) shall be subject to control and revision by the State Government or by such persons as may be empowered by it in that behalf. The State Government shall also have power to control and revise the acts and proceedings of any person so empowered.

COMMENTS

Delegation

S. 37.—Delegation does not deprive Government of its powers, *C.f. Syed Burhanuddin v Rev. Minister,* **1960 Mys. L.J. 805** and *R.N. Setti v Guja,* **AIR 1952 All. 819.**

38. Power of Government to suspend provisions of the Act during fairs and festivals.—On any special occasion in connection with a fair or festival or a succession of public holidays, the State Government may, by notification, suspend for a specified period the operation of all or any of the provisions of this Act.

39. Notice of dismissal.—(1) No employer shall remove or dismiss an employee who has put in service under him continuously for a period of not less than six months, except for a reasonable cause and unless and until one month's previous notice or pay in lieu thereof has been given to him:

Provided that where misconduct of an employee is brought on record with proof at an enquiry held for the purpose, he shall not be entitled to the notice or pay in lieu of such notice.

(2) An employee removed or dismissed under sub-section (1) shall have a right of appeal to [1][such officers having jurisdiction over such areas or such classes of employees as may be prescribed] on the ground that there was no reasonable cause for the removal or dismissal or that he has not been guilty of misconduct as held by the employer.

1. Substituted for the words "the prescribed authority or if no authority is prescribed to the Commissioner of Labour" by Act 36 of 1966, s. 3.

(3) Where an employee has been removed or dismissed without reasonable cause or without proof of misconduct, the employee shall, where the employer does not agree to reinstate him, be entitled to such compensation as the appellate authority may determine, provided that such compensation shall not exceed an amount calculated at one month's pay for every year of service [1][x x x x x].

(4) Any person aggrieved by an order of the appellate authority may apply to the District Judge for a revision of such order and subject to the result of such application, the decision of the appellate authority shall be final and binding on both the employer and the person employed.

(5) The amount payable as compensation under this section shall be in addition to any fine payable under Section 30 and shall be recoverable as a fine.

(6) No employee who has been awarded compensation under this section shall be entitled to bring a civil suit in respect of the same claim.

(7) If under any other law or under the terms of an award, agreement or contract of service, any employee is entitled to a longer period of notice or to more favourable benefits than are provided in sub-section (1) or sub-section (3) the provisions of the said sub-sections shall have effect as if such period of notice and such benefits had been enacted in this Act.

COMMENTS

Synopsis

1. *Power of dismissal*

2. *Appeal and Scope of enquiry*

Power of dismissal

S. 39.—Does not confer power of dismissal but prescribes certain liabilities, *Satyanarayan Brush Factory v Workmen,* **(1951)2 LLJ 579.**

Ss. 39(7) & 35.—Sections 10(1)(c) & 33C(2) of Industrial Disputes Act, 1947 — Section 35 provides an alternative forum for workmen to approach Labour Court under Industrial Disputes Act, if it is established that he is also a workman covered under that Act — Section 39(7) does not expressly or impliedly act in derogation of Section 35 which confers a right on workmen to approach forum available under Industrial Disputes Act, if he is a workman covered by that Act — Scope explained, *Gopal Naidu A. v State of Karnataka & Others,* **1989(1) Kar. L.J. 189.**

Appeal and Scope of enquiry

S. 39(2) & (3).—Appeal — Scope of enquiry — It is necessary for the appellate authority under Section 39 of the Act to give a finding that the services of the employee have been terminated without reasonable cause or

1. The words "subject, in any case to the maximum of six months pay" omitted by Act 25 of 1997, s. 11

when the termination is on the ground of misconduct, the said termination has been made in the absence of misconduct proved at an enquiry held for the purpose. The appellate authority will have no jurisdiction to grant compensation under Section 39(3) of the Act otherwise.

The appellate authority must apply its mind to the amount of compensation to be awarded. Award of maximum compensation without giving reasons in support of the order cannot be sustained.

In an appeal under Section 39(2) the appellate authority must hold an enquiry, whether the termination of service is based on a reasonable cause or on the ground of misconduct, *Parappa Sangappa Palled v Astulsaheb Hasansaheb*, **1964 Mys. L.J. Supp. 671 dist., (1972)1 Mys. L.J. 132.**

S. 39(3) & (2).—Appeal — Scope of enquiry — It is necessary for the appellate authority under Section 39 of the Act to give a finding that the services of the employee have been terminated without reasonable cause or when the termination is on the ground of misconduct, the said termination has been made in the absence of misconduct proved at an enquiry held for the purpose. The appellate authority will have no jurisdiction to grant compensation under Section 39(3) of the Act otherwise.

The appellate authority must apply its mind to the amount of compensation to be awarded. Award of maximum compensation without giving reasons in support of the order cannot be sustained.

In an appeal under Section 39(2) the appellate authority must hold an enquiry, whether the termination of service is based on a reasonable cause or on the ground of misconduct, *Parappa Sangappa Palled v Astulsaheb Hasansaheb*, **1964 Mys. L.J. Supp. 671 dist., (1972)1 Mys. L.J. 132.**

40. Power to make rules.—(1) The State Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (1) may provide in respect of the health and safety and welfare of employees.

(3) In making rules under this section, the State Government may provide that a contravention of any rule shall be punishable with a fine which may extend to [1][ten thousand rupees].

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

COMMENTS

Name board

Section 40(1) — Karnataka Shops and Commercial Establishments Rules, 1963, Rule 24-A — Constitution of India, Articles 29(1) and 345 — Karnataka Official Language Act, 1963, Sections 2 and 4 — Karnataka Local Authorities

1. Substituted for the words "two hundred and fifty rupees" by Act No. 12 of 2007

(Official Language) Act, 1981, Section 2(b) — Name board — Exhibition of — Rule requiring every commercial establishment to display its name board in Kannada and versions in other languages below Kannada version — Rule, held, does not interfere with fundamental right of any linguistic group to conserve its language, script or culture and hence not ***ultra vires*** of Article 29 of Constitution — When rule is held valid, notice issued to enforce rule cannot be said to be illegal.

Chandrashekaraiah, J., Held: Rule 24-A of the Rules provides that the name board shall be in Kannada and whenever other languages are also used, the version in such other languages shall be below the Kannada version. From this it is seen the said rule does not in any way prevent the petitioner from displaying the name board of his shop in his language *i.e.,* Marathi along with Kannada. If that is so, it cannot be said that the petitioner has in any way been prevented from conserving Marathi language since he is also allowed to use Marathi language along with Kannada. . . . . When the State Government has legislated the law declaring the official language of the State as Kannada by virtue of its constitutional right under Article 345 of the Constitution, it is just and necessary to display the name board in Kannada. At the same time Rule 24-A of the Rules has not prevented the petitioner or any section of the citizens from displaying the name board in his own language. Therefore, it cannot be said that Rule 24-A of the Rules has in any way come in the way of conserving the language of any section of the citizens. Therefore, Rule 24-A of the Rules is not *ultra vires* of Article 29 of the Constitution. . . . . Since Rule 24-A of the Rules is held to be valid, any notice issued to enforce Rule 24-A of the Rules cannot be said to be illegal. Therefore, the impugned notices are not liable to be quashed. Laxman Omanna Bhamane v State of Karnataka And Others, **2002(2) Kar. L.J. 208.**

---

41. Notifications and rules to be laid before the State Legislature.—Every notification issued under sub-section (3) and sub-section (4) of Section 3, sub-section (1) of Section 21 and sub-section (1) of Section 37 and every rule made under Section 40 shall be laid as soon as may be after it is issued or made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or rule or both Houses agree that the notification or rule should not be made, the notification or rule, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything done previously under that notification or rule.

42. Repeal and savings.—The Bombay Shops and Establishments Act, 1948 (Bombay Act LXXIX of 1948), as in force in the Bombay Area, the Hyderabad Shops and Establishments Act, 1951 (Hyderabad Act X of 1951), as in force in the Hyderabad Area, the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947), as in force in the Madras Area, and the

Mysore Shops and Establishments Act, 1948 (Mysore Act II of 1948), as in force in the Mysore Area, are hereby repealed:

Provided that Section 6 of the Mysore General Clauses Act, 1899 (Mysore Act III of 1899), shall be applicable in respect of such repeal and Sections 8 and 24 of the said Act shall be applicable as if the said Acts had been repealed and re-enacted by this Act.

43. Repeal of Central Act XVIII of 1942.—On and from such date on which this Act applies to any area of the State, the Weekly Holidays Act, 1942 (Central Act XVIII of 1942), shall in such area stand repealed:

Provided that such repeal shall not affect,—

(a) the previous operation of the said enactment or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactment; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactment; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been applied to that area.

44. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may by notification, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

SCHEDULE

SCHEDULE

[See sub-section (4) of Section 1]

Names of Places

1. Arsikere Town
2. Athani
3. Bagalkot
4. Bangalore City
5. Bangarpet Town
6. Bantwal
7. Belgaum
8. Belthangadi
9. Bellary City
10. Bhadravati Town
11. Bidar
12. Bijapur
13. Chamarajanagar Town
14. Channapatna
15. Chellakere Town
16. Chickballapur Town
17. Chickmagalur Town
18. Chintamani Town
19. Chitradurga Town
20. Coondapur
21. Davangere City
22. Dharwar
23. Doddaballapur Town
24. Gadag-Betgeri
25. Gauribidanur Town
26. Gokak
27. Gulbarga
28. Guledgud
29. Hadigall Panchayat Area
30. Harapanahalli Panchayat Area
31. Harihar Town
32. Hassan Town
33. Hiriyur
34. Hospet Town
35. Hubli
36. Ilkal
37. Jamkhandi
38. Kamalapur Panchayat Area
39. Kampli Panchayat Area
40. Kanakapura
41. Karkal
42. Karwar
43. Kolar Town
44. Kolar Gold Fields Area
45. Kollegal
46. Koppal
47. Kottur Panchayat Area
48. Kudligi Panchayat Area
49. Maddur
50. Mahalingapur
51. Malavalli
52. Mandya Town
53. Madhugiri Town
54. Mangalore
55. Moodabidri
56. Mulki
57. Mysore City
58. Nanjangud Town
59. Nippani
60. Puttur
61. Rabkavi Banhatti
62. Raichur
63. Ramanagaram
64. Sagar
65. Saklespur Town
66. Sandur
67. Shahabad
68. Shikaripur
69. Shimoga Town
70. Siddlaghatta
71. Sira Town
72. Sirsi
73. Siruguppa Panchayat Area
74. Srinivaspur
75. Srirangapatna
76. Thirthahalli
77. Tiptur Town
78. Tumkur Town
79. Udupi
80. Yadgir

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 1966 KARNATAKA ACT No. 36 OF 1966

(First published in the Karnataka Gazette on the Twenty-second day of December, 1966)

(Received the assent of the Governor on the Fourteenth day of December, 1966)

An Act to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962);

Be it enacted by the Karnataka State Legislature in the Seventeenth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 1966.**

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

2. Amendment of Section 2.—In Section 2 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962) (hereinafter referred to as the "principal Act"), clause (r) shall be *omitted.*

3. Amendment of Section 39.—In Section 39 of the principal Act, in sub-section (2), for the words "the prescribed authority or if no authority is prescribed to the Commissioner of Labour", the words "such officers having jurisdiction over such areas or such classes of employees as may be prescribed" shall be *substituted.*

4. Appeals in respect of pending matters and transfer of pending appeals.—(1) In respect of an order under sub-section (1) of Section 39 of the principal Act made before the date of commencement of this Act (hereinafter in this section referred to as the said date) no appeal shall lie to the Commissioner of Labour after the said date, but an appeal shall lie to the appropriate Appellate Authority prescribed under sub-section (2) of the said section.

(2) All appeals and proceedings connected therewith in respect of orders referred to in sub-section (1), pending on the said date before the Commissioner of Labour shall on the said date stand transferred to the appropriate Appellate Authority referred to in sub-section (1) and shall be disposed of by such authority in accordance with law as if such appeals or proceedings had been preferred to that authority.

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 1969 KARNATAKA ACT No. 4 OF 1969

(First published in the Karnataka Gazette on the Twenty-seventh day of February, 1969)

(Received the assent of the Governor on the Twenty-fourth day of February, 1969)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962);

Be it enacted by the Karnataka State Legislature in the Twentieth Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 1969.**

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

2. Amendment of Chapter V.—In Chapter V of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962) (hereinafter referred to as the "principal Act").—

(i) in the Chapter heading for the words "Wages, Compensation and Maternity Benefits", the words "Wages and Compensation" shall be *substituted;*

(ii) Section 23 shall be *omitted.*

3. Amendment of Section 26.—For sub-section (2) of Section 26 of the principal Act, the following sub-sections shall be *substituted,* namely.—

"(2) The State Government may, by notification, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(3) In any area where there are more Inspectors than one, the State Government may, by notification, declare the powers which such Inspectors shall respectively exercise.

(4) The Commissioner of Labour in Karnataka shall be the Chief Inspector for the purposes of this Act, for the whole of the State of Karnataka".

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 1982 KARNATAKA ACT No. 33 OF 1982

(First published in the Karnataka Gazette, Extraordinary, on the Fourth day of September, 1982)

(Received the assent of the Governor on the Second day of September, 1982)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Thirty-third Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 1982.**

(2) It shall come into force on such date as may be notified in the Official Gazette.

2. Amendment of Section 2.—In Section 2 of the Karnataka Shops and Commercial Establishment Act, 1961 (Karnataka Act 8 of 1962) (hereinafter referred to as the "principal Act"), after clause (b), the following clause shall be *inserted*, namely.—

"(ba) **"Banking company"** means.—

(i) the Reserve Bank of India;

(ii) the Banking Company as defined under the Banking Regulations Act, 1949;

(iii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iv) a Subsidiary Bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959;

(v) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(vi) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980".

3. Amendment of Section 3.—In Section 3 of the principal Act, in sub-section (1), in clause (f), for the words "the Reserve Bank of India", the words "a banking company" shall be *substituted.*

4. Amendment of Section 4.—In Section 4 of the principal Act, after sub-section (3), the following sub-section shall be *inserted,* namely:—

"(4) A registration certificate issued under sub-section (2), shall be valid for one year and shall be renewed from year to year on payment of such fees and in such manner as may be prescribed.

(5) The registration of every establishment registered before the commencement of the Karnataka Shops and Commercial Establishments (Amendment) Act, 1982 shall, on such commencement, expire and the employer of every such establishment shall renew his licence within ninety days of such commencement in accordance with the provisions of sub-section (4)".

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 1986 KARNATAKA ACT No. 17 OF 1986

(First published in the Karnataka Gazette, Extraordinary, on the Eighth day of May, 1986)

(Received the assent of the Governor on the Third day of May, 1986)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purpose hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Thirty- seventh Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 1986.**

(2) It shall come into force at once.

2. Amendment of Section 3.—In sub-section (1) of Section 3 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), after clause (d), the following clause shall be *inserted,* namely.—

"(dd) establishments of the Food Corporation of India".

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 1997 KARNATAKA ACT No. 25 OF 1997

(First published in the Karnataka Gazette, Extraordinary, on Thirtieth day of September, 1997)

(Received the assent of the Governor of Karnataka on the Twenty-ninth day of September, 1997)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purposes hereinafter appearing.

Be it enacted by the Karnataka State Legislature in the Forty-eighth Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 1997.**

(2) It shall come into force from such date as the State Government may, by notification, appoint.

2. Amendment of Section 2.—In Section 2 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962) (hereinafter referred to as the "principal Act").—

(i) in clause (b), for the words "twelve years", the words "fourteen years" shall be *substituted;*

(ii) in clause (c), for the words "twelfth year", the words "fourteenth year" shall be *substituted.*

3. Amendment of Section 4.—In Section 4 of the principal Act.—

(1) in sub-section (4).—

(i) for the words "one year", the words "five years" shall be *substituted,* and;

(ii) for the words "from year to year", the words "before expiry of the period of registration certificate" shall be *substituted;*

(2) for sub-section (5), the following sub-section shall be *substituted,* namely.—

"(5) The registration certificate issued or renewed before the commencement of the Karnataka Shops and Commercial

Establishments (Amendment) Act, 1997 shall, on such commencement, continue to be valid till the expiry of the period of registration certificate already granted and the employer of every such establishment shall renew his registration certificate before the expiry of such period in accordance with sub-section (4)".

4. Insertion of new Section 6-A.—After Section 6 of the principal Act, the following shall be *inserted*, namely.—

"**6-A. Issue of appointment orders.**—Every employer, employing any person in or in connection with his establishment, shall issue an appointment order in writing indicating the name, designation, wage scale of such person and terms and conditions of his employment and serve the same on such person within thirty days from the date of appointment his establishment:

Provided that in case of employees appointed in any establishment prior to the commencement of the Karnataka Shops and Commercial Establishments (Amendment) Act, 1997, the employer of such establishment shall, if he has not yet issued any appointment order in writing to such employee, communicate in writing to the employee incorporating therein his name, designation and wage scale and the terms and conditions of employment and serve the same on him within thirty days from the date of such commencement".

5. Amendment of Section 7.—In Section 7 of the principal Act, in sub-section (2), the words "between the age of twelve and fifteen" shall be *omitted*.

6. Amendment of Section 12.—In Section 12 of the principal Act, in sub-section (1), after the words "beginning of the year", the words "or within thirty days from the date of commencement of establishments, as the case may be" shall be *substituted*.

7. Amendment of Section 15.—In Section 15 of the principal Act.—

(a) for sub-section (1), the following shall be *substituted*, namely.—

"(1) Every employee in an establishment shall be entitled to leave with wages and shall be allowed to avail such leave for the number of days calculated at the rate of.—

(i) one day for every twenty days work performed by him in case of an adult;

(ii) one day for every fifteen days of work performed by him in case of young person

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

(a) Any day of lay-off, by agreement or contract as permissible under the standing order or for any other reasons beyond the employer's control;

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

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

shall be deemed to be days on which the employee has worked in an establishment for the purposes of computation of leave under this section, but the employee shall not earn leave for that period".

(b) sub-section (2) shall be *omitted;*

(c) in sub-section (4), the words, figure and brackets, "or sub-section (2)" shall be *omitted;*

(d) in sub-section (13), the words, figure, brackets and punctuation mark "or sub-section (2), as the case may be" shall be *omitted.*

8. Amendment of Section 25.—In Section 25 of the principal Act, the words, "between the age of twelve and fifteen" shall be *omitted.*

9. Amendment of Section 30.—In Section 30 of the principal Act.—

(a) in sub-section (1).—

(i) after the figure "6", the figure and letter "6-A" shall be *inserted;*

(ii) the figure "24" shall be *omitted;* and

(iii) for the words "two hundred and fifty rupees" and "five hundred rupees", the words "one thousand rupees" and "two thousand rupees" shall respectively be *substituted;*

(b) in sub-section (2), for the words "fifty rupees", the words "two hundred and fifty rupees" shall be *substituted;*

(c) after sub-section (2), the following shall be *inserted,* namely.—

"(3) Whoever contravenes the provisions of Section 24, shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to six months or with fine which shall not be less than ten thousand rupees, but which may extend to twenty thousand rupees or with both, for the first offence and for the second and subsequent offences, he shall be punishable with imprisonment of a term which shall not be less than six months but which may extend to one year".

10. Amendment of Section 33.—In Section 33 of the principal Act, for the words "two hundred and fifty rupees", the words "five hundred rupees" shall be *substituted.*

11. Amendment of Section 39.—In Section 39 of the principal Act, in sub-section (3), the words "subject, in any case to the maximum of six months pay" shall be *omitted.*

12. Amendment of Section 40.—In Section 40 of the principal Act, in sub-section (3), for the words "fifty rupees", the words "two hundred and fifty rupees", shall be *substituted.*

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 2001 KARNATAKA ACT No. 11 OF 2001

(First published in the Karnataka Gazette, Extraordinary, on the Eleventh day of April, 2001)

(Received the assent of the Governor on the Tenth day of April, 2001)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purposes hereinafter appearing.—

Be it enacted by the Karnataka State Legislature in the Fifty-second year of the Republic of India, as follows:

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 2001.**

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

NOTIFICATION
No. Nil, dated 1-6-2001

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Shops and Commercial Establishments (Amendment) Act, 2001 (Karnataka Act 11 of 2001), the Government of Karnataka hereby appoints the first day of June, 2001, as the date on which the said Act shall come into force.

---

2. Amendment of Section 3.—In Section 3 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), in

sub-section (2), after clause (p), the following clauses shall be *inserted,* namely.—

"(q) Information Technology Establishments;

(r) Information Technology enabling services or establishments;

(s) Bio-Technology and Research Centres or establishments of epidemic and other diseases".

STATEMENT OF OBJECTS AND REASONS
KARNATAKA ACT No. 11 OF 2001
Karnataka Gazette, dated 5-4-2001

The nature of work in information Technology establishments and Information Technology enabling services or Establishments; Bio-Technology and Research Centres or establishments of epidemic and other diseases, is such that it requires flexibility in terms of working hours as their work entails lot of mental work in terms of fault finding, imagination and reflection and design. So much so no time can be setout with regard to their working hours and even weekly holiday, except assigning task to be accomplished.

Therefore, it is considered necessary to amend the Karnataka Shops and Commercial Establishments Act, 1961 to give partial exemption regarding opening and closing hours and weekly holiday so as to provide flexi time.

Hence the Bill.

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 2002

KARNATAKA ACT No. 14 OF 2002

(First published in the Karnataka Gazette, Extraordinary, on the Thirtieth day of August, 2002)

(Received the assent of the Governor on the Twenty-seventh day of August, 2002)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purposes hereinafter appearing.

Be it enacted by the Karnataka State Legislature in the Fifty-third year of the Republic of India, as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 2002.**

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

NOTIFICATION
No. LD 237 ET 2002, Bangalore, dated 8th November, 2002
Karnataka Gazette, dated 12-12-2002

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Shops and Commercial Establishments (Amendment) Act, 2002 (Karnataka Act 14 of 2002), the Government of Karnataka hereby appoints the 2nd day of November, 2002, as the date on which the said Act shall come into force.

---

2. Amendment of Section 25.—In Section 25 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), the following proviso shall be *inserted*, namely.—

> "Provided that the State Government may, by notification exempt any establishment of Information Technology or Information Technology Enabled Service from the provisions of this section relating to employment of women during night subject to the condition that the establishment provides facilities of transportation and security to such women employees and subject to any other condition as may be specified in the notification".

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 2005

KARNATAKA ACT No. 28 OF 2005

(First published in the Karnataka Gazette, Extraordinary on the Twelfth day of September, 2005)

(Received the assent of the Governor on the Sixth day of September, 2005)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Fifty-sixth year of the Republic of India, as follows.—

1. Short title and commencement.—(1) This act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 2005.**

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

NOTIFICATION

No. LD 25 LET 2006, Bangalore, dated 15th March, 2006
Karnataka Gazette, Extraordinary No. 337, dated 24-3-2006

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Shops and Commercial Establishments (Amendment) Act, 2005 (Karnataka Act 28 of 2005), the Government of Karnataka hereby appoints the 1st day of April, 2006, as the date on which all the provisions of the said Act will come into force.

---

2. Amendment of Section 4.—In Section 4 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962).—

(1) After sub-section (3), the following sub-section shall be *inserted*, namely.—

"(3-A) In case the Inspector is not satisfied about the correctness of the statement together with fees under sub-section (3) shall within thirty days from the date of receipt of the same communicate to the employer his decision for refusing to register the establishment with the reasons therefor, failing which the establishment shall be deemed to have been registered".

(2) After sub-section (5), the following sub-sections shall be *inserted*, namely.—

"(6) In case the Inspector is not satisfied about the correctness of the statement or the renewal application or the payment fee prescribed or any other condition of renewal shall within thirty days from the date of receipt of statement together with fees from the employer seeking renewal of registration certificate communicate to the employer his decision for refusing to renew the registration with the reasons therefor, failing which the registration certificate shall be deemed to have been renewed.

(7) In case the certificate of registration or renewal of registration is not received by any employer within the period specified in sub-section

(3-A) or (6), the employer shall display a self-certification statement sent by registered post with acknowledgement due to the Registering Authority for registration or renewal, as the case may be, along with the acknowledgement to that effect stating that he has got the deemed benefit. In case the certificate of registration or renewal of registration as the case may be, is received by the employer subsequently, such self-certification shall be replaced with a regular certificate as soon as the same is received.

(8) If any employer has falsely claimed the benefit of deemed registration and has displayed such self-certificate under sub-section (7), he shall on conviction be punished with an imprisonment of not less than six months and with a fine which may extend to five thousand rupees".

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 2007

KARNATAKA ACT No. 12 OF 2007

(First published in the Karnataka Gazette, Extraordinary on the 30th day of April, 2007)

(Received the assent of the Governor on the Twenty-seventh day of April, 2007)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), for the purposes hereinafter appearing.

Be it enacted by the Karnataka State Legislature in the Fifty-eighth year of the Republic of India, as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 2007.**

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

NOTIFICATION

No. LD 258 LET 2007, Bangalore, dated 26th August, 2008
Karnataka Gazette, Extraordinary No. 980, dated 6-9-2008

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Shops and Commercial Establishments (Amendment) Act, 2007

(12 of 2007), the Government of Karnataka hereby appoints the 1st day of October, 2008, as the date on which the said Act shall come into force.

2. Amendment of Section 30.—In Section 30 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962) (hereinafter referred to as the 'principal Act'), in sub-section (3), for the word and figures "Section 24", the words and figures "Sections 24 and 25" shall be *substituted.*

3. Insertion of new Section 33-A.—After Section 33 of the principal Act, the following shall be *inserted,* namely.—

"**33-A. Compounding of offences.**—(1) The jurisdictional Labour Officer in lieu of prosecution may compound the offences punishable under this Act or the rules made thereunder, except the offences punishable under Sections 24 and 25, at the option of the offending employer before or after the institution of the prosecution by levying a sum not exceeding rupees two thousand but not less than rupees one thousand for the first offence and for the second or subsequent same offence, a sum not exceeding rupees five thousand but not less than rupees two thousand".

4. Amendment of Section 40.—In Section 40 of the principal Act, in sub-section (3), for the words "two hundred and fifty rupees", the words "ten thousand rupees" shall be *substituted.*

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (AMENDMENT) ACT, 2020

[KARNATAKA ACT No. 40 OF 2020]

(First published in the Karnataka Gazette, Extraordinary No. 471, on the 19th day of October, 2020)

(Received the assent of the Governor on the 19th day of October, 2020)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 08 of 1962) purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Seventy-first year of the Republic of India, as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Amendment) Act, 2020.**

(2) It shall come into force at once.

2. Substitution of Section 25.—For Section 25 of the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 08 of 1962), the following shall be *substituted*, namely.—

"**25. Regulation of employment of women during night.**—(1) A woman employee who is so willing may be allowed to work in a shop or commercial establishment during night subject to the following conditions, namely.—

(a) The regulation stipulated under Sections 7, 8, 9, 10 and 12 of the Act shall continue to apply to the women employee working during night shift;

(b) Willingness of women employees shall be obtained in writing;

(c) The establishment shall provide transport facilities from the residence of the woman employee to the workplace and back free of cost and with adequate security. Such transport facility shall have GPS for tracking and monitoring;

(d) Employment of women employee shall be on rotation basis;

(e) Adequate number of security guards shall be posted during night shift;

(f) Sufficient rest rooms, electricity, latrines lockers, dispensary facility and washing facilities with adequate water supply

shall be provided separately for women employees so as to secure privacy;

(g) The establishment shall bear the cost of crèche obtained by the women employees from voluntary or other organisations;

(h) The establishment shall obtain Bio-data of each driver and conduct pre-employment screening of the antecedents of all drivers employed on their own. As regards the driver employed through outsourcing, the company shall ensure to its satisfaction that the collection of Bio-data and conduct pre-employment screening of the antecedents of the drivers is carried out by the service provider;

(i) The Schedule of route of pick-up and drop shall be decided by the supervisory office of the company only. In case of exigencies, change of drivers/routes/shifts shall be allowed only with the prior knowledge of supervisory officers/employees;

(j) The telephone number, particularly mobile phone numbers e-mail ID and address of the women employees shall not be disclosed to unauthorised persons;

(k) Careful selection of routes shall be made in such a way that no women employees shall be picked up first and dropped last;

(l) The company shall provide security guards at work place and night shift vehicles when women employees are being picked up first or dropped last;

(m) The designated supervisors of the company or service provider shall randomly check the vehicles on various routes as for as possible;

(n) The establishment shall have a control room/travel desk for monitoring movement of vehicles;

(o) An App in mobile may be developed and adopted by the establishment through which the women employee can contact the concerned at the time of emergency by giving signal; and

(p) Any other condition as may be prescribed.

(2) If any establishment fails to comply with the above conditions, it shall lead to cancellation of the Registration Certificate."

THE KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENTS (SECOND AMENDMENT) ACT, 2020

[KARNATAKA ACT No. 08 OF 2021]

(First published in the Karnataka Gazette, Extraordinary No. 194, on the 19th day of February, 2021)

(Received the assent of the Governor on the 17th day of February, 2021)

An Act further to amend the Karnataka Shops and Commercial Establishments Act, 1961.

Whereas, it is expedient further to amend the Karnataka Shops and Commercial Establishments Act, 1961, (Karnataka Act 8 of 1962), for the purposes herein after appearing;

Be it enacted by the Karnataka State Legislature in the Seventy-first year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the **Karnataka Shops and Commercial Establishments (Second Amendment) Act, 2020.**

(2) It shall come into force at once.

2. Amendment of Section 15.—In the Karnataka Shops and Commercial Establishments Act, 1961 (Karnataka Act 8 of 1962), in Section 15, in sub-section (7), for the first proviso, the following shall be *substituted*, namely.—

"Provided that, the total number of the days of leave that may be carried forward to a succeeding year shall not exceed forty-five days."