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GOVERNMENT OF MAHARASHTRA

LAW AND JUDICIARY DEPARTMENT

MAHARASHTRA ACT No. LXI OF 2017

The Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017

(As modified upto 23rd July 2018)



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MAHARASHTRA ACT No. LXI OF 2017[1]

[THE MAHARASHTRA SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 2017.]

(This Act received the assent of the Governor on the 6th September 2017 ; assent first published in the *Maharashtra Government Gazette*. Part IV, on the 7th September 2017.)

An Act to provide for the regulation of conditions of employment and other conditions of service of workers employed in shops, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the regulation of employment and other conditions of service of workers employed in shops, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-eighth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent, application and commence-ment.

1. (*1*) This Act may be called the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017.

(*2*) It extends to the whole of the State of Maharashtra.

(*3*) The provisions of this Act, except section 7, shall apply to the establishments employing ten or more workers and the provisions of section 7 shall apply to the establishments employing less than ten workers.

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

Definitions.

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

(*1*) "Chief Facilitator" means the Chief Facilitator appointed as such under section 28 of this Act;

(*2*) "day" means the period of twenty-four hours beginning at midnight;

(*3*) "employer" means a person owning or having ultimate control over the affairs of an establishment, and includes,—

(*i*) in the case of a firm or association of individuals, a partner or members of the firm or association ;

(*ii*) in the case of a company, a director of the company ;

(*iii*) in the case of an establishment owned or controlled by the Central Government or a State Government or any local authority, the person or persons appointed to manage the affairs of such establishment by the Central Government or the State Government or the local authority, as the case may be;

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[1] For Statement of Objects and Reason (in Engilish) See *Maharashtra Government Gazette*, Part V-A, Extraordinary No. 48, dated the 8th August 2017, Page 15.

[2] This Act was brought in to force by G.N.I.E.L.D., No. MSA. 07/2016/CR-218/Lab-10, dated the 19th December 2017, w.e.f. 19th December 2017.

(*4*) "establishment" means an establishment which carries on, any business, trade, manufacture or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or produce exchange or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession or manufacture; and includes establishment of any medical practitioner (including hospital, dispensary, clinic, polyclinic, maternity home and such others), architect, engineer, accountant, tax consultant or any other technical or professional consultant; and also includes a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession or work in connection with or incidental or ancillary thereto; and includes shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; to whom the provisions of the Factories Act, 1948 does not apply ; and includes such other establishment as the State Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act; 21 of 1860. 63 of 1948.

(*5*) "Facilitator" means a Facilitator appointed under section 28 of this Act;

(*6*) "Factory" means any premises which is a factory within the meaning of clause (*m*) of section 2 of the Factories Act, 1948 or which is deemed to be a factory under section 85 of the said Act; 63 of 1948.

(*7*) "holiday" means a day on which a worker shall be given a weekly off under the provisions of this Act;

(*8*) "leave" means a leave provided for in Chapter IV of this Act;

(*9*) "local area" means any area or combination of areas to which this Act applies;

(*10*) "local authority"means the Municipal Corporation of Brihan Mumbai constituted or deemed to have been constituted under the Mumbai Municipal Corporation Act, Corporations constituted or deemed to have been constituted under the Maharashtra Municipal Corporations Act and the Municipal Councils constituted or deemed to have been constituted under the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, and includes any other body which the State Government may, by notification in the *Official Gazette*, declares to be a local authority for the purposes of this Act; III of 1888. LIX of 1949. Mah. XL of 1965.

(*11*) "Manager"means a person mentioned in the application under section 6 of this Act ;

(*12*) "member of the family of an employer" means the wife, husband, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer ;

(*13*) "opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any worker of or connected with the establishment;

(*14*) "period of work" means the time during which a worker is at the disposal of the employer ;

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

(*16*) "prescribed authority" means the Commissioner of Labour for the purposes of this Act ;

(*17*) "register of establishment" means a register maintained for the registration of establishments under this Act, either manually or in electronic format ;

(*18*) "registration certificate" means a certificate of the registration of an establishment;

(*19*) "residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes residential club;

(*20*) "restaurant or eating house" means any premises, in which, wholly or principally the business of the supply of meal or refreshments to the public or a class of the public for consumption on the premises is carried on;

(*21*) "shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, godown, warehouse or work place, whether in the same premises or otherwise, mainly used in connection with such trade or business, but does not include a factory;

(*22*) "spread over" means the period between the commencement and the termination of the work of a worker on any day;

(*23*) "theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

4 of 1936. (*24*) "wages" means wages as defined in the Payment of Wages Act, 1936;

(*25*) "week" means the period of seven days beginning at midnight of Saturday;

52 of 1961. (*26*) "worker" means any person (except an apprentice under the Apprentices Act, 1961) employed to do any manual, unskilled, skilled technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied.

3. The provisions of this Act shall not apply to,— Act not to apply to certain establish-ments and persons.

(*1*) Establishments of the Central and State Government;

(*2*) Establishments of Local Authorities;

(*3*) Establishment of Mumbai Port Trust;

(*4*) Establishment of Railway Administration;

(*5*) Offices of Reserve Bank of India;

(*6*) Offices of the Trade Commissioner and of Consular officers and other Diplomatic representatives of Foreign Government;

(*7*) Offices of Air Service Companies;

(*8*) Establishments used for treatment or care of infirm, destitute or mentally unfit;

(*9*) Establishments pertaining to any kind of educational activities (excepting those where coaching or tuition classes are conducted by individual persons or any institutions other than those,—

(*a*) affiliated to any university established by law, or

(*b*) recognised by the Divisional Boards under the Maharashtra Secondary and Higher Secondary Education Boards Act, 1965, or Mah. XLI of 1965.

(*c*) recognised by the Directorate of Education or the Directorate of Technical Education as a private secondary or technical high school, Industrial Training Institute (I.T.I.), Polytechnic, Engineering Colleges or other technical institutions conducting courses recognised by Government ;

(*10*) High Court Law Libraries and other Courts Law Libraries;

(*11*) A worker occupying position of confidential, managerial or supervisory character in an establishment, a list of which shall be displayed on the website of establishments and in absence of the website at a conspicuous place in the establishment and a copy thereof shall be sent to the Facilitator;

(*12*) A worker whose work is inherently intermittent;

(*13*) A member of the family of an employer.

Application of Act to other establishments and workers.

4. (*1*) Notwithstanding anything contained in this Act, the State Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any worker or person or class of workers or persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a worker or a person or class of workers or persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the State Government be necessary shall apply from such date as may be specified in the notification.

(*2*) On such declaration under sub-section (*1*), any such establishment or class of establishments or such worker or person or class of workers or persons shall be deemed to be an establishment or class of establishments to which, or to be a worker or a person or class of workers or persons to whom, this Act, applies and all or any of the provisions of this Act with such modification or adaptation as may be specified in such declaration, shall apply to such establishment or class of establishments or to such worker or persons or class of workers or persons.

Suspension of all or any of provisions of this Act.

5. The State Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

CHAPTER II

Registration of Establishments

Registration of establishments.

6. (*1*) Within a period of sixty days from the date of commencement of this Act or the date on which establishment commences its business, the employer of every establishment employing ten or more workers shall submit application online in a prescribed form for registration to the Facilitator of the local area concerned, together with such fees and such self-declaration and self-certified documents as may be prescribed, containing—

(*a*) the name of the employer and the manager, if any;

(*b*) the postal address of the establishment;

(*c*) the name, if any, of the establishment;

(*d*) the actual nature of the business of the establishment ; and

(*e*) such other particulars as may be prescribed :

Provided that, nothing contained hereinabove shall apply to the establishments already having valid registration or renewal under the Maharashtra Shops and Establishments Act until expiry of their registration or renewal.

LXXIX of 1948.

(*2*) On receipt of the application along with documents and the fees online, the Facilitator shall, register the establishment in the register of establishments in such manner as may be prescribed and shall issue online, in a prescribed form, a registration certificate along with the Labour Identification Number (LIN) to the employer within the prescribed time limit. The Facilitator shall verify the correctness of the application and documents attached thereto within such time as may be prescribed. The registration certificate shall be produced whenever it is demanded by the Facilitator.

(*3*) A registration certificate granted under sub-section (*2*) shall be valid for such period as may be requested by the applicant and specified therein subject to a maximum period of ten years. An application for the renewal of a registration certificate shall be submitted online not less than thirty days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed.

(*4*) If the application for the renewal of a registration certificate is submitted after the expiry of the period specified in sub-section (*3*) but within thirty days after the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, such application shall be accompanied by an additional fee as late fee equal to half of the fee payable for the renewal of a registration certificate.

(*5*) In the event of any doubt or difference of opinion between an employer and the Facilitator with respect to any provisions of this Act, the Facilitator shall refer the matter to the prescribed authority which shall, after inquiry as it thinks proper, decide the matter and its decision shall be final for the purposes of this Act.

Intimation of establishment employing less than ten workers.

7. (*1*) Within a period of sixty days from the date of the commencement of this Act or the date on which establishment commences its business, the employer of every establishment employing less than ten workers shall give an intimation of having commenced the business to the Facilitator in whose jurisdiction the establishment is located by submitting online application, in a prescribed form, together with such self-declaration and self-certified documents, as may be prescribed containing details such as name of the employer and manager, name of establishment, nature of business, number of workers and such other details as may be prescribed. The Facilitator shall issue to the employer of such establishment a receipt of intimation in such form and manner as may be prescribed. The details of the intimation receipt shall be recorded online in a register maintained in such form as may be prescribed :

Provided that, if at any point of time the number of workers engaged in the establishment become ten or more, then all provisions of this Act shall apply to such establishment and the employer of such establishment shall have to obtain registration as per the provisions of section 6 :

Provided further that, nothing contained in this sub-section shall apply to the establishments already having valid registration or renewal under the Maharashtra Shops and Establishments Act until expiry of their registration or renewal. LXXIX of 1948.

(*2*) The employer of such establishment employing less than ten workers shall notify to the Facilitator within thirty days from the date of the closing of the business that the establishment has been closed for business in such form and manner as may be prescribed. The Facilitator on receiving the information shall remove the entry of such establishment from the register kept for that purpose.

(*3*) Whoever, contravenes the provisions of this section or rules framed thereunder shall be punishable with a fine of rupees one thousand.

Cancellation of registration.

8. At any time, if it is found or brought to the notice of the Facilitator that the registration of any establishment has been obtained by misrepresentation or suppression of material facts or by submitting false or forged documents or false declaration or by fraud, and therefore, requires to be revoked, the Facilitator shall, after giving an opportunity of being heard, to the employer of the establishment, cancel the registration and remove such establishment from the register of establishments in the manner prescribed.

Change to be communicated to Facilitator.

9. It shall be the duty of every employer to notify online to the Facilitator, in the prescribed form, any change in any of the particulars contained in the application submitted under section 6 within such period, after the change has taken place, as the State Government may prescribe. The Facilitator shall, on receiving such notice and the prescribed fees alongwith the self-declaration of the applicant and self-certified documents as may be prescribed, make the change in the register of establishments in accordance with such notice and shall issue a fresh registration certificate online.

Closing of establishment to be communicated to Facilitator.

10. The employer shall notify to the Facilitator within thirty days from the date of closing of the business that the establishment has been closed for business in such form and manner, as may be prescribed. The Facilitator on receiving the information and on being satisfied about its correctness shall remove such establishment from the register of establishments and cancel the registration certificate :

Provided that, if the Facilitator does not receive the information but he is otherwise satisfied that any establishment has been closed, he may remove such establishment from such register of establishments and cancel such certificate.

CHAPTER III

Opening and Closing Hours, Hours of Work, Interval for Rest, Spread-Over, Wages for Overtime and Weekly Off

Opening and closing hours of establishment.

11. Notwithstanding anything contained in this Act, the State Government may, fix, by notification in the *Official Gazette*, in the public interest, such hours for opening and closing of different classes of establishments and for different premises, shopping complex or mall or for different area or areas and for different period.

Daily and weekly hours of work in establishment and interval for rest.

12. Subject to the other provisions of this Act, no adult worker shall be required or allowed to work in any establishment for more than nine hours in any day and forty-eight hours in any week. No adult worker shall be asked to work continuously for more than five hours unless he has been given a break of not less than half an hour:

Provided that, the working hours or weekly holiday may be relaxed in case of work of urgent nature with the previous permission of the Facilitator.

Prohibition of discrimination against woman worker.

13. (*1*) No woman worker shall be discriminated in the matter of recruitment, training, transfers or promotion or wages.

(*2*) No woman worker shall be required or allowed to work in any establishment except between the hours of 7-00 a.m. and 9-30 p.m. :

Provided that, the woman worker with her consent, shall be allowed to work during 9-30 p.m. and 7-00 a.m. in any establishment in which adequate protection of their dignity, honour and safety, protection from sexual harassment and their transportation from the establishment to the doorstep of their residence as may be prescribed are provided by the employer or his authorised representative or manager or supervisor.

(*3*) Notwithstanding anything contained in the preceding sub-sections, the State Government may, by notification in the *Official Gazette*, in the public interest, prohibit or regulate the employment of women workers after 9-30 p.m. and before 7-00 a.m. in such shops, establishments, hotels, restaurants, residential hotels, permit rooms, bars, spa-massage parlours, lodges or any business or any trade or occupation in such area or areas as it may deem fit.

Spread-over in establish-ments.

14. The spread-over of a worker in establishment shall not exceed ten and half hours in any day, and in case a worker entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours.

Wages for overtime.

15. Where a worker in any establishment is required to work beyond nine hours a day or forty-eight hours a week, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages. The total number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.

Weekly holiday for worker.

16. (*1*) (*a*) A department or any section of a department of the establishment may work in more than one shift at the discretion of the employer and if more than one shift is worked, the worker may be required to work in any shift at the discretion of the employer.

(*b*) An establishment may be kept open for business on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least twenty-four consecutive hours of rest.

(*c*) If a worker is denied weekly holiday, the compensatory leave in lieu thereof shall be given within two months of such weekly holiday.

(*d*) The period and hours of work in a week for all classes of workers in such shift shall be informed well in advance to all workers in writing and shall be sent to the Facilitator electronically or otherwise.

(*e*) Where a worker is required to work on a day of his rest, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

(*2*) No deduction shall be made from the wages of any worker in an establishment on account of any day on which it has been a weekly holiday under this section. If a worker is employed on a daily wage, he shall nonetheless be paid his daily wage for the day of his weekly off. If a worker is paid a piece rated wage, he shall nonetheless be paid his wage for the day of his weekly holiday, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such holiday, exclusive of any earning in respect of overtime:

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

Employer to furnish identity card to worker.

17. The employer of an establishment shall furnish to every worker an identity card which shall be produced by the worker on demand by Facilitator. Such card shall contain the following and such other particulars as may be prescribed, namely :—

(*a*) the name of the employer ;

(*b*) the name, if any, and the postal address, of the establishment;

(*c*) the name and age of the worker;

(*d*) date of joining, department, nature of work, designation;

(*e*) the signature (with date) of the employer or manager;

(*f*) Blood Group;

(*g*) Aadhaar Card Number.

CHAPTER IV

Leave with Pay and Payment of Wages

Leave.

18. (*1*) Every worker shall be allowed a weekly holiday with wages.

(*2*) Every worker shall be entitled to eight days casual leave with wages in every calendar year which shall be credited into the account of the worker on a quarterly basis, but shall laps if unavailed at the end of the year.

(*3*) Every worker who has worked for a period of two hundred and forty days or more in an establishment during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year.

(*4*) Subject to the provision of clause (*3*) every worker, who has been employed for not less than three months in any year, shall for every sixty days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not more than five days.

(*5*) Every worker shall be permitted to accumulate earned leave upto a maximum of forty-five days.

(*6*) Where the employer refuses to sanction the leave under sub-section (*3*) which is due when applied fifteen days in advance, then the worker shall have a right to encash leave in excess of forty-five days:

Provided that, if a worker is entitled to leave other than causal and festival leave under this section, is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.

(*7*) A worker shall be entitled to eight paid festival holidays in a calendar year, namely, 26th January, 1st May, 15th August and 2nd October and four such other festival holidays as may be agreed to between the employer and the workers as per the nature of business, before the commencement of the year. For holiday on these days, he shall be paid wages at a rate equivalent to the daily average of his wages (excluding overtime), which he earns during the month in which such compulsory holidays falls :

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

(*8*) For the purpose of sub-section (*3*),—

(*a*) any days of lay-off, by agreement or contract or as permissible under the model standing orders or standing order certified under Industrial Employment (Standing Orders) Act, 1946;

26 of 1946.

(*b*) in the case of a woman worker, maternity leave as provided for in the Maternity Benefits Act, 1961;

53 of 1961.

(*c*) the leave earned in the year prior to that in which the leave is availed; or

(*d*) the worker has been absent due to temporary disablement caused by accident arising out of and in the course of his employment,

shall be deemed to be days on which the worker has worked in any establishment for the purpose of computation of the period of two hundred and forty days or more, but shall not earn leave for these days.

(*9*) The leave admissible under this section shall be exclusive of all holidays whether occurring during or either at the end of the period of leave.

(*10*) Every worker shall be paid for the period of his leave earned under sub-sections (*3*) and (*4*) at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

CHAPTER V

Welfare Provisions

Health and safety of workers.

19. (*1*) Every employer shall take such measures relating to the health and safety of the workers including cleanliness, lighting, ventilation and prevention of fire as may be prescribed.

(*2*) Every employer shall be responsible for providing constant adequate supervision of the workers employed in the establishment and to ensure the compliance with the rules relating to health and safety made under sub-section (*1*) and for taking steps necessary to prevent accidents.

First-aid.

20. Every employer shall provide at the place of work first-aid facilities as may be prescribed.

Drinking water.

21. The employer shall make effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed in the establishment, a sufficient supply of wholesome drinking water.

Latrines and urinals.

22. The employer shall provide sufficient latrine and urinal for men and women as may be prescribed and these shall be so conveniently situated as may be accessible for the workers employed in the establishment :

Provided that, several employers may provide common facilities of latrines and urinals, in case it is not possible, in an establishment due to constraint in space or otherwise.

Creche facility.

23. In every establishment wherein fifty or more workers are employed, there shall be provided and maintained a suitable room or rooms as crèche for the use of children of such workers :

Provided that, if a group of establishments, so decide to provide a common crèche within a radius of one kilometre, then, the same shall be permitted by the Chief Facilitator, subject to such conditions as may be specified in the order.

Canteen.

24. The State Government shall require the employer to provide and maintain in the establishment, wherein not less than one hundred workers are employed or ordinarily employed to maintain a canteen for the use of its workers :

Provided that, if a group of establishments, so decide to provide a common canteen, then the same shall be permitted by the Chief Facilitator by an order, subject to such conditions as may be specified in the order.

Maintenance of registers and records.

25. (*1*) Every employer shall maintain such registers and records, as may be prescribed.

(*2*) The records may be maintained electronically or manually :

Provided that, at the time of inspection by a Facilitator, a hard copy of such records if demanded, shall be submitted duly signed by the employer or his representative.

(*3*) Every employer and in his absence the manager shall on demand produce for inspection of Chief Facilitator and Facilitators all registers, records and notices required to be kept under and for the purposes of this Act.

(*4*) All such registers and records shall be kept in the premises of the establishments to which they relate.

Annual Return.

26. The employer of an establishment shall furnish an annual return, in such a form and in such manner (including electronic form), to such authority as may be prescribed.

CHAPTER VI

Enforcement and Inspection

Provisions for handing over enforcement of Act to local authorities.

27. Notwithstanding anything contained in this Act, the State Government may, from time to time, by notification in the *Official Gazette*, without the necessity of giving any further notice or reasons, declare that any local authority or authorities or class of local authorities specified in such notification shall perform the duty of enforcing the provisions of this Act from a date specified in that notification. From such date, it shall be the duty of that local authority to enforce the provisions of the Act, in respect of the areas subject to the jurisdiction of such local authorities, subject to such supervision of the State Government, as may be prescribed.

Appointment of Chief Facilitator and Facilitators and their powers.

28. (*1*) The State Government may, by notification in the *Official Gazette*, appoint a Chief Facilitator who shall, in addition to the powers conferred on a Chief Facilitator under this Act, exercise the powers of a Facilitator throughout the State.

(*2*) The State Government may, by notification in the *Official Gazette*, appoint such persons who possess such qualification as may be prescribed, to be the Facilitator or Facilitators, for the purposes of this Act, and may assign to them such local limits as it may think fit.

(*3*) The State Government may prescribe a scheme for randomize inspection of establishments which shall provide for generation of a web-based inspection schedule.

(*4*) Subject to such conditions as may be prescribed, a Facilitator may, within the local limits for which he is appointed—

(*i*) advice the employers and workers and provide them such information as may be considered necessary for complying with the provisions of this Act effectively;

(*ii*) inspect the establishment in accordance with the scheme for inspection referred to in sub-section (*3*), and may—

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

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

(*c*) examine any person who is found in any premises of the establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the establishment;

(*d*) require any person to give any information, which is in his power to give with respect to the names and addresses of the persons;

(*e*) search, seize or take copies of such register, record of wages or notices or portions thereof as the Facilitator may consider relevant in respect of an offence under this Act and which the Facilitator has reason to believe has been committed by the employer;

(*f*) bring to the notice of the State Government defects or abuses not covered by the law for the time being in force; and

(*g*) exercise such other powers, as may be prescribed :

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

(*5*) The Chief Facilitator shall apart from exercising all the powers and functions of the Facilitator control and supervise the functioning of the Facilitator and may assign or reassign the area of work of the Facilitator subject to the jurisdiction of the local area.

(*6*) Any person required to produce any document or to give any information required by Chief Facilitator and Facilitator appointed under sub-sections (*1*) and (*2*) shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

45 of 1860.

(*7*) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure under sub-clause (*e*) of clause (*ii*) of sub-section (*4*) as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.

2 of 1974.

(*8*) Every Chief Facilitator and Facilitators appointed under sub-sections (*1*) and (*2*) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

CHAPTER VII

Offences and Penalties

Penalty for contravention of provisions of this Act.

29. (*1*) Whoever, contravenes the provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a continuing contravention, with an additional fine which may extend to two thousand rupees for every day during which such contravention continues :

Provided that, the total amount of fine shall not exceed two thousand rupees per workers employed.

(*2*) If any person who has been convicted of any offence punishable under sub-section (*1*) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punished on a subsequent conviction with fine which may extend to two lakh rupees :

Provided that, the total amount of fine shall not exceed two thousand rupees per workers employed.

Penalty for contravention of provisions of this Act which resulted in accident.

30. Save as otherwise expressly provided in this Act, where an employer on being held guilty of contravention of any of the provisions of this Act or any rules made thereunder which has resulted in an accident causing serious bodily injury or death of a worker, he shall, on conviction, be punished with imprisonment which may extend to six months, or with fine which shall not be less than two lakh rupees and which may be extended to five lakh rupees, or with both.

Penalty for obstructions or refusal to provide register, etc.

31. (*1*) Whoever, wilfully obstructs the Facilitator in exercise of any powers conferred on him by or under this Act or refuses or wilfully neglects to afford a Facilitator any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to an establishments, shall, on conviction, be punished with fine which may extend to two lakh rupees.

(2) Whoever, wilfully refuses to produce on the demand of a Facilitator any register or other document kept in pursuance of this Act or the rules made thereunder or prevents or attempts to prevent or does anything which he has reason to believe to prevent any person from appearing before, or being examined by, a Facilitator acting in pursuance of his duties under this Act, shall, on conviction, be punished with fine which may extend to two lakh rupees :

Provided that, total amount of fine shall not exceed two thousand rupees per worker employed.

Cognizance of offences.

32. (*1*) No Court shall take cognizance of any offence punishable under this Act and the rules made thereunder unless a complaint in respect thereof is made by the Facilitator within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator :

Provided that, where the offence consists of disobeying a written order made by a Facilitator, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

(*2*) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act or the rules made thereunder.

Compounding of offences.

33. (*1*) Any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a *Gazetted Officer*, as the State Government may, by notification, specify, with fine provided for such offence, in the manner as may be prescribed.

(*2*) Nothing contained in sub-section (*1*) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date—

(*a*) of commission of a similar offence which was earlier compounded;

(*b*) of commission of similar offence for which such person was earlier convicted.

(*3*) Every officer referred to in sub-section (*1*) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the State Government.

(*4*) Every application for the compounding of an offence shall be made in such form and manner as may be prescribed.

(*5*) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(*6*) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (*1*) in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(*7*) Any person who fails to comply with an order made by the officer referred to in sub-section (*1*), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

(*8*) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.

CHAPTER VIII

MISCELLANEOUS

Power to exempt.

34. The State Government may, by notification in the *Official Gazette*, exempt from the operation of all or any of the provisions of this Act or rules, any establishment or class thereof or any employer or worker or person or class of employers or workers or persons to whom this Act applies for any period on such terms and conditions, as it may thinks fit.

Rights and privileges under other laws etc., not affected.

35. Nothing in this Act shall affect any right or privileges which a worker in any establishment is entitled to at the date of commencement of this Act under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the worker in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

Protection of action taken in good faith.

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

Power to make rules.

37. (*1*) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(*2*) All rules made under this Act shall be subject to the condition of previous publication.

(*3*) Every rule made under this Act shall be laid, as soon as may be, after it is 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 or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in any rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, 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 previously done or omitted to be done under that rule.

Power to remove difficulties.

38. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty :

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal of Maharashtra Shops and Establishments Act.

39. On and from the date of commencement of this Act, the Maharashtra Shops and Establishments Act, LXXIX of 1948. shall stand repealed :

Provided that,—

(*a*) every appointment order, rule, bye-law, regulation, notification, registration or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act ;

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

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