



The Puducherry Shops And Establishments Act, 1964



www.protostaff.com

protostaff
by CLR

THE PUDUCHERRY SHOPS AND ESTABLISHMENTS ACT, 1964
(No. 9 of 1964)

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, extent and commencement.

CHAPTER I

Preliminary

2. Definitions.
3. References to time of day.
4. Exemptions.
5. Power of Government to apply Act to exempted persons or establishments.
6. Exemptions.
7. Registration of shops and establishments under this Act.
8. Change to be communicated to Inspectors.
9. Removal of shops and establishments from the register.

CHAPTER II

Shops

10. Opening and closing hours of shops.
11. Selling outside shops prohibited after closing hours.
12. Daily and weekly hours of work in shops.
13. Spread-over of periods of work.
14. Closing of shops and grant of holidays.

CHAPTER III

Establishments other than shops

15. Application of this Chapter to establishments other than shops.
16. Opening and closing hours.
17. Daily and weekly hours of work.
- 17-A. Restriction on double employment.
18. Spread-over of periods of work.
19. Holidays.

CHAPTER IV

Employment of children and young persons

- 20. Children not to work in establishments.
- 21. Young persons to work only between 6.00 a.m and 7.00 p.m.
- 22. Daily and weekly hours of work for young persons.

CHAPTER V

Health and safety

- 23. Cleanliness.
- 24. Ventilation.
- 25. Lighting.
- 26. Precautions against fire.
- 27. Appeals.

CHAPTER VI

Holidays with wages

- 28. Holidays and sick leave.
- 29. Pay during annual holidays.
- 30. Power to increase the number of holidays.
- 31. Power to Inspector to act for person employed.

CHAPTER VII

Wages

- 32. Responsibility for payment of wages.
- 33. Fixation of wage period.
- 34. Wages for overtime work.
- 35. Time of payment of wages.
- 36. Wages to be paid in current coin or currency notes.
- 37. Deductions which may be made from wages.
- 38. Fines.
- 39. Deductions for absence from duty.
- 40. Deductions for damage or loss.
- 41. Deductions for services rendered.

- 42. Deductions for recovery of advances.
- 43. Deductions for payments to cooperative societies and insurance schemes.
- 44. Notice of dismissal.
- 44A. Employer to furnish letter of appointment and identity card to employees.

CHAPTER VIII

- 45. Application of the Maternity Benefit Act, 1961.
- 45-A. Application of the Workmen's Compensation Act, 1923.

CHAPTER IX

Appointment, powers and duties of Inspectors

- 46. Appointment of Inspectors.
- 47. Powers and duties of Inspectors.
- 48. Inspectors to be public servants.
- 48-A. Protection of action taken in good faith.

CHAPTER X

Penalties for offences

- 49. Penalties.
- 50. Penalty for obstructing Inspector etc.
- 50-A. Compounding of offences.
- 50-B. Offences by Companies.

CHAPTER XI

Miscellaneous

- 51. Maintenance of registers and record and display of notices.
- 52. Delegation of powers.
- 53. Power to make rules.
- 54. Rights and privileges under other law, etc., not affected.
- 55. Commissioner of Labour to decide certain questions.
- 56. Power of Government to suspend provisions of the Act, during fairs and festivals.
- 57. Central Act XVIII of 1942 not to apply to establishments governed by this Act.

**THE PUDUCHERRY SHOPS AND ESTABLISHMENTS ACT, 1964(No.
9 of 1964)**

13th November, 1964.

AN ACT

to provide for regulation of conditions of work in shops, commercial establishments, theatres and other establishments and for certain other purposes.

WHEREAS it is expedient to provide for the regulation of conditions of work in shops, commercial establishments, theatres and other establishments and for certain other purposes; it is hereby enacted as follows:-

1. Short title, extent and commencement. – (1) This Act may be called the Puducherry Shops and Establishments Act, 1964.

(2) It extends to the whole of the Union territory of Puducherry.

+(3) It shall come into force at once.

CHAPTER - I

Preliminary

2. Definitions. – In this Act, unless there is anything repugnant in the subject or context –

(1) “Government” means Administrator of the Union territory of Puducherry appointed by the President of India under Article 239 of the Constitution ;

(2) “child” means a person who has not completed fourteen years ;

(3) “closed” means not open for the service of any customer or open to any business connected with the establishment;

+ This Act came into force w.e.f 04.12.1964.

(4) “commercial establishment” means an establishment which is not a shop but which carries on the business of advertising, commission, forwarding or commercial agency, or which is a clerical department of a factory or industrial undertaking or which is an insurance company, joint stock company, bank, brokers’ office or exchange and includes such other establishment as the Government may, by notification, declare to be a commercial establishment for the purposes of this Act;

(5) “day” means the period of twenty –four hours beginning at midnight:

Provided that in the case of a person employed whose hours of work extend beyond midnight, day means the period of twenty–four hours beginning from the time when such employment commences;

(6) “employer” means a person owning, or having charge of the business of an establishment and includes the manager, agent or other person acting in the general management or control of an establishment;

(7) “establishment” means a shop, commercial establishment, theatre or any place of public amusement or entertainment and includes such establishment as the Government may, by notification, declare to be an establishment for the purposes of this Act;

(8) “factory” means any premises which is a factory within the meaning of the Factories Act, 1948;

(9) “Inspector” means an Inspector appointed under section 46;

(10) “Notification” means a notification in the Puducherry State Gazette;

(11) “opened” means opened for the service of any customer;

(12) “periods of work” means the time during which a person employed is at the disposal of the employer;

(13) “person employed” means. ---

(i) in the case of a shop, a person wholly or principally employed therein in connection with the business of the shop;

(ii) in the case of a factory or any industrial undertaking, a member of the clerical staff employed in such factory or undertaking;

(iii) in the case of a commercial establishment other than a clerical department of a factory or an industrial undertaking a person wholly or principally employed in connection with the business of the establishment, and includes a peon;

- (iv) in the case of a theatre, a person employed as an operator, clerk, door-keeper, usher or in such capacity as may be specified by the Government by general or special orders;
- (v) in the case of an establishment not falling under paragraphs (i) to (iv) above, a person wholly or principally employed in connection with the business of the establishment and includes a peon;
- (vi) in the case of all establishments, a person wholly or principally employed in cleaning any part of the premises, but does not include the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;

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

(15) "shop" means any premises where any trade or business is carried on or where services are rendered to customers and includes offices, store-rooms, godowns and warehouses, whether in the same premises or otherwise, used in connection with such business but does not include commercial establishment;

(16) "theatre" includes any place intended principally or wholly for the representation of moving pictures or for dramatic performances;

(17) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise to a person employed in respect of his employment, or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable to such person by reason of the termination of his employment, but does not include -

- (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity or of any service excluded by general or special order of the Government;
- (b) any contribution paid by the employer to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or
- (e) any gratuity payable on discharge;

(18) "week" means a period of seven days beginning at mid-night on Saturday;

(19) "young person" means a person who is not a child and has not completed seventeen years;

(20) "registration certificate" means a certificate showing the registration of shops and establishments covered under this Act.

3. References to time of day. – References to time of day in this Act are references to Indian Standard Time which is five and a half hours ahead of Greenwich Mean Time.

4. Exemptions. – (1) Nothing contained in this Act shall apply to ---

- (a) persons employed in any establishment in a position of management;
- (b) persons whose work involves travelling and persons employed as canvassers and caretakers;
- (c) establishments under the Central and State Governments, local authorities, the Reserve Bank of India, the Federal Railway Authority, a railway administration operating a federal railway, and cantonment authorities;
- (d) establishments in mines and oil fields;
- (e) establishments in bazaars in places where fairs or festivals are held temporarily for a period not exceeding fifteen days at a time;
- (f) establishments which, not being factories within the meaning of the Factories Act, 1948, are in respect of matters dealt with in this Act, governed by a separate law for the time being in force in the State;

(2) Nothing contained in section 10 or section 16, as the case may be, shall apply to ---

- (a) hospitals and other institutions for the treatment or care of the sick, the infirm, the destitute or the mentally unfit;
- (b) such chemists' or druggists' shops as the Government may, by general or special order, specify;
- (c) hostels attached to schools or colleges and establishments maintained in boarding schools in connection with the boarding and lodging of pupils and resident masters;
- (d) stalls and refreshment rooms at railway stations, docks, wharves or ports.

5. Power of Government to apply Act to exempted persons or establishments.

– Notwithstanding anything contained in section 4, the Government may, by notification, apply all or any of the provisions of this Act to any class of persons or establishments mentioned in that section, other than those mentioned in clauses (c) and (f) of sub-section (1), and modify or cancel any such notification.

6. Exemptions. – The Government may, by notification exempt either permanently or for any specified period, any establishment or class of establishments, or person or class of persons, from all or any of the provisions of this Act, subject to such conditions as the Government deems fit.

7. Registration of shops and establishments under this Act. – (1) Within the period specified in sub-section (3), every employer shall send to the Inspector a statement in such form together with such fees, 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 such establishment in such manner as may be prescribed in the register of shops and establishments maintained for the purpose and shall issue, in the prescribed form, a registration certificate to the employer. A registration certificate shall be prominently displayed at such establishment.

(3) The statement under sub-section (1) shall be sent within thirty days from the date on which this Act comes into force in the case of shops and establishments existing on such date, and within thirty days from the date of commencement of work in the case of new shops and establishments.

(4) A registration certificate shall be valid for a financial year and shall be renewed from financial year to financial year on payment of such fees as may be prescribed.

*[Provided that the employer of every shop and establishment may opt to remit the registration fee for obtaining initial registration or renewal of registration for a period of not more than three consecutive financial years instead of getting it renewed for every financial year. The employer shall make a specific request in the prescribed form indicating the number of years for which the registration certificate or its renewal is sought for. In such cases the fees payable for the grant of or renewal of licence to an establishment shall be proportionate to the annual fees prescribed multiplied by the number of years for which the registration certificate is sought for.]

* Inserted vide Act No.4 of 2008. This Act has come into force w.e.f 11.04.2008

8. Change to be communicated to Inspectors. -- It shall be the duty of an employer to notify the Inspector, in the prescribed form, any change in respect of any information contained in his statement under section 7 within seven 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 shops and establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary.

9. Removal of shops and establishments from the register. – An employer closing a shop and establishment falling under provisions of this Act shall, within ten days of his doing so, notify to the Inspector in writing of such closure. The Inspector shall, on receiving such notice and on being satisfied about its correctness, remove such establishments or shops covered by this Act from the register of shops and establishments and cancel the registration certificate.

CHAPTER - II

SHOPS

10. Opening and closing hours of shops. – (1) Save as provided by or under any other enactment for the time being in force, no shop shall on any day be opened earlier or closed later than such hour as may be fixed by the Government by a general or special order in that behalf :

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

(2) Before passing an order under sub-section (1), the Government shall hold an inquiry in the prescribed manner.

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

11. Selling outside shops 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 10 for the closing of shops 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.

12. Daily and weekly hours of work in shops. – (1) Subject to the provisions of this Act, no person employed in any shop shall be required or allowed to work therein for more than eight hours in any day and forty-eight hours in any week;

Provided that any such person may be allowed to work in such shop for any period in excess of limit fixed under this sub-section subject to payment of overtime wages, if the period of work including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

(2) No person employed in any shop shall be required or allowed to work therein for more than four hours in any day unless he has had an interval for rest of at least one hour.

13. Spread-over of periods of work. – The periods of work of a person employed in a shop shall be so arranged that, along with his intervals for rest, they shall not spread-over more than twelve hours in any day.

14. Closing of shops and grant of holidays. – (1) Every shop shall remain entirely closed on one day of the week which day shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop, and the day so specified shall not be altered by the shop-keeper more often than once in three months.

(2) Every person employed in a shop shall be allowed in each week a holiday of one whole day:

Provided that nothing in this sub-section shall apply to any person whose total period of employment in the week, including any days spent on authorised leave, is less than six days, or entitle a person who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of sub-section (1), to an additional holiday.

(3) (a) The Government may, by notification, require in respect of shops or any specified class of shops, that they shall in addition to the day provided for by sub-section (1), be closed at such hour in the afternoon of one week day in every week at such hour as may be fixed by the Government.

(b) Every person employed in any shop to which a notification under clause (a) applies, shall be allowed in each week an additional holiday of one half day commencing at the hour in the afternoon fixed for the closing of the shop under clause (a).

(4) The Government may, for the purpose of sub-section (3), fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(5) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (3) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop, and shall not be altered by the shop-keeper more often than once in three months.

(6) No deduction shall be made from the wages of any person employed in a shop on account of any day or part of a day on which it has remained closed or a holiday has been allowed in accordance with this section; and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day, he shall nonetheless be paid for such day or part of a day the wages he would have drawn had the shop not remained closed, or had the holiday not been allowed, on that day or part of a day.

CHAPTER - III

ESTABLISHMENTS OTHER THAN SHOPS

15. Application of this Chapter to establishments other than shops. – The provisions of this Chapter shall apply only to establishments other than shops.

16. Opening and closing hours. – (1) Save as provided by or under any other enactment for the time being in force, no establishment shall on any day be opened earlier or closed later than such hour as may be fixed by the Government by general or special order in that behalf.

(2) Before passing an order under sub-section (1), the Government shall make an inquiry in the prescribed manner.

(3) The Government may, for the purposes 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.

17. Daily and weekly hours of work. – (1) Subject to the provisions of this Act, no person employed in any establishment shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week;

Provided that any such person may be allowed to work in such establishment for any period in excess of the limit fixed under this sub-section subject to payment of overtime wages, if the period of work, including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

(2) No person employed in any establishment shall be required or allowed to work in such establishment for more than four hours in any day unless he has had an interval for rest of at least one hour.

*[17-A. **Restriction on double employment.**- No person shall work about the business of an establishment or two or more establishments or an establishment and factory in excess of the period during which he may be lawfully employed under this Act.]

18. Spread-over of periods of work. – The periods of work of a person employed in an establishment shall be so arranged that along with his intervals for rest, they shall not spread-over more than twelve hours in any day.

* Inserted vide Act No.4 of 2008. This Act came into force w.e.f 11.04.2008

19. Holidays. – (1) Every person employed in any establishment shall be allowed in each week a holiday of one whole day:

Provided that nothing in this sub-section shall apply to any person whose total period of employment in the week, including any days spent on authorized leave, is less than six days.

(2) The Government may, by notification, require in respect of any establishment or any specified class of establishments, that every person employed therein shall be allowed in each week an additional holiday of one half-day commencing at such hour in the afternoon as may be fixed by the Government.

(3) The Government may, for the purpose of sub-section (2), fix different hours for different establishments or different classes of establishments or for different areas or for different times of the year.

(4) No deduction shall be made from the wages of any person employed in an establishment on account of any day or part of a day on which a holiday has been allowed in accordance with this section; and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day, he shall nonetheless be paid for such day or part of a day the wages he would have drawn, had the holiday not been allowed on that day or part of a day.

CHAPTER - IV

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

20. Children not to work in establishments. – No child shall be required or allowed to work in any establishment.

21. Young persons to work only between 6.00 a.m. and 7.00 p.m. – No young person shall be required or allowed to work in any establishment before 6.00 a.m and after 7.00 p.m.

22. Daily and weekly hours of work for young persons. – Notwithstanding anything contained in this Act, no young person shall be required or allowed to work in any establishment for more than seven hours in any day and forty -two hours in any week nor shall such person be allowed to work overtime.

CHAPTER - V

Health and safety

23. **Cleanliness.** -- The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleansed at such times and by such methods as may be prescribed and these methods may include lime washing, colour washing, painting, varnishing disinfecting and deodorising.

24. **Ventilation.** – The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

25. **Lighting.** (1) The premises of every establishment shall be sufficiently lighted during all working hours.

(2) If it appears to an Inspector that the premises of any establishment within his jurisdiction is not sufficiently lighted or ventilated, he may serve on the employer an order in writing specifying the measures which, in his opinion, should be adopted and requiring them to be carried out before a specified date.

26. **Precautions against fire.** – In every establishment, such precautions against fire shall be taken as may be prescribed.

27. **Appeals.** – Against any order of the Inspector under this Chapter, an appeal shall lie to such authority and within such time as may be prescribed; and the decision of the appellate authority shall be final.

CHAPTER - VI

HOLIDAYS WITH WAGES

28. Holidays and sick leave. – (1) Every person employed in any establishment shall be entitled, after twelve months' continuous service, to holidays with wages for a period of 12 days, in the subsequent period of twelve months, provided that such holidays with wages may be accumulated upto a maximum period of twenty-four days.

Explanation. – For the purposes of this sub-section any continuous period of service preceding the date on which this Act applies to any establishment shall also count subject to a maximum period of twelve months.

(2) Every person employed in any establishment shall also be entitled during his first twelve months of continuous service after the commencement of this Act, and during every subsequent twelve months of such service, (a) to leave with wages for a period not less than 12 days, on the ground of any sickness incurred or accident sustained by him and (b) to casual leave with wages for a period not less than 12 days on any reasonable ground.

(3) If a person entitled to any holidays under sub-section (1) is discharged by his employer before he has been allowed, the holidays, or if having applied for and been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under this Act in respect of the holidays.

(4) If a person entitled to any leave under sub-section (2) is discharged by his employer 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 discharge in addition to the amount if any, payable to him under sub-section (3).

(5) A person employed shall be deemed to have completed a period of twelve months' continuous service within the meaning of this section, notwithstanding any interruption in service during those twelve months brought about (i) by sickness, accident or authorised leave (including authorised holidays), not less than ninety days in the aggregate for all three; or (ii) by a lockout; or (iii) by a strike which is not an illegal strike; or (iv) by intermittent periods of involuntary unemployment not less than thirty days in the aggregate; and authorised leave shall be deemed not to include any weekly holiday or half-holiday allowed under this Act which occurs at the beginning or end of an interruption brought about by the leave.

(6) A person employed in a hostel attached to a school or college or an establishment maintained in a boarding school in connection with the boarding and lodging of pupils and resident masters shall be allowed the privileges referred

to in sub-sections (1) to (5) reduced however proportionately to the period for which he was employed continuously in the previous year or to the period for which he will be employed continuously in the current year, as the case may be; and all references to periods of holidays or of leave in sub-sections (1) and (2) shall be construed accordingly, fractions of less than one day being disregarded.

(7) The Government shall have power to issue directions as to the manner in which the provisions of sub-section (6) shall be carried into effect in all or any class of cases or in any particular case.

29. Pay during annual holidays. – Every person employed shall, for the holidays or the period of the leave allowed under sub-section (1) or (2) of section 28, be paid 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.

30. Power to increase the number of holidays. - Notwithstanding anything contained in section 28, the Government may, by notification, increase the total number of annual holidays and the maximum number of days upto which such holidays may be accumulated in respect of any establishment or class of establishments.

31. Power of Inspector to act for person employed. – Any Inspector may institute proceedings on behalf of any person employed to recover any sum required to be paid under this Chapter by an employer which he has not paid.

CHAPTER - VII

WAGES

32. Responsibility for payment of wages. – Every employer shall be responsible for the payment to persons employed by him of all wages and sums required to be paid under this Act.

33. Fixation of wage period. – (1) Every employer shall fix periods (in this Act referred to as wage periods) in respect of which such wages shall be payable.

(2) No wage period shall exceed one month.

34. Wages for overtime work. – Where any person employed in any establishment is required to work overtime, he shall be entitled, in respect of such overtime work, to wages at twice the ordinary rate of wages.

Explanation. – For the purpose of this section, the expression ‘ordinary rate of wages’ shall mean such rate of wages as may be calculated in the manner prescribed.

35. Time of payment of wages. – (1) The wages of every person employed shall be paid before the expiry of the fifth day after the last day of the wage period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by such person shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The Government may, by general or special order, exempt an employer from the operation of this section in respect of the wages of any person employed or class of persons employed, to such extent and subject to such conditions as may be specified in the order.

(4) All payments of wages shall be made on a working day.

36. Wages to be paid in current coin or currency notes. – All wages shall be paid in current coin or currency notes or in both.

37. Deductions which may be made from wages. – (1) The wages of a person employed shall be paid to him without deductions of any kind except those authorised by or under this Act.

Explanation. – Every payment made by a person employed to the employer shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of a person employed shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely: –

- (a) Fines;
- (b) deductions for absence from duty;
- (c) deductions for damage to, or loss of, goods expressly entrusted to the employed person for custody or for loss of money for which he is required to account where such damage or loss is directly attributable to his neglect or default;
- (d) deductions for house accommodation supplied by the employer;
- (e) deductions for such amenities and services supplied by the employer as the Government may, by general or special order, authorise;
- (f) deductions for recovery of advances or for adjustment of over payment of wages;
- (g) deductions of income-tax payable by the employed person;
- (h) deductions required to be made by order of a Court or other authority competent to make such order;
- (i) deductions for subscriptions to, and for repayment of advances from any provident fund to which Provident Funds Act, 1952 applies or any recognised provident fund under section 2 (38) of the Indian Income Tax Act, 1961;
- (j) deductions for payments to cooperative societies approved in this behalf by the Government or to a scheme of insurance maintained by the Indian Post Office or by any insurance company approved in this behalf by Government;
- (k) deductions made with the written authorisation of the employed person in furtherance of any savings scheme approved by the Government for the purchase of securities of the Central or State Government.

38. Fines. – (1) No fine shall be imposed on any person employed save in respect of such acts and omissions on his part as the employer, with the previous approval of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on.

(3) No fine shall be imposed on any person employed until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fine.

(4) The total amount of fine which may be imposed in any one wage period on any person employed shall not exceed an amount equal to 0-03 p. in the rupee of the wages payable to him in respect of that wage period.

(5) No fine shall be imposed on any person employed who has not completed his fifteenth year.

(6) No fine imposed on any person employed shall be recovered from him after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the person employed in the establishment as are approved by the prescribed authority.

Explanation. – When the persons employed are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

39. Deductions for absence from duty. --- (1) Deductions may be made under clause (b) of sub-section (2) of section 37 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall, in no case, bear to the wages payable to the employed person in respect of the wage period for which the deduction is made, a larger proportion than the period for which he was absent bears to the total period, within such wage period during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the Government if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contract of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by such terms be due to the employer in lieu of due notice.

Explanation. – For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work, if, although present in such place, he refuses, in pursuance of a stay-in-strike or for other cause which is not reasonable in the circumstances to carry out his work.

40. Deductions for damage or loss. – (1) A deduction under clause (c) of sub-section (2) of section 37 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the person employed and shall not be made until the person employed has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

41. Deductions for services rendered. – A deduction under clause (d) or clause (e) of sub-section (2) of section 37 shall not be made from the wages of a person employed unless the house accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and in the case of a deduction under the said clause (e) shall be subject to such conditions as the Government may impose.

42. Deductions for recovery of advances. – Deductions under clause (f) of sub-section (2) of section 37 shall be subject to the following conditions, namely: –

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage period, but no recovery shall be made of such advances given for travelling expenses;

(b) recovery of advances of wages not already earned shall be subject to any rules made by the Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

43. Deductions for payments to cooperative societies and insurance schemes. – Deductions under clauses (j) and (k) of sub-section (2) of section 37 shall be subject to such conditions as the Government may impose.

44. Notice of dismissal. – (1) No employer shall dispense with the services of a person employed continuously for a period of not less than six months, except for a reasonable cause and without giving such person at least one month's notice or wages in lieu of such notice, provided however, that such notice shall not be necessary where the services of such person are dispensed with on a charge of

misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose.

(2) The person employed shall have a right to appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employed.

(3) The decision of the appellate authority shall be final and binding on both the employer and the person employed.

***[44-A. Employer to furnish letter of appointment and identity card to employees.-** (1) The employer of every shop and establishment shall furnish every employee with a letter of appointment. Such letter of appointment shall contain the following particulars and such other particulars as may be prescribed, namely:-

- (a) the name of the employer;
- (b) the name and the postal address of the establishment;
- (c) the name, father's name and age of the employee
- (d) the hours of work;
- (e) date of appointment

(2) The employer shall also issue an identity card to the employee containing the photograph of the employee along with the following details:-

- (a) the name of the employer;
- (b) name of the establishment with postal address;
- (c) name, father's name and age of the employee;
- (d) employee's residential address;
- (e) signature of the employer.]

* Inserted vide Act No.4 of 2008. This Act has come into force w.e.f. 11.04.2008.

CHAPTER - VIII

45. Application of the Maternity Benefit Act, 1961. – Notwithstanding anything contained in the Maternity Benefit Act, 1961 (hereinafter in this section referred to as the said Act), the Government may, by notification, direct that, the said Act or any of the provisions thereof or the rules made thereunder shall apply to women employed in shops and establishments covered under the provisions of this Act.

***[45A. Application of the Workmen’s Compensation Act, 1923.** - The provisions of the Workmen’s Compensation Act, 1923 and the rules made thereunder shall apply mutatis mutandis to every employee of the establishment in the event of accident.”]

CHAPTER - IX

APPOINTMENT, POWERS AND DUTIES OF INSPECTORS

46. Appointment of Inspectors. – The Government may, by notification, appoint such officers of the Union territory of Puducherry to be Inspectors for the purposes of this Act within such limits as the Government may assign to them.

47. Powers and duties of inspectors. – Any Inspector may, at all reasonable hours, enter into any premises which is or which he has reason to believe is an establishment, with such assistants and make such examination of the premises and of the prescribed registers, records or notices as may be prescribed.

48. Inspectors to be public servants. – Every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

***[48A. Protection of action taken in good faith:** - No suit, prosecution or other legal proceeding shall lie against any authority or officer for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or order made thereunder.]

* Inserted vide Act No.4 of 2008. This Act has come into force w.e.f. 11.04.2008.

CHAPTER - VIII

PENALTIES FOR OFFENCES

49. **Penalties.** – *(1) Any employer who contravenes any of provisions of sections 7, 8, 9, 10, 12, 13, 14, 16 to 26, 28, 29, 32 to 45 and 51 shall be punishable, for a first offence with fine which may extend to two hundred rupees and for a second or subsequent offence, with fine which may extend to one thousand rupees].

(2) Whoever contravenes the provisions of section 11 shall be punishable, for a first offence, with fine which may extend to ten rupees, and for a second or subsequent offence, with fine which may extend to one hundred rupees.

50. **Penalty for obstructing inspector 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 *[two thousand and five hundred rupees].

*[50–A.**Compounding of offences.**- Any offence punishable under section 49 or any rule made under section 53 may, either before or after the institution of the prosecution be compounded by the Commissioner of Labour or such other officer as may be authorized in this behalf by the Government on payment for credit to the Government, of such sum as the Commissioner of Labour or such other officer may specify:

Provided that such sum shall not, in any case exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Nothing contained in sub–section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.- For the purpose of this sub–section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded shall be deemed to a first offence.

* Amended vide Act No.4 of 20 08. This Act has come into force w.e.f. 11.04.2008.

(3) Where an offence has been compounded under sub-section (1), no proceedings or further proceedings, as the case may be shall be taken against the offender, in respect of the offence so compounded and the offender, if in custody, shall be discharged forthwith.

(4) No offence punishable under this Act shall be compounded except as provided by this Section.

Offences by companies

50-B. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly:

Provided that a company may give notice to the Inspector that it has nominated a director, who is resident in the Union Territory of Puducherry to be the employer in the establishment for the purposes of this Act and such director, shall so long as he is so resident, be deemed to be the occupier in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director.

Explanation .- For the purposes of this section, –

- (a) “Company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.]

CHAPTER - XI

Miscellaneous

51. Maintenance of registers and records and display of notices. – Subject to the general or special orders of the Government, an employer shall maintain such registers and records and display such notices as may be prescribed.

52. Delegation of powers. – (1) The Government may, by notification authorise any officer or authority subordinate to them, to exercise any one or more of the powers vested in them by or under this Act, except the power mentioned in section 53, 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 Government or by such persons as may be empowered by them in that behalf. The Government shall also have power to control and revise the acts or proceedings of any person so empowered.

53. Power to make rules. – (1) The Government may make rules to carry out the purposes of this Act.

(2) In making a rule under sub-section (1), the Government may provide that a contravention thereof shall be punishable with fine which may extend to *[five hundred rupees].

(3) All rules made under this Act shall, as soon as may be after it is made, be laid before the Legislative Assembly of Puducherry while it is in session for a total period of fourteen 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, the Legislative Assembly makes any modification in the rule or decide that the rule should not be made, that rule 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 previously done under that rule.

54. Right and privileges under other law, etc., not affected. -- Nothing contained in this Act shall affect any right or privileges which any person employed in any establishment is entitled to on the date on which this Act comes into operation in respect of such establishment, under any other law, contract, custom or usage applicable to such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

* Amended vide Act No.49 of 2008. This Act has come into force w.e.f. 11.04.2008

55. Commissioner of Labour to decide certain questions. – If any question arises whether all or any of the provisions of this Act apply to an establishment or to a person employed therein or whether section 54 applies to any case or not, it shall be decided by the Commissioner of Labour and his decision thereon shall be final and shall not be liable to be questioned in any Court of law.

56. 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 Government may, by notification, suspend for a specified period the operation of all or any of the provisions of this Act.

57. Central Act XVIII of 1942 not to apply to establishments governed by this Act. – On and from the date on which this Act comes into operation in respect of an establishment, the Weekly Holidays Act, 1942, shall cease to apply to such establishment.
