

**Draft Amendment Proposals**  
**The Factories Act, 1948 (Act No. 63 of 1948)**

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An Act to amend the law regulating/ promoting safety, protecting against occupational diseases and promoting health and hygiene in the workplace/ Factories

## **THE FACTORIES ACT , 1948**

### **INTRODUCTION**

#### **STATEMENT OF OBJECTS AND REASONS**

The present Factory Act, 1948 is very old and has not kept pace with the requirement of fast changing global economy, technological changes, integration of the global economy through trade, investment, financial engineering, multi- location value chain, growth of information technology. The traditional inspection system is found inadequate to ensure work place safety and allied issues in a factory. The objectives are to ensure a safe and secure work place through a set of simple preventive and effective curative measures, foster an eco-system favourable to setting up of factories and creation of rapid employment opportunities. The new system is aimed at making the factory environment evolving and dynamically adjusting to changing times. The salient features of the proposed system is, “unobtrusive, transparent inspection to promote occupational safety, and prevent occupational diseases, sickness, health hazard and to put in place instrumentality(s) to create an ecosystem where labour intensive enterprise is encouraged, regulatory compliance is convenient, simple and encouraging, and cost effective to enable Indian produce competitive in the global market”.

## CHAPTER I.

### Preliminary

#### **Section 1.Short title, extent and commencement. -**

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

(2) It extends to the whole of India

(3) It shall come into force on the .....

#### **Section 2.Interpretation.-**

In this Act, unless there is anything repugnant in the subject or context,-

- a. "adult" means a person who has completed his eighteenth year of age;
- b. "young person" means a person, who has completed his fifteenth year of age but has not completed his eighteenth year;
- c. "calendar year" means the period of twelve months beginning with the first day of January in any year;
- d. "competent person", in relation to any provision of this Act, means a person or an institution recognised as such by the Chief Inspector of Factories for carrying out safety audit, tests, examinations, testing of flame proof electrical equipment, and inspections required to be done in a factory under the provisions of this Act having regard to-

- (i) the qualifications and experience of the person and facilities available at his disposal;

or

- (ii) the qualifications and experience of the persons employed in such institution and facilities and instruments available therein, with regard to the conduct of such tests, examinations and inspections and more than one person or institution can be recognised as a competent person in relation to a factory;

(da) Competent person includes safety auditor, certified structural engineers and any other, so notified with such qualifications, experience and standard of competency as notified by the regulator;

- (e) "hazardous process" means any process or activity, notified by the Regulator with attributes and or in specific terms, where unless special care is taken, hazardous substance used at any stage or stored would :

(i) cause material impairment to the health of the persons engaged in or connected therewith, or

(ii) result in the pollution of the general environment which is significantly detrimental to the health of a person:

Provided that the Regulator shall review and amend as warranted by development of science, exigencies of circumstances or any other, the list contained in the First Schedule.

(f) "hazardous substance" means any substance as prescribed or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause harm to other living creatures, plants, micro-organisms, property or the environment;'

(g) "adolescent person" means a person who is over 14 years and not completed 15 years of age.

(h) "day" means a period of twenty-four hours beginning at midnight;

(i) "disability" shall have the same meaning assigned to it in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

(j) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area or a factory by the Chief Inspector of Factories;

(k) "manufacturing process" means any process or activity resulting in any alteration of original character, such as nature, state, shape, size, usefulness and/ or making value addition to the original material acted upon when subjected to the process or activity.

Example: unprocessed milk simply packed in to different volumes or weight without changing the character of milk, shall not be manufacturing.

(l) "worker" means a person employed directly or by or through any agency (including a contractor), whether for remuneration or not in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the Union;

(m) "factory" means (i) any premises including the precincts thereof whereon forty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on, (ii) any premises

whereupon manufacturing process involve hazardous processes and or hazardous substance ,(iii) any premises whereupon manufacturing process involve dangerous operations,

but does not include a mine subject to the operation of the Mines Act, 1952 (XXXV of 1952) or a mobile unit belonging to the armed forces of the Central, a railway running shed or a hotel, restaurant or eating place;

(n) "occupier" of a factory means the person, who has the full operational control including decision making power , impacting safety and output.

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;

(ii) Omit

(iii) in the case of a factory owned or controlled by the Government (Central , State) local authority, the person or persons appointed to manage the affairs of the factory shall be deemed to be the occupier.

Provided further that in the case of a ship which is being repaired or under maintenance in a dry dock which is available for hire,

(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under-

(a) section 6, section 7, section 7A, section 7B and the Regulations related to Safety &Health as notified by the Regulator, in or around the dock;

(b) Omitted

(c) Regulations related to welfare of the workers as notified by the Regulator or section 49, in or around the dock, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter related to Safety, Health & Welfare provided for by or under Regulations as notified by the Regulator or Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to-

(a) the workers employed directly by him or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person ;

(p) "prescribed" means prescribed in rules and or Regulations made as appropriate under this Act;

(r) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "group" or "relay" and each of such periods is called a "shift".

(s) Regulator means a person or a body as may be constituted by the Government of India with such roles, functions and structure as prescribed under the Act.

(t) Price Index means wholesale Price Index , May , 2015=100.

(u) 'transgender person' means a person, whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy etc.), gender-queers and a number of socio-cultural identities such as — kinnars, hijras, aravanis, jogtas etc.

(v) Dangerous operation is any activity with a machinery or part thereof if in the ordinary course of working with it , danger may reasonably be anticipated from it when without protection, taking in to account various factors incidental to its working , including carelessness of the workman.

### **Section 3. Reference to time of day.-**

In this Act references to time of day are references to Indian Standard Time being five and a half hours, ahead of Greenwich Mean Time:

Proviso - omitted

### **Section 4. Power to declare different departments to be separate factories or two or more factories to be a single factory.-**

The State Government may, on its own or on an application made in this behalf by an occupier, direct by an order in writing and subject to such conditions, as notified by the state government, that for all or any of the purposes of this Act different departments or branches of a factory of the occupier specified in the application shall be treated as separate factories or that two or more factories of the occupier specified in the application shall be treated as a single factory.

Provided that

(i) no order under this section shall be made by the State Government on its own motion unless an opportunity of being heard is given to the occupier;

(ii) if no communication is received within one month on the application, the proposal shall be deemed approved.

### **Section 5. Power to exempt during public emergency.**

In any case of a public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act except section 67 for such period and subject to such conditions as it may think fit:

Provided that no such notification shall be made for a period exceeding three months at a time.

*Explanation.-* For the purposes of this section 'public emergency' means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance or natural calamity..

### **Section 6. Approval, licensing and registration of factories.-**

Every factory shall, on application for registration, furnish such information in such form and in such manner as shall be prescribed by the regulator. The regulator shall create such infrastructure, services and work flow system to facilitate electronic submission and processing of request for registration. It shall be as far as practicable be fully automated and web enabled. Provisional registration shall be on real time on submission of self-certified declaration on the notified standards of safety, health, and occupational disease, hygiene and other conveniences of the work place. The request shall be deemed approved on the expiry of 15 days of receipt of prescribed Certificates from the licensed safety auditor or licensed safety officer, as applicable, and NOCs from other statutory Authorities.

Provided a factory within the meaning of small Factories ..... shall be deemed approved, under the Factories Act, on application, if it complies with the prescribed regulations.

Provided every factory deposit such amount of fees as are required for servicing the application and towards the cost of public service. The money so collected shall be apportioned between the regulator and chief inspector of factories in 50:50 and distribution among states on the basis of fees collected in the previous financial year.

### **Section 7- Notice by the Occupier.-replaced**

The Occupier shall at least fifteen days before the commencement to occupy or use any premises as a factory, send to the CIF, a written notice in the contents and the format as prescribed by the Regulator

**Section 7A.**General duties of the Occupier.

Every occupier shall comply with the regulations and ensure the Health, Safety and Welfare of the workers while they are at work in the factory. The regulator shall frame regulations governing duties of the occupier and devise appropriate compliance system.

**Section 7B.**General duties of the Manufacturer etc., as regard articles and substances for use in factories.

Every person who designs , manufactures, import or supply any article for use in any factory, shall comply with the regulations and ensure the Health and Safety of the articles and workers while they are used in the factory. The regulator shall frame regulations governing general duties of manufacturers, etc., as regards articles and substances for use in factories.-

**CHAPTER IA. Regulator ( OSHBI) New Section**

**Section 7 C Regulator ( OSHBI)**

The Central government by notification in the official Gazette shall constitute Occupational Safety and Health Board of India. It shall come in to effect, the day it is notified in the official gazette of India.

It shall have a Chairman and two Members or any changes made thereto from time to time by Government of India through amendments in Rules.

**Role and Functions**

- a) The regulator shall frame regulations on occupational safety, health, welfare and general working conditions of the workers employed in the factories. Government of India may assign such other additional functions and roles as may be warranted for the purpose of this Act.
- b) It shall conduct its regulatory functions, including formulation of regulatory content and practice, standards setting, monitoring and data management, follow-up and feedback, licensing of competent persons, inspection scheme, to ensure safety of the work place.

Provided it shall conduct its regulatory affairs in a manner to reflect scientific opinion, stake holder views, and objective and rational decision making and maintain a contemporary safety regulation. Detailed list of the functions of the regulator for the purposes of this Act is in Schedule I.

- c) It shall also notify Standards and Standard Operating Procedure for Activities contained in **Schedule II**, and any revision made there-to.

- d) It shall notify appropriate and adequate regulations to :-
- I. regulate the conduct and activities of person with ultimate control
  - II. regulate the conduct and activities of occupier,
  - III. regulate the conduct, activities and responsibility of manufacturer/ importer/ supplier of machinery or parts or both
  - IV. regulate the qualification , experience, competency level , role functions and requirement of competent persons
  - V. regulate licensing, qualification, experience, competency level, role and functions and requirement of the safety officer
  - VI. regulate the power of Chief Inspector
  - VII. lay down regulations for deemed approval of factories migrating from the Small Factories (Facilitation and Regulation of Employment and Conditions of Service) Act, 2015 to Factories Act.
  - VIII. regulate on use and processing of hazardous substance
  - IX. regulate dangerous operations
  - X. regulate the inquiry procedure on accident in factories.

Explanation:

The power exercisable under this section and all regulations so notified shall be treated as legislative activity to make the legislative instrument extensively operative by making it applicable to places where the manufacturing process was carried on.

## **CHAPTER- II Inspection scheme and compliance**

### **Section 8. Inspectors.-**

(1) The State Government may, by notification in the Official Gazette, appoint such persons as possessing the qualifications, experience and level of competency, so notified by the regulator, to be Inspectors/ for the purposes of this Act

Every Inspector shall be a B.Tech or equivalent, and Degree or Diploma on Industrial safety.

Provided existing Inspectors with five years' experience or more, and a Degree or Diploma on Industrial safety shall also be eligible as Inspector;

(2) Omit

(2A) Omit

(2B) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief inspector shall be an inspector for the purpose of this Act apart from other administrative functions of the job.

(3) Omit

(4) omit

(5) Omit

(6) The state shall be the single jurisdiction for the purpose of this Act.

(7) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed under this section, shall be deemed to be a public servant within the meaning of the Indian Penal Code (XLV of 1860), and shall be officially subordinate to such authority as the State Government may specify in this behalf.

### **Section 9. Power and responsibility of Inspectors.-**

Subject to any rules made in this behalf by the regulator, an Inspector may, for which he is appointed,-

(a) enter on specific written directions of the CIF, with such assistants, being persons in the service of the Government, or any local or other public authority or with an expert for designated inspection of a factory as determined by the regulatory procedure and regulations framed thereunder.

(aa) Carry out inspections of factories, determined as such for inspection under the web enabled risk weighted random inspection scheme, or any unit so assigned by the CIF on receipt of a complaint or for any other reasons reasonably determined by the CIF.

Provided the regulator notify the manner of docketing of the complaints anonymously and further manner of dealing with complaints or information from independent sources on violation of the provisions of Act, regulations notified by the regulator and disregarded declaration.

(b) make examination of the premises, plant, machinery, article or substance and relate the declaration, made to the CIF for registration and approval, with the measures actually put in place for safety, health, working conditions and welfare under the Factories Act and prepare his report.

(c) inquire into any case of accident or dangerous occurrence, whether resulting in bodily injury, disability or not, and take on the spot or otherwise statements of any person which he may consider necessary for such inquiry

(d) require the production of any prescribed register other than document submitted online or any other document relating to the factory and circumstance of the case.

(e) seize, or take copies of, any register, record or other document or any portion thereof, or photograph of the site and evidence as he may consider necessary in respect of any offence under this Act, which he has reason to believe, has been committed;

(f) direct the occupier that any premises or any part thereof, or anything lying therein, shall be left undisturbed (whether generally or in particular respects) for so long as is necessary for the purpose of any examination under clause (b);

(g) take measurements and photographs and make such recordings as he considers necessary for the purpose of any examination under clause (b), taking with him any necessary instrument or equipment;

(h) in case of any article or substance found in any premises, being an article or substance which appears to him as having caused or is likely to cause danger to the health or safety of the workers, direct it to be dismantled or subject it to any process or test (but not so as to damage or destroy it unless the same is, in the circumstances necessary, for carrying out the purposes of this Act), and take possession of any such article or substance or a part thereof, and detain it for so long as is necessary for such examination;

(i) exercise such other powers and adopt such methods of inquiry as necessary, and notified as such by the Regulator.

Proviso- omitted

### **Section 10. Certifying Surgeons.-**

(1) The State Government may appoint qualified medical practitioners, with such qualifications and experience to be certifying surgeons for the purposes of this Act .

Provided the regulator shall prescribe such qualification, experience and such competency level as shall be required to effectively discharge the function of certifying surgeon.

(2) A certifying surgeon may, with the approval of the State Government, authorise any qualified medical practitioner, with such qualifications and experience as notified by the regulator , to exercise any of his powers under this Act for such period as the certifying surgeon may specify and subject to such conditions as the State Government may think fit to impose, and references in this Act to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(3) No person shall be appointed to be, or authorised to exercise the powers of, a certifying surgeon, or having been so appointed or authorised, continue to exercise such powers, who enters in to any relationship with a factory.

Proviso- omitted

(4) The certifying surgeon shall carry out such duties as may be prescribed in connection with-

(a) the examination of and certification of adolescent and young persons under this Act in such forms as notified by the regulator.

(b) the examination of persons engaged in factories in such dangerous occupations as may be prescribed for any factory or class or description of factories where

(i) cases of illness have occurred, which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein;

(ii) by reason of any change in the manufacturing process carried on or in the substances used there in or by the reason of the adoption of any manufacturing process, there is a likelihood of injury to the health of workers employed in that manufacturing process.

(iii) cause periodic health survey as deemed necessary by Regulator to assess incidence of occupational diseases such as silicosis, asbestosis etc., in areas of such industries.

Provided that any recognised medical practitioner, with such other qualifications and experience notified by the regulator and serving under the government or any other public service authority would be deemed certifying surgeon for the purposes of sub section 4(a).

## CHAPTER III A

### HEALTH AND SAFETY MEASURES

#### **Section. 11A Power of Regulator to make Regulations for the protection of health of workers engaged in a factory**

(1) The Regulator may, by notification in the official gazette, make regulations regarding measures to be taken for the protection of health of workers engaged in a factory.

(2) In particular, and without prejudice to the generality of the foregoing section (1), such regulations shall cover all or any of the matters, namely: Cleanliness; Disposal of wastes and effluents; ventilation and temperature; dust and fume; Lighting; Drinking water; Latrines and urinals; Spittoons etc., or any additional matter the regulator may deem it fit for promoting and protecting health of the workers.

(3) Every occupier shall commit in the written declaration that standards so prescribed are maintained at all times.

(4) All such standards shall be prominently displayed in local language to promote workers' right to be adequately informed of the working environment.

Section 11- omit

Section 12- omit

Section 13- omit

Section 14- omit

Section 15- omit

Section 16- omit

Section 17- omit

Section 18- omit

Section 19- omit

Section 20- omit

#### **Section 21 A Power of Regulator to make Regulations for safety of workers engaged in a factory**

(1) The Regulator may, by notification in the official gazette, make regulations regarding Standards and standard operating procedures and other regulations relating to testing of machines to ensure safety of workers engaged in a factory.

(2) In particular, and without prejudice to the generality of the foregoing section, such regulations shall provide for all or any of the matters, such as :i) contemporary work place safety measures, and particularly in respect of : fencing of machinery ;work on or near machinery in motion; women and adolescent person working near machinery in motion;

employment of adolescent persons on dangerous machines; dangerous machines and protocol of handling; striking gear and devices for cutting off power; self-acting machines; casing of new machinery; prohibition of employment of women near cotton-openers; Hoist and lifts; Lifting machines, chains, ropes and lifting tackles; Revolving machinery; Pressure Plants; Floors, stairs and means of access; Pits, sumps, openings in floors and any other the regulator may determine.

(ii) Standards and standard operating procedures and other regulations on issues relating to : excessive weights; protection of eyes; precautions against dangerous fumes, gases; precautions regarding the use of portable electric light; explosive or inflammable dust, gas; fire.

(iii) Standards on stability

Standards on stability shall be prescribed and the manner of its compliance reporting in the safety audit report and self certified declaration shall also be prescribed.

(i) The occupier shall maintain and protect any building or part of a building or any part of the pathways, machinery or plant in a factory in such a condition that it shall not be dangerous to human life or safety.

Provided

- (i) no approval to start the factory shall be accorded unless the owner and the occupier shall commit in a declaration that standards prescribed in the regulation are fully complied, and a duly certified report on compliance of standards is received from a safety officer or safety auditor.
- (ii) No exceptions to Standards and Standard Operating Procedures on day to day operations shall be allowed unless the regulator provides for exceptions or exceptional circumstances.
- (iii) The Chief Inspector of Factories while granting any exemption for sufficient cause shall be guided by the provisions in the regulation.

Section 21- omit

Section 22- omit

Section 23- omit

Section 24- omit

Section 25- omit

Section 26- omit

Section 27- omit

Section 28- omit

Section 29- omit

Section 30- omit

Section 31- omit

Section 32- omit

Section 33- omit

Section 34- omit

Section 35- omit

Section 36- omit

Section 37- omit

Section 38- omit

Section 39- omit

Section 40- omit

Section 40A- omit

**Section 40B.Safety Officers. -**

(1) In every factory-

(i) wherein 500 or more workers are ordinarily employed, or

(ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease or any other hazard to health, to the person employed in the factory, the occupier shall, if so required and notified by the State government, employ such number of Safety Officers as may be specified.

(2) The duties, qualifications and experience of Safety Officers shall be such as may be prescribed by the regulator and the safety officers thus employed shall be exclusively working on safety issues.

Provided all such directions of the State Government are in conformity to the regulations notified in this regard by the Regulator.

**Section 41.omit**

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## **CHAPTER IV- A PROVISIONS RELATING TO DANGEROUS OPERATIONS AND HAZARDOUS PROCESS**

### **Section 41 AA Dangerous operations.-**

Where the regulator is of opinion that any manufacturing process or operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or vulnerability to incidence of disease, it may notify or make regulations applicable to any factory or class or description of factories in which manufacturing process or operation is carried on:

- (a) specifying the manufacturing process or operation and declaring it to be dangerous;
- (b) prohibiting or restricting the employment of women, young persons or person with disability in the manufacturing process or operation;
- (c) providing for the periodical medical examination, details to be specified for proper assessment, for persons employed or seeking to be employed, in the manufacturing process or operation, and prohibiting the employment of persons not certified as fit for such employment and requiring the payment by the occupier of the factory of fees for such medical examination;
- (d) providing for the protection for all such persons employed in the manufacturing process or operation or in the vicinity of the places where it is carried on;
- (e) prohibiting, restricting or controlling the use of any specified materials or processes in connection with the manufacturing process or operation:
- (f) requiring specification of protocol for handling dangerous operations and a protocol for mitigation of consequences of accidents, protocol on preparedness to avert disaster, the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation;
- (g) adopt such rotation policy in deployment of worker as notified by the regulator

No factory shall be approved for commencement of operation unless all the regulations are fully complied with and required declarations are received by the Chief Inspector of Factories.

### **Section 41 AB Hazardous process (new section)**

(1) The regulator shall notify hazardous process, hazardous substance, either by name or by features or properties or in any combination deemed fit and prescribe standard operating procedure for handling of such substance and process to secure to workers safety during work.

The regulator shall make regulations:

- (a) Specifying standards of health and safety to be followed in hazardous process;
- (b) Prohibiting or restricting employment of young persons, pregnant women and any class, of adult workers in manufacture, storage or handling involving hazardous process;
- (c) Prohibiting, restricting or controlling the use of hazardous substances.
- (d) prescribing procedure, and time limit to accord approval or approval with conditions or rejection of proposal on sufficient grounds.

#### **Section 41–A Site Appraisal Committee.**

There shall be constituted a Site Appraisal Committee for the purpose of advising, to consider applications for grant of permission for initial location of factories involving a hazardous process or hazardous substance or for the expansion of any such factories.

The Site Appraisal Committee shall convene a meeting within 15 days to examine an application, so received, for the establishment of a factory involving hazardous process and or hazardous substance and make its recommendations to the State Government not later than thirty days of meeting of the site appraisal committee in the prescribed form notified by the regulator. Specific reasons for delay in adhering to the timeline, and the next date shall be communicated to the applicant before the expiry of 30 days.

Provided the committee shall conduct its process and method of appraisal according to the regulation notified in this behalf.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or a company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

Provided

- (i) The regulator shall notify such other representation of interests in the committee, government, private and community in such manner as to provide a forum for just and meaningful discussion, and a faster decision.
- (ii) a quorum shall be prescribed for the meeting.
- (iii) specific data and information required for appraisal of the Committee shall be standardised and pre-determined on rational and scientific basis and available in the public domain. Any further input should be exceptional and justified to the decision making.
- (iv) where the site appraisal committee, represented by all agencies of the Government, communicate its opinion on an application for the establishment or expansion of a factory involving a hazardous process after the meeting of the site appraisal committee, it shall not be necessary for an applicant to obtain a separate approval from the organisations already represented in the Committee.

### **Section 41-B Disclosure of information by the occupier**

(1) The occupier of every factory involving a hazardous process shall disclose in the manner and in such form notified by the regulator, all information regarding dangers including health hazards and adopt and disclose a crisis management plan to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes, to the workers employed in the factory, the Chief Inspector, the local authority, within whose jurisdiction the factory is situated, and the general public in the vicinity.

(2) The occupier shall, at the time of registering the factory involving a hazardous process lay down a detailed policy with respect to the health and safety of the workers employed therein and intimate through an declaration, such policy to the Chief Inspector and the local authority and, thereafter, at such intervals prescribed by the regulator, and also inform the Chief Inspector and the local authority of any change made in the said policy.

(3) omit

(4) Every occupier shall conform to the on-site emergency plan prescribed in the regulation and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory, the safety measures required to be taken by all in the event of an accident taking place.

(5) omit

(a) omit (b) omit (6) omit

(7) The occupier of a factory involving a hazardous process shall, as per standards notified by the regulator lay down measures for the handling usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicise them in the manner prescribed among the workers and the general public living in the vicinity

### **Section 41C. Specific responsibility of the occupier in relation to hazardous processes.-**

Every occupier of a factory involving any hazardous process shall-

(a) maintain accurate and up-to-date health record or, as the case may be, medical records, of the workers in the factory who are exposed to any hazardous substance which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

(b) Appoint persons, who possess qualifications and experience, as prescribed in the regulation, in handling hazardous substances and providing supervision to such handling within the factory and to provide at the work place all the necessary facilities for protecting the workers in the manner prescribed:

Proviso- omitted

(c) provide for medical examination of every worker and provide a copy, printed in local language, thereof to the worker :

(i) before such worker is assigned to a job involving the handling of, or working with, a hazardous substance, and

(ii) while continuing in such job, and after he has ceased to work in such job, at intervals and in such manner as shall be prescribed by the regulator,

Explanation:

For the purposes of this section, the regulator may specify periodicity of such health check up and in such rigour as are required depending on the nature of industries having different types of exposure for bodily injury and workers in industries prone to occupational diseases.

Section 41D shifted to Section 90 A chapter IX

Section 41E shifted to Section 90 B chapter IX

Section 41 F Permissible limits of exposure of chemical and toxic substances

(1) The maximum permissible limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value prescribed in the rules notified by central government on the recommendation of the regulator.

(i) The regulator shall at all times review the activities in factories, evaluate and notify the exposure limits to keep it up to date.

(ii) The regulator shall also notify the industries as are likely to cause such exposure.

(2) **omitted**

**Section 41 G. Workers' participation in safety management.-**

(1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled or where activity involves dangerous operations, set up a Safety Committee consisting of equal number of representatives of workers and management to promote co-operation between the workers and the management in maintaining proper safety and health at work and to review periodically the measures taken in that behalf.

Provided,

Pre-determined exceptions, if any, can be granted by the State Government within the regulatory exceptions.

(2) The composition of the Safety Committee, the tenure of office of its members and their rights and duties shall be such as provided in the Regulation

#### **Section 41 H . Right of workers to warn about imminent danger.-**

(1) Where the workers employed in any factory engaged in a hazardous process have reasonable apprehension that there is a likelihood of imminent danger to their lives or health due to any accident bring the same to the notice of the occupier, agent, manager or any other person who is in-charge of the factory either directly or through their representatives in the Safety Committee and simultaneously bring the same to the notice of the Inspector.

(2) it shall be the duty of such occupier, agent, manager or the person in-charge of the factory or process to take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forth-with of the action taken to the nearest Inspector.

(3) If the occupier, agent, manager or the person in-charge referred to in sub-section (2) is not satisfied about the existence of any imminent danger as apprehended by the workers, he shall, nevertheless, refer the matter forth-with to the CIF whose decision on the question of the existence of such imminent danger shall be final.

#### **CHAPTER V.-WELFARE**

**Section 42 A** The state government shall notify such rules, under section 112 of the Act prescribing standards for wash room, facility for storing , drying of clothes, sitting during rest, first aid appliance and emergency care services, canteen, shelters and rest rooms, crèches and such other welfare measures .

The occupier shall be required to prominently display in local language the facilities available for the welfare of the worker. It shall also form part of the declaration of the occupier submitted electronically.

**Section 42- Omitted**

**Section 43- Omitted**

**Section 44- Omitted**

**Section 45- Omitted**

**Section 46- Omitted**

**Section 47- Omitted**

**Section 48- Omitted****Section 49 Welfare Officers. -**

- (1) In every factory where hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers, with such qualification, experience and job description as notified by the regulator.
- (2) omitted

Provided the CIF may reduce the minimum number of workers to less than one hundred, for sufficient reasons, on public notification.

**Section 50- Omitted****CHAPTER –VI- SERVICE CONDITIONS****Section 51 - Weekly hours**

No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

**Section 52. Weekly holidays.**

(1) No adult worker shall be required or allowed to work in a factory on first day of the week (hereinafter referred to as the said day), unless-

(a) he has or will have a holiday for whole day on one of three days immediately before or after the said day, and

(b) the manager of the factory has, before the said day or the substituted day under clause (a), whichever is earlier,-

(i) submit in the web service portal his intention to require the worker to work on the said day and of the day which is to be substituted, and

(ii) display a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice in the web service portal and displayed in the factory notice board not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the Provisions of sub-section (1), any worker works on the said day and has had a holiday on one of the three days immediately before it, that said day shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

### **Section 53. Compensatory holidays. -**

(1) Where, as a result of the passing of an order of the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The state government may notify the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

### **Section 54. Daily hours. -**

Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day and the regulator to notify exceptions .

Proviso omitted

### **Section 55. Intervals for rest. -**

(1) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour. The limit of five hour can be extended up to six hours only infrequently and no more than twice in a week and with compensation and taking it on record.

Provided exemption be granted by CIF for sufficient reasons or in pre determined situations notified in the public domain.

(2) omitted

### **Section 56. Spread over.**

The period of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than twelve hours in any day:

Proviso omitted

### **Section 57. Night shifts. -**

Where a worker in a factory works on a shift which extends beyond midnight,-

(a) for the purposes of sections 52 and 53, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

**Section 58. Prohibition of overlapping shifts.**

(1) Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The State Government or subject to the control of the State Government, the Chief Inspector, may, notify pre-determined exemptions or specific exemptions as may be deemed expedient, and on sufficient grounds, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-section (1).

**Section 59. Extra wages for overtime.**

(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances as the worker is for the time being entitled to but does not include a bonus and wages for overtime work.

(3) Where any workers in a factory are paid on a piece-rate basis, the time-rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar months during which the overtime work was done, and such time-rates shall be deemed to be the ordinary rates of wages of those workers:

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time-rate shall be deemed to be equivalent to the daily average of the earnings of the worker for the days on which he actually worked in the week in which the overtime work was done.

*Explanation. omitted*

(4) omitted

(5) omitted

**Section 60. Restriction on double employment. -**

No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such notified pre-determined circumstances as may be prescribed.

**Section 61. Notice of periods of work for adults. -**

(1) There shall be displayed in the notice board and correctly maintained in every factory in accordance with the provisions for sub-section (2) of section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work. Appropriate entries shall be made by the occupier in the web enabled service of appropriate jurisdiction before the work / shift starts. It shall be such that workers working for those periods would not be working in contravention of any of the provisions relating to weekly hours, weekly holidays, daily hours, intervals for rest, spread over, overlapping shifts.

(2)omit (combined with para 1)

(3) omit

(4) Omit

(5) omit

(6) omit

(7) omit

(8) omit

(9) Omit

(10) ) omit

## **Section 62. Register of adult workers.**

(1) omit replaced with

It shall be required of the manager of every factory to submit electronically the particulars of all adult workers with such particulars as provided in the web enabled service. Any changes therein on any particular day shall be registered and an electronic copy placed in the notice board.

(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars were entered, saved and submitted in the web enabled service.

Provided the state government may alter provisions relating to weekly hours, weekly holidays, compensatory holidays, daily hours, intervals for rest, spread over , prohibition of overlapping shifts, extra wages for overtime only within any regulation notified in this regard, consultation with factory unit representative and under just and fair circumstances mentioned in writing.

(2) omit

## **Section 63.omit**

### **Section 64.Power to make exempting Rules**

(1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Inspector to declare any person, other than a person defined by such rules as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed and the provision of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined or declared :

Provided that any person so defined or declared shall, where the ordinary rate of wages of such person does not exceed the wage limit specified in sub-section (6) of section 1 of the Payment of Wages Act, 1936 (4 of 1936), as amended from time to time, be entitled to extra wages in respect of overtime work under section 59.

(2) The State Government may make rules, in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed-

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;

(c) of workers engaged in work which is necessarily so intermittent that intervals during which they do not work while on duty, ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56;

(d) of workers engaged in any work which for technical reasons must be carried on continuously from the provisions of sections 51, 52, 54, 55 and 56;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 51 and section 52;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of section 51, section 52 and section 54;

(g) of worker engaged in a manufacturing process, which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;

(h) of workers engaged in engine-rooms of boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 51 and section 52; (i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of sections 51, 54 and 56.

*Explanation.* - In this clause the expression "newspapers" has the meaning assigned to it in the Press and Registration of Books Act, 1867 (XXV of 1867);

(j) of workers engaged in the loading or unloading of railway wagons or lorries or trucks, from the provisions of sections 51, 52, 54, 55 and 56;

(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the State Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime :

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the spread-over, inclusive of intervals for rest, shall not exceed twelve hours in any one day;

Provided that the State Government may, in respect of any or all of the categories of workers referred to in clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by clause (i) and clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

(iii) the total number of hours of work in a week including overtime, shall not exceed sixty;

(iv) the total number of hours of overtime shall not exceed 100 for any one quarter.

*Explanation.*- "Quarter" means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.

(5) Rules made before the commencement of Factories (Amendment) Act, 2015 under this section shall remain in force for not more than five years.

### **Section 65. Power to make exempting orders.**

(1) Where the State Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is reasonable to require that the periods of work of any adult worker in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The State Government or, subject to the control of the State Government the Chief Inspector may, by written order, exempt on such conditions as it or he may deem expedient,

any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:

(i) the total number of hours of work in any day shall not exceed twelve;

(ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed 115.

*Explanation.* - In this sub-section "quarter" has the same meaning as in sub-section (4) of section 64.

Provided that the Government or the Chief Inspector may, subject to the prior approval of the State Government, by public notification, further enhance the total number of hours of overtime work in any quarter to 125 in specified situations.

Provided that the state government make changes for sufficient and justifiable reasons with clear objective for the need of exemption in specified situations.

### **Section 66 (replaced with) Employment of women**

(1) Every worker shall have equal right to work opportunities,

Provided

In case of night shifts for women worker, the occupier shall be responsible to provide for night crèches, protection of dignity and honour, protection from sexual harassment, and remain fully responsible for safety within the factory premises and during transit from workplace to their home. Night duty of women worker shall always be voluntary and express written consent shall always be on record.

While the occupier would be encouraged to provide paid maternity leave, no women worker, shall be allowed to work during a total period of sixteen weeks before and after her child birth, of which at least eight weeks shall be before the expected child birth and for such additional period as recommended by the consulting doctor/ registered medical practitioner.

Provided the regulator make changes to the duration of such leave based on scientific evidence

Provided further that there shall be no change of shifts except after a weekly holiday or any other holiday.

### **Section 66 A Employment of Transgender persons – New Section**

- (1) Every transgender worker shall have equal right to work opportunities in a factory,
- (2) The State Government may make rules providing to secure the rights of transgender workers to ensure:
- a) respect for inherent dignity
  - (b) non-discrimination;
  - (c) full and effective participation and inclusion in society;
  - (d) respect for difference and acceptance of transgender persons as part of human diversity and humanity;

### **CHAPTER VII- Employment of Adolescent person**

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**Section 67A-** No adolescent person shall be employed in any position and or situation except in accordance with the notified regulation.

Provided the regulator shall notify regulations on the nature, conditions and manner of employment of adolescent and young persons.

**Section 67.omitted**

**Section 68.-Omitted**

**Section 69.omitted**

**Section 70.Omitted**

**Section 71- Omitted**

**Section 72- Omitted**

**Section 73- Omitted**

**Section 74- Omitted**

**Section 75- Omitted**

**Section 76- Omitted**

**Section 77- Omitted**

### **CHAPTER VIII.- Annual Leave with Wages**

### **Section 78. Application of Chapter.-**

(1) The provisions of this Chapter shall not operate to prejudice of any right to which a worker may be entitled under any other law or under the terms of any award, agreement including settlement or contract of service:

Provided that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favourable therein, the provisions of sections 79 to 82, so far as may be, shall apply.

(2) The provisions of this Chapter shall not apply to workers in any factory of any railway administered by the Government, who are governed by leave rules approved by the Central Government

### **Section 79. Annual leave with wages.-**

(1) Every worker who has worked for a period of 90 days or more in a factory 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 -

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) Omit

*Explanation 1.* - For the purposes of this sub-section-

(a) any days of lay-off, by agreement or contract or as permissible under the standing orders;

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

(c) the leave earned in the year prior to that in which the leave is enjoyed; shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 90 days or more, but he shall not earn leave for these days.

*Explanation 2.* - The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for one-fourth of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to

which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death, calculated at the rates specified in sub-section (1), even if he had not worked for the entire period specified in sub-section(1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made -

(i) where the worker is discharged or dismissed or quits employments before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.

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

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

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-sections (8) and (9) or in contravention of sub-section (10) shall be entitled to carry forward the leave refused without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

Provided that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (XIV of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6); and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee for the factory constituted under section 3 of the Industrial Disputes Act, 1947 (XIV of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of the leave allowable under this section may be regulated.

(9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient place in the factory and shall be in force for a period of twelve months from the date on which it comes into force, and may thereafter be renewed with or without modification for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

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

### **Section 80. Wages during leave periods.-**

(1) For the leave allowed to him under section 78 or section 79, as the case may be, a worker shall be entitled to wages at a rate equal to the daily average of his total full time earnings for the day on which he actually worked during the months immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance.

Provided that in the case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave, in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance.

(2) omitted

*Explanation 1.— omitted*

*Explanation 2.— omitted*

(3) The State Government may make rules prescribing -

(a) omitted

(b) Registers or such other form, as the state government may prescribe, shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.  
**replaced**

**Section 81. Payment in advance in certain cases. -**

A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins, be paid the wages due for the periods of the leave allowed.

**Section 82. Mode of recovery of unpaid wages.-**

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

**Section 83. Power to make rules.- replaced**

The state government shall make rules for managers of factories to maintain registers in such details prescribed in addition to declaration submitted and other periodic returns submitted in the web enabled service of the regulator and make any such register available for examination by Inspectors on inspection.

**Section 84. Power to exempt factories.-**

Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion, are not less favourable than those for which this Chapter makes provisions, it may by written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.

*Explanation.* - For the purposes of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.

**CHAPTER IX.- Special Provisions**

**Section 85. Power to apply the Act to certain premises. - replaced**

(1) The state Government may, by notification, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is carried on, within the provisions of regulation, as it deem it fit to declare under emerging circumstances in the interest of safety. It shall be determined within the notified framework of regulation.

The regulator shall also develop an web enabled common service for all jurisdictions to receive self signed declarations, safety audit reports and other such information as notified for furtherance of safety and regulation of work and compensation in factories.

The web enabled service shall also have enabling features to generate risk weighted random pick of a factory unit for inspection to provide for an effective check against evasion of the provisions of the factories act.

Provided that the manufacturing process, except dangerous operations or hazardous processes, is not being carried on by the owner only with the aid of his family.

(2) After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, to be a worker.

*Explanation.* - For the purpose of this section "owner" shall include a lessee or mortgagee with possession of the premises.

### **Section 86. Power to exempt public institution.-**

The regulator may exempt, subject to such conditions, so as to ensure safety and maintain safety standard, as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education training, research or information, from all or any of the provisions of this Act:

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays unless the persons having the control of the institution submit, for the approval of the State Government, a scheme of the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates for the institution, and the State Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of the Act.

### **Section 87. Dangerous operations.- moved to Section 41-AA under chapter IV A**

### **Section 87A. Power to prohibit employment on account of serious hazard.-**

(1) Where it appears to the Inspector, on inspection that conditions in a factory or part thereof are such that they may cause serious hazard by way of injury or death to the persons employed therein or to the general public in the vicinity, he may, by a detailed order, including whether or not the occupier has been adhering to the standard so notified by the Regulator as agreed to by the Occupier in the declaration, in writing to the occupier of the factory, state the particulars in respect of which he considers the factory or part thereof to be the cause of such serious hazard and prohibit such occupier from employing any person in the factory or any part thereof other than the minimum number of persons necessary to attend to the minimum tasks till the hazard is removed.

(2) Any order issued by the Inspector under sub-section (1) shall have effect for a period of three days. Appeal over the order should lie at CIF who may dispose off the appeal in 15 days in a quasi judicial manner.

(3) Any person aggrieved by an order of the Chief Inspector under sub-section (2), shall have the right to appeal to the High Court.

(4) Any person whose employment has been affected by an order issued under sub-section (1), shall be entitled to wages and other benefits and it shall be the duty of the occupier to provide alternative employment to him wherever possible and in the manner prescribed.

(5) The provisions of sub-section (4) shall be without prejudice to the rights of the parties under the Industrial Disputes Act, 1947 (14 of 1947)1.

**Section 88. Notice of certain accident.-**

(1) Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as the regulator may prescribe through Notification in this behalf, the manager of the factory shall send notice thereof to such authorities CIF, in such form, and procedure and within such time, as may be prescribed by the Regulator. The CIF shall immediately, on receipt of the notice, cause an inquiry to unravel the cause and institute action to prevent such occurrences in future as per the schedule (of penal provisions) notified for the purpose. All such Reports should be filed with the Regulator for considering changes in the regulation and issuing advisory to prevent such occurrences in other factories.

(2) omit

(3) Central Government or the State Government may make rules for regulating the procedure inquires under this section.

**Section 88A. Notice of certain dangerous occurrences.-**

Where in a factory any dangerous occurrence of such nature as may be prescribed by the Regulator, occurs, whether causing any bodily injury or disability, or not, the manager of the factory shall send notice thereof to CIF, and in such form and within such time, as may be prescribed by the Regulator.

**Section 89. Notice of certain diseases. -**

(1) Where any worker in a factory contracts any disease specified in the Third Schedule, the manager of the factory shall send notice thereof to CIF, and in such form and within such time, as may be prescribed by the regulator.

(2) If any medical practitioner attends on a person, who is or has been employed in a factory, and who is, or is believed by the medical practitioner to be suffering from any disease specified in the Third Schedule, the medical practitioner shall without delay send a report in writing to the head of medical institution such as medical superintendent of the medical college, ESIC hospital, Chief of district hospital. The chief of such institution should compile such information and safeguard the data. The office of CIF should collect such information every month and send a report to the Regulator and undertake such mitigating action as is required

(a) omit,

(b) omit

(c) omit.

(3) Where the report under sub-section (2) is confirmed to the satisfaction of the Chief Inspector, by the certificate of the certifying surgeon or otherwise, that the person is suffering from a disease specified in the Third Schedule, he shall pay to the medical practitioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the occupier of the factory in which the person contracted the disease.

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to six thousand rupees (indexed to PRICE INDEX).

(5) The Regulator may, by notification alter the Third Schedule at such intervals and in such manner so prescribed as the regulator deem so warranted and any such addition or alteration shall have effect as if it had been made by this Act.

### **Section 90. Power to direct inquiry into cases of accident or disease.-**

(1) The State Government or the Central government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Schedule so notified by the regulator has been, or is suspected to have been, contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information, shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code (XLV of 1960).

(3) The person holding an inquiry under this section shall make a report to the State Government stating the cause of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The State Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The Regulator may make regulations for regulating the procedure of inquiry and in such form under this section and the state on completion of the inquiry immediately share a copy of the Report with the Regulator in addition to other action as deemed required.

### **Section 90 A Power of Central Government to appoint Inquiry Committee.-(moved from section 41 D chapter IV A )**

(1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of all measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected, or

likely to be affected, due to such failure or neglect and for the prevention of recurrence of such extraordinary situations in future in such factory or elsewhere.

(2) The Committee appointed under sub-section (1) shall consist of a Chairman and two other members and the terms of reference of the Committee and the tenure of office of its members shall be such as may be determined by the Central Government in consultation with the regulator according to the requirements of the situation.

(3) The recommendations of the Committee shall be advisory in nature.

**Section 90 B Emergency standards.- .-(moved from section 41 E chapter IV A )**

(1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the regulator to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

(2) The emergency standards laid down under sub-section (1) shall, until they are incorporated in the rules made under this Act, be enforceable and have the same effect as if they had been incorporated in the rules made under this Act.

**Section 91. Power to take samples.-**

(1) An Inspector, on an inspection duty, may at any time during the normal working hours of a factory, after informing the occupier or manager of the factory or other person for the time being purporting to be in-charge of the factory, take, in the manner notified by the regulator, a sufficient sample of any substance used or intended to be used in the factory, such use being -

(a) in the belief of the Inspector, in contravention of any of the provisions of this Act or the rules made thereunder, or

(b) in the opinion of the Inspector, likely to cause bodily injury to, or injury to the health of, workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed, under that sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively, seal and suitably mark them, and shall permit such person to add his own seal and mark thereto.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances, if readily available in the factory or in the market nearby, for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall-

(a) forthwith give one portion of the sample to the person informed under sub-section (1);

(b) forthwith send the second portion to a Government analyst for analysis and report thereon;

(c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document purporting to be a report under the hand of any Government analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceeding instituted in respect of the substance.

### **Section 91A. Safety and occupational health surveys.- replaced**

(1) The Chief Inspector or such other officer as may be authorised in this behalf by **the Central** or the State Government or the Chief Inspector may, at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in-charge of the factory, undertake safety and occupational health surveys, in the format prescribed by the regulator, and such occupier or manager or other person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself after completing any process on hand, to undergo such medical examinations as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the factory.

*Explanation.* - For the purposes of this section, the report, if any; submitted to the State Government and the regulator by the person conducting the survey under sub-section (1) shall be deemed to be a report submitted by an Inspector under this Act.

## **CHAPTER X.- Penalties and Procedure**

### **Section 92. General penalty for offences.-**

(1) Save as otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of the provisions of Chapters I, III, IV, IVA (except sections 41B, 41C and 41H), VII and IX (except section 89) of this Act or of any rules and regulations made thereunder or any order in writing given thereunder, the occupier and the manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years on proven negligence or with fine which may extend up to six lakh rupees ( indexed to PRICE INDEX at 100 in May, 2015) or with both, and in any case it shall not be less than thirty thousand rupees .

Provided that where the contravention of any of the provisions of the Chapters referred to in sub-section (1) or rules made there under has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one hundred fifty thousand rupees ( to be indexed with PRICE INDEX) and in in no case the fine shall be less than seventy five

thousand rupees if the occupier has purchased an accident insurance policy in favour of the worker with similar coverage as is available under the MV Act for a hired driver or a road accident victim.

(2) If the contravention is continued after conviction under sub-section (1), then the occupier and manager of the factory shall each be guilty of an offence and punishable with a further fine which shall not be less than two thousand rupees ( indexed with PRICE INDEX) for each day on which the contravention is so continued.

(a) In respect of any contravention of any of the provisions of this Act or of any rules made there under or any order in writing given there under other than those mentioned under sub-section (1), for which no penalty has been provided the occupier and manager of the factory shall each be guilty of an offence and punishable with fine which may extend to one lakh fifty thousand rupees indexed with PRICE INDEX and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees indexed with PRICE INDEX for each day on which the contravention is so continued.

(b) Failure to comply with the Regulations made under section 7 A, the occupier shall be liable for imprisonment up to one month.

*Explanation.-* For the purposes of this section “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.

Manager means designated Manager of the shop floor and having a minimum of qualification of Diploma engineering.

### **92A. Penalties for offences by persons other than occupier.**

If any person, who designs, manufactures imports or supplies any article or substance for use in a factory and contravenes any of the provisions of section 7B or the Regulations made there under, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three lakh rupees indexed with PRICE INDEX or with both.

### **92B. Penalties in certain other cases.**

(1) If any competent person appointed under clause (d) of section 2 fails to comply with any of the provisions of Act or the rules made thereunder, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees indexed with PRICE INDEX or with both.

Suspension of license for six months and or monetary penalty equivalent to two months of income in the preceding financial year.

(2) If any worker employed in a factory spits in contravention of Regulations made under Section 11A, he shall be punishable with fine not exceeding one hundred rupees indexed with PRICE INDEX

(3) If any medical practitioner fails to comply with the provisions of sub-section (2) of section 89, he shall be punishable with fine which may extend to three thousand rupees indexed with PRICE INDEX.

(4) If any worker employed in a factory contravenes the provisions of sub-section (1) of section 97 or section 111 or of any rule or order made thereunder, he shall be punishable with fine which may extend to one thousand five hundred rupees indexed with PRICE INDEX.

## **92 C. Compounding of certain offences**

(1) The Central Government and State Government may, by notification in the Official Gazette, prescribe in respect of the offences specified in the Fourth Schedule, which may before the institution of the prosecution, be compounded by such officers or authorities and for such amount as prescribed:

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

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

(3) Nothing contained in sub-section (1) shall apply to offence committed within a period of three years from the date on which a similar offence committed was compounded under sub-section (1).”

## **Section 93. Liability of owner of premises in certain circumstances. -replaced**

(1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for provision and maintenance of –

- (i) common facilities and services such as approach roads, drainage, water supply, lighting and sanitation;
- (ii) adequate staircases;
- (iii) precaution in case of fire;
- (iv) ensuring structural stability;
- (v) hoists and lifts; and
- (vi) any other common facilities.

(2) Where in any premises, independent or self-contained floors or flats, compartments, rooms, galas, sheds are used as separate factories, the owner of the premises shall be responsible for the provision and maintenance of –

- (i) latrines, urinals and washing facilities;
- (ii) safety of machinery and plant installed in the common place or location of an occupier;

(iii) safe means of access to floors or flats, compartments, rooms, galas, sheds and maintenance and cleanliness of staircases and common passages;

(iv) precautions in case of fire;

(v) hoists and lifts;

(vi) prohibition of the common passages, balconies, verandas, access space, staircases and such other common spaces for use of any activity not intended in such spaces;

(vii) ensuring structural stability; and

(viii) any other common facilities provided in the premises.

(3) The owner of premises shall be responsible for provision, maintenance or arrangement for any other facility which may be required but not specified in sub-sections (1) and (2) above.

(4) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-sections (1) and (2) in respect of the carrying out of the provisions of canteens, shelter, restrooms and crèches.

(5) In respect of sub-section (3) while computing for the purposes of any of the provisions of this Act, the total number of workers employed in the whole of the premises shall be deemed to be in a single factory.

(6) The owner of the premises shall be liable for any contravention of any of the provisions of this section, as if he were the occupier or manager of a factory, and shall be punishable in accordance with the provisions of section 92.

*Explanation.*—For the purposes of this section, “owner” shall include promoter, co-operative society, trust, receiver, special officer, as the case may be.”

#### **Section 94. Enhanced penalty after previous conviction:**

(1) If any person who has been convicted of any offence punishable under section 92 is again found guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to three years or with fine, which shall not be less than sixty ( indexed with PRICE INDEX) thousand rupees but which may extend to twelve lakh ( indexed with PRICE INDEX) rupees or with both;

Provided that the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than sixty thousand (indexed with PRICE INDEX) rupees:

Provided further that where contravention of any of the provisions of Chapter IIIA or any rule made thereunder or under section 41AA has resulted in an accident causing death or serious bodily injury, the fine shall not be less than two lakh rupees ( indexed with PRICE INDEX) in the case of an accident causing death and sixty thousand rupees ( indexed with PRICE INDEX) in the case of an accident causing serious bodily injury.

- (2) For the purpose of sub-section (1), no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted.

### **Section 95. Penalty for obstructing inspector.-**

Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any register or other documents kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any workers, in a factory from appearing before, or being examined by, an inspector, or does not provide reasonable and necessary assistance or co-operation to an inspector in reaching the concern spot, branch, section, department in a factory, or conceals any fact or figures required for effective implementations of the provisions of the Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which extend to sixty thousand (indexed to PRICE INDEX) rupees or both.

### **Section 96. Penalty for wrongfully disclosing results of analysis under section 91.-**

Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term, which may extend to six months or with fine, which may extend to sixty (indexed with PRICE INDEX) thousand rupees or with both.

### **Section 96A. Penalty for contravention of the provisions of sections 41B, 41C and 41H.-**

(1) Whoever fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made thereunder, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to 12 lakh (indexed with PRICE INDEX) rupees, and in case the failure or contravention continues, with additional fine which may extend to thirty thousand (indexed with PRICE INDEX) rupees for every day during which such failure or contravention continues, after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to ten years.

### **Section 97. Offences by workers.-**

(1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to five hundred rupees and subjected to counselling.

(2) Where a worker is convicted of an offence punishable under sub-section (1) the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention, unless it is proved that he failed to take all reasonable measures for its prevention.

### **Section 98. Penalty for using false certificate of fitness.-**

Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under Section 67A or the Regulation made thereunder, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allow it to be used, or an attempt to use it to be made by, another person, shall be punishable with imprisonment for a term, which may extend to two months or with fine which may extend to six thousand rupees indexed with PRICE INDEX or with both.

### **Section 99. omit**

**Section 100.-** Omitted by Act 20 of 1987

### **Section 101. Exemption of occupier or manager from liability in certain cases.-**

Where the occupier or manager of a factory is charged with an offence punishable under this Act he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the satisfaction of the Court-

(a) that he has used due diligence to enforce the execution of this Act,

(a1) as an additional concern for safety, purchase an accident insurance policy for the worker exposed to risky operations and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he was the occupier or manager of the factory, and the occupier or manager, as the case may be, shall be, discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the occupier or manager of the factory, as the case may be, may be examined on oath, and his adduced evidence and that of any witness whom he calls in his support, shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the occupier or manager, cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the occupier or manager and shall, if the offence be proved, convict the occupier or manager.

Provided also that the State machinery may also be used in the manner an absconding offender is brought to justice

### **Section 102. Power of court to make orders.-**

(1) Where the occupier or manager of a factory is convicted of an offence punishable under this Act the court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order (which the court may, if it thinks fit and on application in such- behalf, from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefor by the court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to six hundred rupees( indexed with PRICE INDEX) for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine as aforesaid.

### **Section 103. Presumption as to employment.-**

If a person is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, he shall until the contrary is proved, be deemed for the purposes of this Act and the rules made thereunder to have been at that time employed in the factory.

### **Section 104. Onus as to age.-**

(1) When any act or omission would, if a person was under a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court prima facie under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

### **Section 104A. Onus of proving limits of what is practicable, etc. -**

In any proceeding for an offence for the contravention of any provision of this Act or rules made thereunder consisting of a failure to comply with a duty or requirement to do something, it shall be for the person who is alleged to have failed to comply with such duty or requirement, to prove that it was not reasonably practicable or as the case may be, all practicable measures were taken to satisfy the duty or requirement.

### **Section 105. Cognizance of offences.-**

(1) No court shall take cognizance of any offence under this Act except on complaint by an Inspector with the previous sanction in writing of the State government

(2) No court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

### **Section 106. Limitation of prosecution.-**

No court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence, came to the knowledge of an Inspector from any source.

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

Provided further that the offence consists of failing to meet the declaration submitted with self- certification , misleading the public authorities, the date for the calculation of limitation shall be three months from the date it is noticed by the CIF.

Provided further that the offence consists of failing in the statutory duty of a licensed auditor of ignoring and suppressing safety status of the factory audited , the date for the calculation of limitation shall be three months from the date it is noticed by the CIF

*Explanation.* - For the purposes of this section,-

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended ,on an application made by the occupier or manager of a factory the period of limitation shall be computed from the date on which the time so granted or extended expired.

### **Section 106A. Jurisdiction of a court for entertaining proceedings, etc., for offence.-**

For the purposes of conferring jurisdiction on any court in relation to an offence under this Act or the rules made thereunder in connection with the operation of any plant, the place where the plant is for the time being situated, shall be deemed to be the place where such offence has been committed.

## **CHAPTER XI.- Supplemental**

### **Section 107. Appeals.-**

(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Act or the occupier of the factory may, within thirty days of the service of the order, appeal against it to the CIF, and CIF may subject to **regulations made in this behalf by the Regulator**, confirm, modify or reverse the order and pass a quasi judicial order.

(a) Where CIF acts as the Inspector, the appeal would lie with labour commissioner and quasi judicial process would be adopted to dispose off the appeal.

(2) Subject to rules made in this behalf by the State Government (which may prescribe classes of appeals which shall not be heard with the aid of assessors), the appellate authority may, or if so required in the petition of appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as may be prescribed:

Provided that if no assessor is appointed by such body before the time fixed for hearing the appeal, or if the assessor so appointed fails to attend the hearing at such time, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the State Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the appellate authority may in any case think fit to impose, the appellate authority may, if it thinks fit, suspend the order appealed against, pending the decision of the appeal.

#### **Section 108. Display of notices.-**

(1) In addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act, and of the rules made thereunder as may be prescribed by the regulator and also the name and address of the Inspector and the certifying surgeon.

(2) All notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing serve on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

#### **Section 109. Service of notices.-**

The State Government may make rules prescribing the manner of the service of orders under this Act on owners, occupiers or managers of factories.

#### **Section 110. Declaration, Safety audit Report and other returns**

(1) The Regulator may make rules requiring owners, occupiers or managers of factories to submit self-certified declaration and such other returns, occasional or periodical, as may in its opinion be required for the purpose of this Act,

(2) The regulator may require, through notification in this regard to make it obligatory for the occupier to place a safety audit and assessment report for consideration in the board or management committee meetings or any meeting for consideration and finalisation of accounts.

#### **Section 111. Obligations of workers.-**

(1) No worker in a factory -

(a) shall wilfully interfere with or misuse any appliance, convenience or other things provided in a factory for the purposes of securing the health, safety or welfare of the worker therein;

(b) shall wilfully and without reasonable cause do anything likely to endanger himself or others; and

(c) shall wilfully neglect to make use of any appliances or other things provided in the factory for the purposes of securing the health or safety of the workers therein.

(d) Counselling and subsequently warning may be adopted to introduce discipline in the work place.

(2). If any worker employed in a factory contravenes any of the provisions of this section or of any rule or regulation or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

#### **Section 111A. Right of workers, etc.-**

Every worker shall have the right to -

(i) obtain from the occupier, information relating to worker's health and safety at work,

(ii) get trained within the factory wherever possible, or, to get himself sponsored by the occupier for getting trained at a training centre or institute, duly approved by the Chief Inspector, where training is imparted for workers' health and safety at work

(iii) represent to the Inspector directly or through his representative in the matter of inadequate provision for protection of his health or safety in the factory through a toll free helpline operated by the CIF and commissioned by the regulator.

iv) The occupier may hold mentoring sessions at such intervals as deemed fit to impart positive attitude and camaraderie in the work place

#### **Section 112. General power to make rules.- replaced**

(1) The Central Government, may delegate the power to the regulator to frame rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the provisions of this Act in any factory or in any class or description of factories .

(2) The regulator appointed by the Central Government may by notification after completion of such processes, as public disclosure, consultation and notified public hearing and any other method deemed fit to provide adequate forum for discourse, on any matter frame regulations with a view to bring uniformity in the areas of safety and

such other matters as it may consider necessary to further improve safety, hygiene and protection of health in the workplace.

(3) Regulator shall work on scientific evidence to appropriately recommend to the Central Government to notify in Rules to list industries involving hazardous processes, define and list hazardous substance, permissible level of certain chemical substances in work environment, and list of notifiable diseases and such other as deemed appropriate to ensure work place safety and shall always keep it up to-date and contemporary.

### **Section 113. Powers of Centre to give directions.-**

The Central Government may give directions to Regulator as to carrying into execution of the provisions of this Act and or promoting safety, health , hygiene in the factory.

(a) The Central Government may give directions to the state government in cases of managing/ mitigating measures in cases of serious accidents threatening human lives or environment and may despatch central teams of professionals to aid and assist the state government in case of a disaster.

### **Section 114. No charge for facilities and conveniences**

State government may frame rules in all matters related to chapter V of the Act , subject to any general guidelines, prescribed by the regulator

### **Section 115. Publication of rules. -**

(1) All rules made under this Act shall be published in the official Gazette and shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than forty-five days from the date on which the draft of the proposed rules was published.

(2) Every rule made by the state Govt under this Act shall be laid, as soon as may be, after it is made, before the state Legislature.

(3) ) Every rule and regulation made by the Central Govt or the Regulator under this Act shall be laid, as soon as may be, after it is made, before the Parliament.

### **Section 116. Application of Act to Government factories.-**

Unless otherwise provided this Act shall apply to factories belonging to Central or any State Government.

### **Section 117. Protection of the persons acting under this Act.-**

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

### **Section 118. Restriction on disclosure of information.-**

(1) No Inspector shall, while in service or after leaving the service disclose otherwise than in connection with execution, or for the purposes, of this Act, any information relating to any manufacturing of commercial business or any working process, which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise or, for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1) he shall be punishable with imprisonment for a term, which may extend to six months or with fine, which may extend to **six thousand rupees**( indexed with PRICE INDEX), or with both.

#### **Section 118A. Restriction on disclosure of information.-**

- (1) Every Inspector shall treat as confidential the source of any complaint brought to his notice on the breach of any provision of this Act. Every such informant shall get protection under the Whistle blower Act.
- (2) omit

Provided that nothing in this sub-section shall apply to any case in which the person who has made the complaint has consented to disclose his name.

#### **Section 119. Act to have effect notwithstanding anything contained in Act 37 of 1970.-**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Contract Labour (Regulation and Abolition) Act, 1970 or any other law for the time being in force.

#### **Section 120. Repeal and savings.-**

The enactment set out in the Table appended to this section are hereby repealed:

Provided that anything done under the said enactments, which could have been done under this Act, if it had been in force, shall be deemed to have been done under this Act.!!!!

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**Schedule I****Role and functions of the regulator**

- OSHBI will evolve its own rules of procedure to function and modalities of its procedure to discharge its mandate;
- While framing regulation, It would prepare concept note, make a public notification and conduct public hearing in open forum before notifying any regulation.
- Shall frame regulations/ rules on qualifications, experience, competency level of Inspectors/ Dy. Chief Inspectors of factories / joint chief inspectors of factories / chief inspector of factories.
- Shall frame separate regulations on qualifications, experience, competency level, licensing conditions of competent persons;
- Always keep abreast with new technology and update regulation and regulatory standards in line with technological evolution. Regulatory standards, so prescribed, shall always promote safer and better technology and avoid technology lock-in ;
- Make easily available regulatory content and prescriptions for self-certified declarations by the person with ultimate control
- Make easily available regulatory content for competent persons
- Make easily available content for the inspection scheme
- Prepare and disseminate list of hazardous substance and processes and keep it up to date
- Prepare and disseminate list of dangerous operations
- Create an web service portal for filing online application for registration and approval for setting up of factories for all jurisdictions and for an web enabled risk weighted inspection system ;
- Foster transparent, objective, scientific and easier regulation and regulatory practice,
- Publish separate regulations on standards, standard operating procedure, inspection scheme on health, hygiene, safety, hazardous substance, hazardous process, dangerous operations, working conditions, welfare measures
- Prescribing such forms( unified) to capture complete data relevant for safety, health and hygiene, working conditions and ensure an compliance scheme
- Developing scientific material for education and training on issues pertaining to OSH, certification, licensing,

- collaboration for developing adequate number of safety managers/officers in the country;
- Developing professionally sound personnel for Safety Audit and protocol for safety practice;
- Collaboration with other Government agencies in other countries on OSH issues;
- Collaboration with international standard organizations on safety and developing a modern Indian safety practice;
- Promoting institution of higher research on OSH issues;
- Fostering a culture of partnership of all stake holders in promoting safe place, and sustainable environment
- Promoting a culture of voluntary and adequate disclosure of any matter impacting on safety, health and environment.
- Institution of Awards for safety officials for outstanding contribution in the OSH field;
- Cost effective/competitive compliance system on occupational safety and health;
- Promoting building, workplace interior design for smaller work space and making available in the public domain;
- Certifying Standard authorities of other countries;
- Creating a panel of certified structural engineers and or consultants for certification of structure for safety and stability;
- Database building, documentation, and promoting awareness;
- Any other, which not only promote safety but also makes manufacturing easier and safer, either assigned by the Central Government or suo moto deemed fit to initiate by OSHBI on emerging circumstances after taking the approval of the union government;

**Schedule II**  
**Power of the Regulator to make changes through regulation**

<b>Section</b>	<b>Details of SOP/Standards</b>
2 caa Competent Person	Qualification, Experience, Standards of Competency
2cb Hazardous Process	Activity of hazardous process
2b(II) Hazardous Substances	Procedure, safeguard, guidelines to handle hazardous substances
6(1)	Development of format for application of factory registration which have to ensure safety, hygiene, health & welfare. Standard drawing of the structure & layout plan with specific features of the factory Empanel such venders/certified engineers or pre approved design from certified engineers List of certification from standards setting authorities
7 A General Duties of the Occupier	1. Notification of safe guards to ensure safety, hygiene, health & welfare. 2. Aadhar enabled biometric attendance system
7 B General Duties of the Manufactures	Appropriate jurisdiction of Standards certification authority
<b>Chapter II</b>	<b>Inspection scheme and compliance</b>
8 Inspectors	Qualification, Experience, level of Competency of Inspectors
9- Power & Responsibility of Inspectors	Notification of such other powers as necessary.
10- Certifying Surgeons	Qualification, Experience of the certifying surgeons
<b>Chapter-III A</b>	<b>Health and Safety Measures</b>
11-Cleanliness	Standards & manner cleanliness in the factory.
12-Disposal of waste & effluents	arrangements for disposal of waste & effluents
13-Ventilation & temperature	Standards for Ventilation & temperature for factories or class or description of factories.
14-Dust & fumes	Standards for the workplace to prevent accumulation and inhalation of the dust & fumes.
16-Artificial humidification	Standards of humidification at work place.
17-Lighting	Standards for sufficient lighting and such other measures as preventing shadow for different process.
18-Drinking Water	Standards and methods of compliance measure.
19-latrines & urinals	Modern hygiene practices for implemented
21-Fencing of Machinery	1. SOP for moving machinery 2. further precautions including framing of SOP, maintenance schedule or standard schedule.
22-work on or near	1. SOPs for such work

machinery in motion	2. Further standards for sufficient reason with sufficient guards.
23-Employment of young person's on dangerous machine	Notification of dangerous machines and its dangerous characters.
24-Striking gear and devices for cutting off power	SOPs of such machines
25-Self Acting machines	Notify measures to deal with this category of machines
26-Casing of new machinery	Manufacturer safeguard or SOPs decided by the Regulator
27-Prohibition of employment of women near cotton openers	Framing and notify SOPs and other safeguards for other category of workers
28-Hoist & Lifts	Notify the period and manner of testing & maintenance schedule
29-Lifting machines, chains, ropes & lifting tackles	Notify the period and manner of testing & maintenance schedule
30-Revolving machines	Notify the effective measures for this type of machines
31- Pressure plant	SOPs of the pressure plant Notify standards and periodicity of testing and manner of its implementation
32-Floors, stairs and means of access	Notify the standards of safe passage.
33-Pits, sumps, openings in floors etc	Notify Standards for securely fencing
34-Excessive weight	Notify standards prescribing the maximum weight for lifting, carrying by adult, young workers
35-Protection of eyes	Notify standards for effective measures to protect the eyes
36-Precaution against dangerous fumes, gases etc.	Regulator may change all or any provisions of this section to further enhance safety
36A-Precaution regarding the use of portable electric light	Standards to work in confined space
37-Explosive or inflammable dust, gas etc	Notify all practicable Measures to work 4B- Certified laboratory or competent person for testing of flameproof electrical equipment 5-Notify changes to all or any provisions of this section to further enhance safety
38-Precautions in case of fire	Notify standards for fire safety and other mitigation measures
39-Power to require specifications of defective parts or test of stability	Notify all practicable measures Notify Standards on stability and prescribe the manner of its incorporation in the safety audit.

40-Safety of buildings & machinery	Notify the intervals for submitting of self certification.
40A-Maintenance of buildings	Notify standards and prescribe such preventive regular measures and life cycle parameters
40B-Safety officer	Notify the number of safety officer Notify the qualification, Experience, duties of the safety officer
41-Power to make rules to supplement this chapter	Notify additional steps
<b>Chapter-IVA-</b>	<b>Provisions relating to Dangerous operations and Hazardous Process</b>
41 AA	Notify Dangerous operations
41 AB	Specifying standards of health & safety to be followed in Hazardous Processes
41A-Constitution of Site Appraisal Committee	Notify such other representation in the committee for meaningful discussion and fast decision
41B-Compulsory disclosure of information by the occupier	Development of Form for disclosure Notify Standards for handling, transportation, storage of hazardous substances
41C-Specific responsibility of the occupier in relation to hazardous processes	Notify the qualification, Experience, duties of the person to work Periodicity & manner of the medical examination of the worker, working in this field
41F-Permissible limits of exposure of chemical and toxic substances	Notify changes in the schedule as frequently as new standards emerge in the scientific domain
<b>Chapter-V</b>	<b>Welfare</b>
42-Washing facilities	Specified the separate wash room for men & women
45-First-aid appliances	Prescribed the size of ambulance room and equipment and number of medical & nursing staff
48-Creches	Standards of health & hygiene of crèches
49-Welfare officer	Notify the qualification, Experience, duties of the welfare officer
50-	Power to make rules to supplement this chapter
<b>Chapter VI-</b>	<b>Working hours of Adults</b>
64-Power to make exempting rule	Frame rules to provide exceptions to application citing justifications or all or any of the sections
<b>Chapter VII-Employment of young person</b>	
68-Non adult workers to carry badge to worn on the chest	c- Notify measurable standards to avoid subjective interpretations
70-Effect of certificate of	Notify standards and such conditions for treating an

fitness granted to adolescent	adolescent as an adult for the purpose of exposure to work similar to an adult.
71-Working hours for adolescent	Notify standards and such conditions on the employment of adolescent person between 14 to 15 years of age.
76-Power to make rule	Prescribe the forms and other conditions for certificates of fitness to be granted under sec-69
<b>Chapter VIII-</b>	<b>Annual leave with wages</b>
83-Power to make rule	Make rules for managers to maintain registers in prescribed format
<b>Chapter IX-</b>	<b>Special Provisions</b>
85-Power to apply the Act to certain premises	Develop a web enabled common service for all jurisdiction to receive self signed declaration, safety audit reports and other information.
88-Notice of certain accidents	Prescribed the time limit and notice format for any accident Considering changes in the regulation as per received accident data
88A-Notice of certain dangerous occurrence	Prescribed the nature of dangerous occurrence Prescribed the time limit and notice format for any dangerous occurrence
89-Notice of certain diseases	Collect information and undertake such mitigating action as is required.
90-Power to direct inquiry into cases of accident or disease	Notify schedule to specify cases of accident or disease.
90 B-Emergency Standards	Lay down emergency standards for enforcement
91A-Safety and occupational health surveys	Prescribed the format for Safety and occupational health surveys.
<b>Chapter XI-</b>	<b>Supplemental</b>
112-General Power to make rules	Make rules to further improve safety, hygiene and protection of health in the work place.
113-Powers of centre to give directions	Carrying in to execution of the provisions of this act and promoting safety, health, hygiene in the factory

**THE FIRST SCHEDULE(to be omitted)**

*[See section 2 (cb)]*

**List of Industries involving hazardous processes**

## 1. Ferrous Metallurgical Industries

- -Integrated Iron and Steel
- -Ferro-alloys
- -Special Steels

## 2. Non-ferrous metallurgical Industries

- -Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium

## 3. Foundries (ferrous and non-ferrous)

- -Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting

## 4. Coal (including coke) industries

- -Coal, Lignite, Coke, etc.
- -Fuel Gases (including Coal Gas, Producer Gas, Water Gas)

## 5. Power Generating Industries

## 6. Pulp and paper (including paper products) industries

## 7. Fertiliser Industries

- -Nitrogenous
- -Phosphatic
- -Mixed

## 8. Cement Industries

- -Portland Cement (including slag cement, puzzolona cement and their products)

## 9. Petroleum Industries

- -Oil Refining
- -Lubricating Oils and Greases

## 10. Petro-chemical Industries

## 11. Drugs and Pharmaceutical Industries

- -Narcotics, Drugs and Pharmaceuticals

12. Fermentation Industries (Distilleries and Breweries)

13. Rubber (Synthetic) Industries

14. Paints and Pigment Industries

15. Leather Tanning Industries

16. Electro-plating Industries

17. Chemical Industries

- -Coke Oven by-products and Coaltar Distillation products
- -Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon, dioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, etc.)
- -Industrial Carbon
- -Alkalies and Acids
- -Chromates and dichromates
- -Leads and its compounds
- -Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)
- -Electrothermal produces (artificial abrasive, calcium carbide)
- -Nitrogenous compounds (cyanides, cyanamides and other nitrogenous compounds)
- -Phosphorous and its compounds
- -Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)
- -Explosives (including industrial explosives and detonators and fuses)

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries

19. Synthetic Resin and plastics

20. Manmade Fibre (Cellulosic and non-cellulosic) Industry

21. Manufacture and repair of electrical accumulators

22. Glass and Ceramics

23. Grinding or glazing of metals

24. Manufacture, handling and processing of asbestos and its products

25. Extraction of oils and facts from vegetable and animal sources

26. Manufacture, handling and use of benzene and substances containing benzene

27. Manufacturing processes and operations involving carbon disulphide

28. Dyes and Dyestuff including their intermediates

29. Highly flammable liquids and gases

**THE SECOND SCHEDULE to be reviewed periodically by the regulator**

*See section 41F*

**Permissible levels of certain chemical substances in work environment**

Substance	Permissible limits of exposure			
	Time average concentration (8 hrs)	Weighted (8 hrs)	Short-term exposure limit (15 min)	
	ppm	mg/m <sup>3</sup>	ppm	mg/m <sup>3</sup>
Acetaldehyde	100	180	150	270
Acetic Acid	10	25	15	37
Acetone	750	1780	1000	2375
Acrelein	0.1	0.25	0.3	0.8
Acrylonitrile-skin	0.2	4.5	--	--
Aldrin-skin	--	0.25	--	0.75
Allyl Chloride	1	3	2	6
Ammonia	0.25	18	35	27
Aniline-skin	2	10	5	20
Anisidine (o-P, isomers)-skin	0.1	0.5	--	--
Arsenic & compounds (as As)	--	0.2	--	--
Benzene	10	20	25	75
Beryllium	--	0.002	--	--
Boron Trifluoride	0.1	0.3	--	--
Bromine	0.1	0.7	0.3	2
Butane	800	1900	--	--
2-Butanon (Methylethyle Ketone MEK)	200	590	300	885
n-Butyl acetate	150	710	200	950

n-Butyl alcohol-skin	C50	C150	--	--
sec/tert. Butyl acetate	200	950	250	1190
Butyl Mercaptan	0.5	1.5	--	--
Cadmium-dust and salts (as Cd)	--	005	--	0.2
Calcium oxide	--	2	--	--
Carbaryl (sevin)	--	5	--	10
Carbofuran (Furadan)	--	0.1	--	--
Carbon disulphide-skin	10	30	--	--
Carbon monoxide	50	40	400	440
Carbonate trichloride-skin	m5	30	20	125
Carbonyl Chloride (Phosgene)	0.1	0.4	--	--
Chlorobenzene (monochloro-benzene)	75	350	--	--
Chloridane-skin	--	0.5	--	2
Chlorine	1	3	3	9
Chloroform	10	50	50	225
bis-Chloromethyl ether	0.001	0.005	--	
Chromic acid and chromates (as Cr)	--	0.05	--	--
Chromous Salts (as Cr)--	0	05	--	--
Copper fume	--	0.2	--	--
Cotton dust, raw	--	0.2	--	0.6
Cresol, all isomers-skin	5	22	--	--
Cyanides (as CN)-skin	--	5	--	--
Cyanogen	10	20	--	--
DDT (Dichlorodiphenyltrichloroethane)	--	1	--	3
Demeton-skin	0.01	0.1	0.03	0.3
Diazinon-skin	--	0.1	--	0.3

DibutylPythalate	--	5	--	10
Dichlorvos (DDVP)-skin	0.1	1	0.3	3
Dieldrin-skin	--	0.25	--	0.75
Dinitrobenzene, all isomers - skin	0.15	1	0.5	3
Dinitrotoluene-skin	--	1.5	--	5
Diophenyl	0.2	1.5	0.6	4
Endosulfan (Thiaden)-skin	--	0.1	--	0.4
Endrin-skin	--	0.1	--	0.3
Ethyl acetate	400	1400	--	--
Ethyl alcohol	1000	1900	--	--
Ethylamin	10	18	--	--
Fluorides (as F)	--	2.5	--	--
Fluorine	1	2	2	4
Formic Acid	5	9	--	--
Hydrazine-skin	0.1	0.1	--	--
Hydrogen Chloride	C5	C7	--	--
Hydrogen Cyanide-skin	C10	C10	--	--
Hydrogen Fluoride (as F)	3	2.5	6	5
Hydrogen Peroxide	1	1.5	2	3
Hydrogen Sulphide	10	14	15	21
Gasoline 300	900	500	1500	
Iodine Co.1	C1	--	--	
Iron Oxide Fume (Fe <sub>2</sub> O <sub>3</sub> )(as Fe)	-	5	--	10
Isoamyl acetate	100	525	125	655
Isoamyl alcohol	100	300	125	450
Isobutyl alcohol	50	150	75	225

Lead, inorg, fumes and dusts (as Pb)	--	0.15	--	0.45
Lindane-skin	--	0.5	--	1.5
Malathion-skin	--	10	--	--
Manganese (as Mn) dust and compounds	--	C05	--	--
Fume	--	1	--	3
Mercury (as Hg)-skin Alkyl compounds	--	0.01	--	0.03
All forms except alkyl vapour	--	0.05	--	--
Aryl and inorganic compounds	--	0.1	--	--
Methyl alcohol (methanol)-skin	200	260	250	310
Methyl cellosolve-skin (2 methoxy ethanol)	5	16	--	--
Methyl Isobutyl Ketone-skin	50	205	75	300
Methyl Isocyanate	0.02	0.05	--	--
Naphthalene	10	50	15	75
Nickel carbonyl (as Ni)	0.05	0.35	--	--
Nitric acid	2	5	4	10
Nitric oxide	25	30	35	45
Nitrobenzene-skin	1	5	2	10
Nitrogen dioxide	3	6	5	10
Oil mist, minerals	--	5	--	10
Oxone	0.1	0.2	0.3	0.6
Parathion-skin	--	0.1	--	0.3
Phenol-skin	5	19	10	38
Phorate (Thimet)-skin	--	0.05	--	0.2
Phosgne (Carbonyl Chloride	0.1	0.4	--	--
Phosphine	0.3	0.4	1	1
Phosphorus (yellow)	--	0.1	--	0.3

Phosphorus pentachloride	0.1	1	--	--
Phosphorus trichloride	0.2	1.5	0.5	3
Picric acid-skin	--	0.1	--	0.3
Pyridine	5	15	10	30
Silane (silicon tetrahydride)	5	7	--	--
Sodium hydroxide	--	C2	--	--
Syrene, monomer (phenylethylene)	50	215	100	425
Sulphur dioxide	2	5	5	10
Sulphur hexafluoride	1000	6000	1250	7500
Sulphuric acid	--	1	--	--
Toluene (Toluol)	100	375	150	560
o-Toluidine-skin	2	9	--	--
Tributyl phosphate	0.2	2.5	0.4	5
Trichloroethylene	50	270	200	1080
Uranium, natural (as U)	--	0.2	--	--
Vinyl chloride	5	10	--	--
Welding fumes	--	5	--	--
Xylene (o-, m, P-isomers)	100	435	150	655
Zirconium compounds (as Zr)	--	5	--	10

C denotes ceiling limit.

Not more than 4 times a day with a least 60 min. interval between successive exposures.

Substance	Permissible time-weighted average concentration (8 hrs)
(i) Silica (a) Crystalline (b) Quartz (1) In terms of dust count (2) In terms of respirable dust (3) In terms of total dust	$10600 / (\% \text{ Quartz} + 10) \text{ mg/m}$ $10 / (\% \text{ respirable quartz} + 2) \text{ mg/mt}$ $10 / (\% \text{ respirable quartz} + 3) \text{ mg/mt}$
(ii) Cristobalite	Half the limits given against quartz.
(iii) Tridymine	Half the limits given against quartz.
(iv) Silica fused	Same limit as for quartz.
(v) (a) Tripoli (b) Amorphous	Same limit as in formula in item 2 given against quartz. 705 mppcm.

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**THE THIRD SCHEDULE To be reviewed by the regulator**

*(See sections 89 and 90)*

**List of notifiable diseases**

1. Lead poisoning including poisoning by any preparation or compound of lead or their sequelae.
2. Lead tetra-ethyl poisoning.
3. Phosphorus poisoning or its sequelae.
4. Mercury poisoning or its sequelae.
5. Manganese poisoning or its sequelae.
6. Arsenic poisoning or its sequelae.
7. Poisoning by nitrous fumes.
8. Carbon bisulphide poisoning.
9. Benzene poisoning, including poisoning by any of its homologues, their nitro or amino derivatives or its sequelae.
10. Chrome ulceration or its sequelae.
11. Anthrax.
12. Silicosis.
13. Poisoning by halogens or halogens derivatives of the hydrocarbons, of the aliphatic series.
14. Pathological manifestation due to -
  - (a) radium or other radioactive substances.
  - (b) X-rays.
15. Primary epitheliomatous cancer of the skin.
16. Toxic anaemia.
17. Toxic jaundice due to poisonous substances.
18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.
19. Byssionosis.
20. Asbestosis.

21. Occupational or contact dermatitis caused by direct contact with chemical and paints. These are of types, that is, primary irritants and allergic sensitizers.
22. Noise induced hearing loss (exposure to high noise levels).
23. Beryllium poisoning.
24. Carbon monoxide.
25. Coal miners' pneumoconiosis.
26. Phosgene poisoning.
27. Occupational cancer.
28. Isocyanates poisoning.
29. Toxic nephritis.

## THE FOURTH SCHEDULE

(see section 92C)

### List of Compoundable Offences

Serial number	Section and rules framed thereunder and orders issued thereunder	Nature of Offence
1.	Section 11 – Cleanliness	Not maintaining cleanliness as per the provisions.
2.	Section 18 – Drinking Water	Not providing and maintaining arrangements for drinking water as per the provisions.
3.	Section 19 – Latrines and Urinals	Not providing latrine and urinal accommodation as per the provisions.
4.	Section 20 - Spittoons	(a) Not providing the spittoons as per the provisions.  (b) Spitting in contravention of sub-section (3) of section 20.
5.	Section 42 – Washing Facilities	Not providing and maintaining washing facilities as per the provisions.
6.	Section 43 – Facilities for storing and drying of wet clothing	Not providing facilities as per the provisions.
7.	Section 44 – Facilities for sitting	Not providing facilities as per the provisions.
8.	Sub-sections (1), (2) and (3) of section 45 – first-aid appliances	Not providing and maintaining first-aid appliances as per the provisions.
9.	Section 46 - Canteens	Not providing and maintaining canteen as per the provisions.
10.	Section 47 – Shelters, rest rooms and lunch rooms	Not providing and maintaining shelters, rest rooms and lunch rooms as per the provisions.
11.	Section 48 - Creches	Not providing and maintaining creches as per the provisions.
12.	Section 50 – Power to make Rules to supplement Chapter V	Not complying with the rules framed under section 50.
13.	Sub-Section (2) of section 53 – Compensatory Holidays	Not displaying the notice and not maintain the register for compensatory holiday.
14.	Sub-section (5) of section 59 – Extra wages for overtime	Not maintaining the prescribed registers.
15.	Section 60 – Restriction on double employment	Allowing a worker double employment on any day.
16.	Section 61 – Notice of periods of work for adults	Not complying with the provisions.

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

### SCHEDULE III

**Power of the Central Government to make changes, on recommendations of the regulator, through rule making power**

Hazardous Process

### SCHEDULE IV

**Power of the Central Government to make changes, on recommendations of the regulator, through rule making power**

Hazardous Substance

### SCHEDULE V

**Power of the Central Government to make changes, on recommendations of the regulator, through rule making power**

Dangerous Operations

### SCHEDULE VI

**Power of the Central Government to make changes, on recommendations of the regulator, through rule making power**

Permissible limits of exposure of chemical and Toxic substances

### SCHEDULE VII

**Power of the Central Government to make Model Rules in the matter of constitution of Site Appraisal Committee**

The Central government shall notify model rules on the recommendation of the Regulator for constitution of Site appraisal Committee and its mode of functioning. The Committee shall be constituted of:-

- (a) the Chief Inspector Factories of the State who shall be its Chairman;
- (b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) ;
- (c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(d) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(e) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(f) a representative of the Department of Environment in the State;

(g) a representative of the Meteorological Department of the Government of India;

(h) an expert in the field of occupational health; and

(i) a representative of the Town Planning Department of the State Government,

(j) A representative of the Applicant or the Applicant

And

(k) not more than three other members who may be co-opted by the State Government who shall be- ,

- a) a scientist having specialised knowledge of the hazardous process which will be involved in the factory,
- b) a representative of the local authority within whose jurisdiction the factory is to be established, and
- c) a person representing civil society of the area/ Taluka.

#### **SCHEDULE**

**Power of the state Government to make changes through rule making power**

Working Conditions

#### **SCHEDULE**

**Power of the state Government to make changes through rule making power**

Leave with wages

**Power of the State government to make changes through rule making power**

#### **SCHEDULE**

**Power of the state Government to make changes through rule making power**

- (a) prescribing maintenance of such registers (80)
- (b) (83)
- © (84) give exemption, on enough justification, by written order
- (e) Overlapping shifts
- (f) Working hours