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STANDING COMMITTEE ON LABOUR

(2014-15)

(SIXTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

THE FACTORIES (AMENDMENT) BILL, 2014

THIRD REPORT



LOK SABHA SECRETARIAT

NEW DELHI

December, 2014/Agrahayana, 1936 (Saka)

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**STANDING COMMITTEE ON LABOUR
(2014-15)**

(SIXTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

THE FACTORIES (AMENDMENT) BILL, 2014

Presented to Lok Sabha on 22nd December, 2014

Laid in Rajya Sabha on 22nd December, 2014



LOK SABHA SECRETARIAT

NEW DELHI

December, 2014/Agrahayana, 1936 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON LABOUR

(2014-15)

DR. VIRENDRA KUMAR-CHAIRPERSON

MEMBERS **LOK SABHA**

- *2. Vacant
3. Shri Rajesh Kumar Diwakar
4. Shri Ashok Dohare
5. Shri Satish Chandra Dubey
6. Shri Devajibhai Govindbhai Fatepara
7. Dr. Boora Narsaiah Goud
8. Shri Rama Chandra Hansdah
9. Shri C.N. Jayadevan
10. Shri Bahadur Singh Koli
11. Shri Kaushalendra Kumar
12. Shri Hari Manjhi
13. Shri R. Parthipan
14. Shri Hariom Singh Rathore
15. Shri YS Avinash Reddy
16. Shri Naba Kumar Sarania (Hira)
- **17. Vacant
18. Shri Kodikunnil Suresh
- ***19. Vacant
20. Shri Mulayam Singh Yadav
- ****21. Chh. Udayan Raje Bhonsle

RAJYA SABHA

22. Shri D. Bandyopadhyay
23. Shri P. Kannan
24. Shri Aayanur Manjunatha
- *****25. Vacant
- *****26. Vacant
27. Shri G.N. Ratanpuri
28. Haji Abdul Salam
29. Shri Tapan Kumar Sen
30. Shri R.K. Sinha
31. Vacant

* Vacancy occurred *vice* Shri Tariq Anwar nominated to Standing Committee on Personnel, Public Grievances, Law & Justice *w.e.f.* 11th September, 2014.

** Vacancy occurred *vice* Shri Giriraj Singh appointed as Minister for State *w.e.f.* 9th November, 2014

*** Vacancy occurred *vice* Shri Kapil Krishna Thakur expired on 13.10.2014.
**** Nominated *w.e.f.* 7th October, 2014.

***** Vacancy occurred *vice* Shri Ranbir Singh Parjapati resigned from the membership of Rajya Sabha *w.e.f.* 1st November, 2014

***** Vacancy occurred *vice* Shri Rajaram retired from Rajya Sabha *w.e.f.* 25.11.2014.

SECRETARIAT

- | | | | |
|----|---------------------|---|----------------------|
| 1. | Shri Devender Singh | - | Additional Secretary |
| 2. | Shri Ashok Sajwan | - | Director |
| 3. | Shri D.R. Mohanty | - | Deputy Secretary |

INTRODUCTION

I, the Chairperson, Standing Committee on Labour (2014-15) having been authorized by the Committee do present on their behalf this Third Report on 'The Factories (Amendment) Bill, 2014' relating to the Ministry of Labour and Employment.

2. The Factories (Amendment) Bill, 2014 was introduced in Lok Sabha on 7.8.2014 and referred to the Committee by the Hon'ble Speaker, Lok Sabha for examination and report within three months i.e. by 16.12.2014 from the date of publication of the reference of the Bill in Bulletin Part- II of Lok Sabha dated 16.09.2014. The Committee obtained extension of time from Hon'ble Speaker to present the Report to the House by 23.12.2014.

3. In the process of examination of the Bill, Committee invited the views/suggestions on the Bill from Trade Unions/Organizations/Individuals through a Press Communiqué and received around 100 views/suggestions. The Committee took evidence of the representatives of the Ministry of Labour and Employment on 8th October, 2014 and 5th December, 2014, besides obtaining written clarifications from them on some major amendments proposed. The Committee also heard the views of some Central Trade Unions viz. CITU, AITUC, BMS and HMS at their sitting held on 4th December, 2014.

4. The Committee considered and adopted the Report at their sitting held on 18th December, 2014.

5. The Committee wish to express their thanks to the representatives of the Ministry of Labour and Employment for tendering oral evidence and placing before the Committee the detailed written notes and post evidence information as desired by the Committee in connection with the examination of the Bill. The Committee also express their thanks to the Trade Unions for appearing before them and all those who furnished useful written suggestions on the proposed amendments.

6. The Committee would like to place on record their deep sense of appreciation for the commitment, dedication and valuable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;
17th December, 2014
26 Agrahayana, 1936 (Saka)

DR. VIRENDRA KUMAR
CHAIRPERSON,
STANDING COMMITTEE ON LABOUR

REPORT**PART-I****I. INTRODUCTORY**

The Factories Act, 1948 (63 of 1948), which is a comprehensive central legislation on safety, health and welfare of labour as well as regulation of conditions of work in factories, was enacted in 1948. The enforcement of the laws concerning safety, health and welfare of labour in Factories is primarily the responsibility of the State Governments under the Factories Act which remains the backbone and the primary means of achieving the desired Occupational Safety and Health (OSH) standards in the Country. In short, the Factories Act enables labour administrators to ensure proper working conditions and prescribe welfare measures for the workers.

2. Since 1948, the Act has been amended seven times i.e. in 1949, 1950, 1951, 1954, 1970, 1976 and 1987. The last comprehensive amendment which was done in 1987, after the Bhopal Gas Tragedy in the year 1984, contained a series of enactments on various legislations on safety, health and environment. A separate chapter regarding provisions relating to hazardous processes was also introduced in the Factories Act in 1987.

3. In view of several developments over the last 27 years viz. changes in the manufacturing practices and emergence of new technologies; ratification of ILO Conventions; Judgements of High Courts/Supreme Court etc., an Expert Committee was constituted on 30th December, 2010, under the Chairmanship of Dr. Narendra Jadhav, Member Planning Commission to examine and make specific recommendations on the amendments to the Factories Act, 1948. Dr. Kaushik Basu, the then Chief Economic Advisor and Shri Prabhat Chaturvedi, the then Secretary, Ministry of Labour and Employment were the Members of the Expert Committee.

4. According to the Ministry, the Expert Committee held extensive discussions with Trade Unions, Employees Associations, Employers Organizations and Other Experts on 19th January, 2011, 10th February, 2011 and 3rd March, 2011. Amongst the Trade Unions represented in the meeting were Bharatiya Mazdoor Sangh (BMS), Indian National Trade Union Congress (INTUC), All India Trade Union Congress (AITUC), Hind Mazdoor Sabha (HMS) and Centre of Indian Trade Union (CITU). Amongst the Employers Organizations represented in the meeting were Federation of Indian Chamber of

Commerce and Industry (FICCI), Confederation of Indian Industry (CII), Associated Chambers of Commerce and Industry of India (ASSOCHAM) and All India Manufacturers Organization.

5. The Expert Committee submitted its report on 23rd June, 2011. The proposals for amendments to the Factories Act were put on the Ministry's website on 6th September, 2011 for inviting comments and suggestions of the public. On 25th April, 2012, the draft Cabinet Note was circulated to the Central Ministries and State Governments. The revised proposal was placed in the public domain on 12th June, 2014. The Cabinet approved the amendments on 30th July, 2014 and the Factories (Amendment) Bill was introduced in Lok Sabha on 7th August, 2014. The Bill contains 64 clauses. A copy of the Bill along with the Statement of Objects and Reasons, Explanatory Notes on the Clauses and Memorandum regarding Delegated Legislation is **at Annexure-I**.

6. The Factories (Amendment) Bill, 2014, *inter alia*, provides the following, namely:—

(a) to amend section 18 of the Act so as to extend the provisions relating to drinking water to all factories irrespective of number of workers;

(b) to amend section 22 of the Act so as to prohibit the pregnant woman or a person with disability to work on or near machinery in motion;

(c) to substitute a new section for existing section 27 relating to “prohibition of employment of woman and children near cotton openers” so as to prohibit employment of young persons, pregnant woman and persons with disabilities in any part of a factory for pressing cotton in which a cotton-opener is at work;

(d) to insert a new section 35A relating to “protection of eyes” so as to impose obligation upon the occupier to make a provision of “Personal Protective Equipment” for workers exposed to various hazards;

(e) to substitute a new section for existing section 36 of the Act relating to “precautions against dangerous fumes, gases, etc.” to provide adequate facilities to the persons who are liable to enter into confined spaces;

(f) to amend section 37 of the Act relating to “explosive or inflammable dust, gas, etc.”, so as to take practical measures against explosion or inflammable dust, gas, etc.;

(g) to amend section 41B of the Act relating to “compulsory disclosure of information by the occupier” to provide for preparation of emergency plan and disaster control measures in consultation with the workers;

(h) to amend section 46 of the Act relating to “canteens” to provide canteen facilities in respect of factories employing two hundred or more workers instead of the present stipulation of two hundred and fifty workers;

(i) to amend section 47 of the Act relating to “shelters, rest rooms and lunch rooms” so as to provide for shelters or rest rooms and lunch rooms in respect of factories employing seventy-five or more workers instead of present stipulation of one hundred and fifty workers;

(j) to substitute a new section for section 66 of the Act providing further restrictions on employment of women;

(k) to insert a new section 112A so as to empower the Central Government to make rules in consultation with the State Governments, with a view to bringing uniformity in the areas of occupational safety, health or such other matters as the Central Government may consider necessary; and

(l) to insert the Fourth Schedule providing a list of compoundable offences.

The Bill seeks to achieve the above objects.

7. The Factories (Amendment) Bill, 2014 as introduced in Lok Sabha was referred by Hon’ble Speaker to the Standing Committee on Labour for examination and report by 16 December, 2014 *vide* notification in Bulletin Part-II dated 16th September, 2014. The Committee obtained permission from Hon’ble Speaker to present the Report to the House by 23rd December, 2014. In the process of the examination of the Bill, the Committee obtained Background Note, written reply/clarifications from the Ministry of Labour and Employment and took their oral evidence. The Committee also heard the views of some Trade Unions viz. CITU, BMS, HMS and AITUC besides obtaining written

Memorandum from them. Moreover, the Committee invited views/suggestions from Unions/Associations Organizations/Individuals through Press advertisements and received approximately 100 written views/suggestions from them. Taking into account the above said written and oral submissions of the Ministry, Trade Unions and other Organizations/Individuals, the Committee discussed some of the relatively major important/significant amendments proposed by the Government in the Factories (Amendment) Bill, 2014.

II. SOME MAJOR/IMPORTANT AMENDMENTS PROPOSED

8. Some of the major/important amendments proposed by the Ministry, the Explanatory Notes thereon for each Clause and the reasons adduced by the Ministry for the proposed Amendments are as under in a tabular form:

Sl. No.	Clause No.	Clause	Explanatory Note	Reasons for proposed amendments
1.	2	The existing section 2(cb) shall be substituted by the following, namely - (cb) "hazardous process" means any process where, unless special care is taken, raw materials, hazardous substances used therein or the intermediate or finished products, bye products, wastes or effluents thereof would- (A) cause material impairment to	The Factories (Amendment), 2014 propose to amend section 2 of the Factories Act, 1948 relating to definitions of "hazardous process"	The term "hazardous process" has to be redefined as a process in which a hazardous substance is used. Since the term 'hazardous substance' is also proposed to be defined as per the Environment (Protection) Act 1986 by introducing a new sub-section 2(cc), with this amendment, the hazardous process will be identified by use of hazardous substance which will be duly notified from time to time under new clause 2(cc). In view of the above, the First Schedule is deleted.

		<p>the health of the persons engaged in or connected therewith; or</p> <p>(B) result in the pollution of the general environment;</p>		
2.		<p>After the section 2(cb), a new clause 2(cc) shall be inserted, namely, -</p> <p>“2(cc) “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;”</p>	<p>The Factories (Amendment), 2014 propose to add new clause section 2(cc) of the Factories Act, 1948 relating to definitions of “hazardous substance”,</p>	<p>The term ‘hazardous substance’ had not been earlier defined though it has been used at a number of places in Chapter IVA of the Act which was introduced by the Factories (Amendment) Act, 1987.</p> <p>It is now proposed to define it in a manner similar to that in the Environment (Protection) Act, 1986.</p>
3.		<p>In clause 2 (m) regarding definition of the “factory” following changes in sub-clauses (i) and (ii) will be carried out –</p> <p>(a) in sub-clause (i), after the words</p>	<p>The Factories (Amendment), 2014 propose to amend section 2(m) of the Factories Act, 1948 relating to definitions of “factory”.</p>	<p>Labour is in the Concurrent List. As per the Federal system, the formulation of Factories Act is within the jurisdiction of the Central Government whereas its implementation is done by the State Governments. Some State Governments propose State</p>

		<p>“whereon ten or more workers”, the words “or such number of workers as may be prescribed by the State Government” shall be inserted;</p> <p>(b) in sub-clause (ii), after the words “whereon twenty or more workers”, the words “or such number of workers as may be prescribed by the State Government” shall be inserted;</p> <p>(c) after sub-clause (ii) but before Explanation. 1, the following proviso shall be inserted, namely: “Provided that the number of workers specified in sub-clause (i) and sub-clause (ii) shall not exceed twenty and forty workers, respectively.”;</p>		<p>amendments to Factories Act from time to time depending on their requirements. These amendments are enacted after approval by the Central Government.</p> <p>There have recently been demands by a few State Governments for increasing the threshold limits in their States for application of Factories Act.</p> <p>It is with this view that the proposal to provide flexibility to States within their jurisdiction for deciding on these threshold limits has been made. However, since, it should not become excessive delegation, the limits have been capped to 20 and 40 workers with power and without power respectively. This will provide flexibility to the State Governments to amend their State Laws as per their requirements.</p>
4.		<p>In clause 2 (n), in the first proviso, the sub-clause (iii) shall be substituted by the following :-</p> <p>“(iii) in the case of a factory owned or</p>	<p>The Factories (Amendment), 2014 propose to amend section 2(n) of the Factories Act, 1948 relating to definitions of “occupier” and “prescribed”</p>	<p>Keeping in view the comments received from the Ministries of the Central Government the existing definition has been retained with only a modification in the proviso relating to the Government owned factories, prescribing the definition of the</p>

		<p>controlled by the Central Government, or any State Government, or any local authority, the person or persons appointed to manage the factory by the Central Government, the State Government or the local authority or such authority as may be prescribed, as the case may be, shall be deemed to be the occupier;”.</p> <p>‘(p) “prescribed” means prescribed by rules made by the Central Government or the State Government, as the case may be, under this Act;’.</p>		<p>occupier through the Rules to be notified for such purposes.</p>
5.		<p>In Section 7B of the principal Act,-</p> <p>(A). for sub-section (5), the following sub-section shall be substituted, namely:-</p> <p>(5) It shall be the duty of a person, —</p> <p>(a) who erects or installs any article for use in</p>	<p>The Bill seeks to amend section 7B of the Act relating to the general duties of manufacturers, etc., as regards articles and substances for use in factories.</p> <p>Under the existing provisions contained in sub-section (5) of said section ,where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by</p>	<p>Section 7B imposes a responsibility on the manufacturer to ensure, inter alia, that plant and machineries are so manufactured as to be safe and without risk to the health of the workers. It is proposed to extend the provisions of the section to hazardous substances.</p> <p>In fact, the title of the section mentions, both articles and</p>

	<p>a factory, to ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;</p> <p>(b) who manufactures, imports or supplies any substance for use in any factory -</p> <p>(i).to ensure, so far as practicable, that such substance is safe and has no risks involved to health of persons working in such factory;</p> <p>(ii) to carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;</p> <p>(iii) to take such steps as are necessary to secure that the information about the results of tests carried out in connection with</p>	<p>the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.</p> <p>It is proposed to substitute sub-section (5) of said section so as to impose responsibility upon a person,- (a) who erects or installs any article for use in a factory, to ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory; (b) who manufactures, imports or supplies any substance for use in any factory -(i) to ensure, so far as practicable that such substance is safe and has no risks involved to health of persons working in such factory;(ii) to carry out or arrange for carrying out of such tests and examination in relation to such substance as</p>	<p>substances though provisions of the section deal only with the article and hence felt necessary to include substances which could also impact the safety and health of the workers.</p> <p>The proposed amendment was examined with reference to provisions existing in other countries and was found that similar provisions in the safety and health statutes do exist in the developed as well as developing countries.</p>
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	<p>the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;</p> <p>(c). who undertakes the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimization of any risks to health or safety to which the substance may give rise out of such manufacture or research.”;</p> <p>(B) in sub-section (6), for the word “<i>article</i>” at both the places where it occurs, the words “<i>article or substance</i>” shall be substituted;</p> <p>(C) for the <i>Explanation</i>, the following</p>	<p>may be necessary;(iii) to take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;</p> <p>(c) who undertakes the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimization of any risks to health or safety to which the substance may give rise out of such manufacture or research”. It is also proposed to substitute sub-section (6) and the <i>Explanation</i> to said section in the light of addition of the word “substance”.</p>	
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		<p><i>Explanation</i> shall be substituted, namely:-</p> <p><i>Explanation.</i>— For the purposes of this section -</p> <p>(a) “article” shall include plant and machinery;</p> <p>(b) “substance” means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and</p> <p>(c) “substance for use in any factory” means any substance whether or not intended for use by persons working in a factory.”</p>		
6.	8.	<p>In Section 18 of the principal Act, in sub-section (3) the following words shall be omitted-</p> <p>“wherein more than two hundred and fifty workers are ordinarily employed.”</p>	<p>The Bill seeks to amend section 18 of the Act relating to the provision of drinking water.</p> <p>Under the existing provisions contained in sub-section (3) of said section, in every factory wherein more than two hundred and fifty workers are ordinarily employed provision shall be made for cool drinking water during hot weather by effective means and for distribution thereof. It is proposed to amend sub-section (3) of the said</p>	<p>Even in the factories or other places where 5 or more workers are ordinarily employed it was felt that they are also used to taking cool drinking water after taking the meals in hot weather.</p>

			<p>section so as to omit the words, “wherein more than two hundred and fifty workers are ordinarily employed”. By the omission of the said words the responsibility lies upon each and every factory, to provide the facilities of cool drinking water during hot weather by effective means, irrespective of strength of workers.</p>	
7.	11	<p>In section 22 of the principal Act, —</p> <p>in sub-section (1), for the words and brackets “adult male worker wearing tight fitting clothing (which shall be supplied by the occupier),” the words and brackets “adult male worker wearing tight fitting clothing or adult female worker wearing tight fitting clothing (which shall be supplied by the occupier), covering loose hair” shall be substituted.</p> <p>in sub-section (2), for the word “woman” at both the places where it occurs, the words “pregnant woman or a</p>	<p>The Bill seeks to amend section 22 of the Act relating to the provision of work on or near machinery in motion.</p> <p>Under the existing provisions contained in sub-section (2) of said section ,no woman or a young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.</p> <p>It is proposed to amend sub-section (1) of section 22 for the words and brackets “adult male worker wearing tight fitting clothing (which shall be supplied by the occupier)” shall be replaced as “adult</p>	<p>The Task Force on women and child development had recommended for restricting the employment only for pregnant women, person with disability and young person below the age of 18 years. This was suggested in order to promote gender equality at the work place.</p>

		<p>person with disability” shall be substituted;</p>	<p>male worker wearing tight fitting clothing or adult female worker wearing tight fitting clothing (which shall be supplied by the occupier) covering loose hair.”</p> <p>It is also proposed to amend sub-section (2) of said section so as to prohibit the pregnant woman or a person with disability instead of “women”.</p> <p>It is also proposed to amend sub-section (3) of said section, so as to substitute the words “the State Government” by the words “the Central Government or the State Government”, which is consequential in nature.</p>	
8.	35	<p>In section 47 of the principal Act, —</p> <p>(a) in sub-section (1),—</p> <p>(i) for the words “one hundred and fifty”, the word “seventy five” shall be substituted;</p> <p>(ii) for the words “suitable shelters or rest rooms”, the words “suitable and separate shelters or rest rooms for male and female workers” shall be substituted;</p> <p>(iii) in the first</p>	<p>The Bill seeks to amend section 47 of the Act relating to Shelters, rest rooms and lunch rooms.</p> <p>Under the existing provisions contained in the sub-section (1) of the said section, in every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers. The proviso to the said section says that any canteen maintained in</p>	<p>1. In light of the proposed amendments to the provisions under Section 46, reducing the applicability of canteen requirement from the present 250 or more workers 200 or more workers, it was felt necessary to revise the limit, for rest room, shelter and lunch room.</p> <p>2. The Task Force on women and child development recommended separate shelters / rest rooms for male and female workers to ensure privacy and better relaxation amongst the workers of both sex. This is also in line with the separate facilities for urinals, washing places</p>

		<p>proviso, for the words “as part of the requirements”, the words “as part of requirement relating to the lunch room” shall be substituted.</p> <p>(b) after sub-section (3), the following sub-section shall be inserted, namely : —</p> <p>“(4) The Chief Inspector may, subject to such conditions as may be specified by him, after recording the reasons, relax the requirement of sub-section (1), for a period not exceeding twelve months for existing factories to provide the facility of shelters, restrooms and lunch rooms.”.</p>	<p>accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section.</p> <p>It is proposed to amend sub-section (1) of said section so as to impose responsibility on the employer of every factory to provide shelters and restrooms wherein seventy five workers are ordinarily employed. The said clause also substitutes the words “suitable and separate shelters or restrooms for male and female workers” for the words “suitable shelters or rest rooms”. The said clause also proposes to insert a new sub-section (4) so as to empower the chief Inspector to relax the requirement of providing of shelters, restrooms and lunch rooms, for a period not exceeding twelve months, for existing factories after recording the reasons.</p>	<p>as provided under Sections 19 and 42 of the Factories Act.</p> <p>3. The expression ‘as part of the requirement was not explanatory enough to specify it as ‘lunch room’.</p>
9.	36.	<p>In Section 56, in the proviso clause , the following proviso shall be substituted :-</p> <p>“Provided that where the State Government is satisfied, it may, by notification in</p>	<p>The Bill seeks to amend section 56 of the Act relating to spread over.</p> <p>Under the existing clause the proviso provides for the Chief Inspector may increase the spread over upto 12 hours for reasons to be specified in writing.</p> <p>It is proposed to amend the proviso</p>	<p>This provision needs to be kept in view of the special requirement of certain classes of industry and empowering the state government to notify the same in official gazette in a factory or group or class or description of factories.</p>

		the Official Gazette, increase the period of spread over upto twelve hours in a factory or group or class or description of factories ”	clause where the State Government is satisfied it may by notification in official gazette increase the period of spread over upto 12 hours in a factory or group or class or description of factories.	
10.	38.	<p>In section 64 of the principal Act, —</p> <p>(a) in sub-section (4), in sub-clause (iv), for the word “fifty”, the words “one hundred” shall be substituted;</p> <p>(b) in sub-section (5), for the words “Rules made”, the words, brackets and figures “Rules made before the commencement of the Factories (Amendment) Act, 2014” shall be substituted.</p>	<p>The Bill seeks to amend section 64 of the Act relating to power to make exempting rules.</p> <p>Under the existing provisions contained in clause (iv) of sub-section (4) of said section, the total number of hours of overtime shall not exceed fifty for any one quarter.</p> <p>It is proposed to amend clause (iv) of sub-section (4) of said section so as to increase the total number of hours of overtime for any one quarter from fifty to one hundred. It is also proposed to amend sub-section (5) of said section so as to substitute the words “Rules made” by the words “Rule made before the commencement of Factories (Amendment) Act, 2014”.</p>	<p>1. The need for increasing the limit of overtime work beyond 50 per quarter prescribed under sub-section (4) of Section 64 was discussed in the 43rd Conference of CIFs. The maximum permissible overtime work up to 50 hours per quarter was felt inadequate for some exceptional work which are urgent in nature and need to be completed within a short period of time.</p> <p>2. It was decided to enhance the limit under Section 64(4) from 50 to 100 hours per quarter with exempting rules to State Governments/CIFs subject to the control of State Govt.</p>
11.	40.	<p>For section 66 of the principal Act, the following section shall be substituted, namely:—</p> <p>“66. The provisions of this Chapter shall, in their application to</p>	<p>The Bill seeks to substitute a new section 66 for section 66 of the Act relating to further restrictions on employment of women.</p> <p>The existing provisions contained in the said section provides further restrictions on employment of women that-(a) no exemption</p>	<p>Many women’s organisations have filed writ petitions in High Courts of Chennai, Andhra Pradesh and Gujarat challenging that the provisions contained in Section 66 are discriminatory and biased. Some of the High Courts have allowed employment of women during night</p>

	<p>women in factories, be supplemented by the following further restrictions, namely,—</p> <p>(a) no exemption from the provisions of section 54 may be granted in respect of any women;</p> <p>(b) there shall be no change of shifts except after a weekly holiday or any other holiday; and</p> <p>(c) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.:</p> <p>“Provided that where the State Government or any person, authorised by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies’ toilets, equal</p>	<p>from the provisions of section 54 may be granted in respect of any women; (b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.; (c) there shall be no change of shifts except after a weekly holiday or any other holiday.</p> <p>Sub-section (2) of the said section provides that the State government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.</p> <p>Sub-section (3) of the said section provides that the rules made under sub-section (2) shall remain in force for not more than three years at a time.</p> <p>It is proposed to substitute a new section 66 to the said section so as to provide that where the State Government or any person, authorized by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards</p>	<p>shifts.</p> <p>The ILO had adopted a protocol relating to Night Work (Women) Convention (Revised), 1948. Under the provision of the protocol the competent authority in a country under the national law and regulation is authorized to modify the duration of the night shifts or to introduce exemption from provisions within certain safeguards and provision of transport from the factory premises to the doorstep of the female workers.</p> <p>This will also provide flexibility in the matter of employment of women during night.</p>
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	<p>opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the door step of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, the employer, representative organisation of the employer and representative organisation of workers of the concerned factory, or group or class or description of factories allow women to work between 7.00 P.M. and 6.00 A.M. in such factory or group or class or description of factories, subject to such conditions as may be specified therein:</p> <p>Provided further</p>	<p>occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies toilets, equal opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the door step of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, representative organization of women workers, the employer, representative organization of the employer and representative organization of workers of the concerned factory or group or class or description of factories allow women to work between 7.00 P.M. and 6.00 A.M. in such factory or group or class or description of factories, subject to such conditions as may be specified therein.</p> <p>It is further proposed to provide that no such permission shall be granted to a women worker during a period of sixteen weeks before and after her childbirth, of which at least eight weeks shall be before the expected childbirth, and for such additional period, if any, as specified in the medical</p>	
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		<p>that no such permission shall be granted to a woman worker during a period of sixteen weeks before and after her childbirth, of which at least eight weeks shall be before the expected childbirth, and for such additional period, if any, as specified in the medical certificate stating that it is necessary for the health of the woman worker or her child:</p> <p>Provided also that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered.”</p>	<p>certificate stating that it is necessary for the health of the woman worker or her child.</p> <p>It is also proposed to provide that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered.</p>	
12.	49.	<p>The existing section 92 shall be substituted by the following :-</p> <p>92. General</p>	<p>The Bill seeks to substitute section 92 of the Act relating to General penalty for Offences.</p> <p>Under the existing</p>	<p>The issue regarding imposition of penalties by the courts in the cases filed under Section 92 of the Factories Act was discussed and several</p>

	<p>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 (except sections 11, 18, 19 and 20), IV, IVA (except sections 41B, 41C and 41H), VII and IX (except section 89) of this Act or of any rules 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 or with fine which may extend to three lakh rupees or with both, and in any case it shall not be less than thirty thousand rupees:</p> <p>Provided that where the contravention of any of the provisions of</p>	<p>provisions contained section 92 of the Act, Save as is 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 any of the provisions of this Act or of any rules made there under or of any order in writing given there under, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to one thousand rupees for each day on which the contravention is so continued. The proviso to said section says that where contravention of any of the provisions of Chapter IV or any rule made there under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than twenty five thousand in the case of an accident causing death, and five thousand rupees in the case of an accident causing serious bodily injury. According to Explanation to this section and section 94 "serious bodily injury" means an injury which</p>	<p>stakeholders expressed desirability of enhancing the penalty in case of certain provisions relating to safety and health of workers. It was also felt that Section 92 and 93 may be amended suitability and a provision of compounding of offences and provision of penalties to persons other than the Occupier is introduced. Similarly penalty provision for contravention of Section 7B is also provided.</p> <p>The amount of fines has been also proposed to be increased by 3 times since the last amendment was done in the year 1987.</p>
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	<p>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 seventy-five thousand rupees.</p> <p>(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 for each day on which the contravention is so continued.</p> <p>(3) 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</p>	<p>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. It is proposed to substitute section 92 of the Act in the form of section 92, section 92A, section 92B and section 92C.</p> <p>It is proposed that in case of contravention of the provisions of Chapter 1, III (except sections 11,18,19 and 20), IV,IVA (except sections 41B,41C and 41H),VII and IX (except section 89) of this Act, or of any rules 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 or with fine which may extend to three lakh rupees or with both, and in any case it shall not be less than thirty thousand rupees. It is further proposed that ,- (i) where the contravention of any of the provisions of the Chapters referred to in sub-section (1) or rules made there under</p>	
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	<p>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 and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees for each day on which the contravention is so continued.</p> <p><i>Explanation.-</i> 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</p>	<p>has resulted in an accident causing death or serious bodily injury, the fine shall not be less than seventy-five thousand rupees; (ii) if the contravention is continued after conviction under subsection (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 for each day on which the contravention is so continued; (iii) in respect of any contravention of any of the provisions of this Act or any rules made there under or any order in writing given there under other than those mentioned under subsection (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 and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees for each day on which the contravention is so continued. It is further proposed to consolidate the provisions relating to penalties for violation of various provisions of the Act by a person other than occupier.</p>	
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	<p>one bone or joint) of any phalanges of the hand or foot.</p> <p>2. After Section 92, the following sections shall be inserted:-</p> <p>92A. Penalties for offences by persons other than occupier.</p> <p>If any person, who designs, manufactures or imports or supplies any article or substance for use in a factory and contravenes any of the provisions of section 7B, 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 or with both.</p> <p>92B. Penalties in certain other cases.</p> <p>(1) If any competent person appointed under clause (ca) of section 2 fails to comply with any of the provisions of</p>	<p>It is further to insert a new Section 92B as penalty for offences by others than the occupier such as the competent person, medical practitioner or any worker. If any competent person appointed under clause 2(ca) fails to comply with any of the provisions under the act or rules he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extends to three lakh rupees or with both. It is also proposed as a consequential due to amendment of section 20, section 89, section 97 and section 111 of the Act. It is also proposed to compound in respect of offences specified in the Fourth Schedule to the Act namely section 92C which relates to Compounding of certain offences.</p>	
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	<p>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 or with both.</p> <p>(2) If any worker employed in a factory spits in contravention of sub-section (3) of section 20, he shall be punishable with fine not exceeding one hundred rupees.</p> <p>(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.</p> <p>(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</p>		
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	<p>thereunder, he shall be punishable with fine which may extend to one thousand five hundred rupees.</p> <p>92 C. Compounding of certain offences</p> <p>(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:</p> <p>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</p>		
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		<p>offence specified in the said Schedule.</p> <p>(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.</p> <p>(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)."</p>		
13.	51.	<p>In Section 94 of the principal Act, (a) In sub-section (1), —</p> <p>(i) for the words "<i>ten thousand rupees but which may extend to two lakh rupees</i>", the words "<i>forty thousand rupees which may extend to six lakh rupees</i>" shall be substituted;</p> <p>(ii) in the first</p>	<p>The Bill seeks to amend section 94 of the Act relating to the enhanced penalty after previous conviction.</p> <p>Under the existing provisions contained in sub-section (1) of said section, if any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a</p>	<p>Consequential amendment to enhance fine amount which was last increased in 1987.</p>

	<p>proviso, for the words “<i>ten thousand rupees</i>”, the words “<i>forty thousand rupees</i>” shall be substituted;</p> <p>(iii) for the second proviso, the following proviso shall be substituted, namely: -</p> <p>“Provided further that where contravention of any of the provisions of the Chapters mentioned in sub-section (1) of section 92 or of any rules made there under has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one lakh rupees.”</p> <p>(b) after sub-section (1), as so amended, the following sub-section shall be inserted, namely—</p> <p>“(1A) If any person who has been convicted of any offence punishable under section</p>	<p>term which may extend to three years or with fine which shall not be less than ten thousand rupees but which may extend to two lakh rupees or with both. The proviso to the said section says that - (i) the court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than ten thousand rupees;(ii) where contravention of any of the provisions of Chapter IV or any rule made there under or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than thirty five thousand rupees in the case of an accident causing death and ten thousand rupees in the case of an accident causing serious bodily injury.</p> <p>It is proposed to amend sub-section (1) for the words “ten thousand rupees but which may extend to two lakh rupees” the words “forty thousand rupees which may extend to six lakh rupees’ may be substituted and the first proviso relating to the said section for the words “ten thousand rupees” the words “forty thousand rupees” shall be substituted so as to enhance the existing penalties for contravention of various provisions of the Act as these cannot be kept low and need to be</p>	
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	<p>92A is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction,-</p> <p>(i) in case of contravention of sub-section (1) of section 92A, with imprisonment for a term which may extend to one year or with fine which shall not be less than forty thousand rupees but which may extend to five lakh rupees or with both; and</p> <p>(ii) in case of contravention of sub-section (2) of section 92A, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both;”</p> <p>(c) in sub-section (2), after the words, bracket and figure “sub-section (1)”, the words, bracket, figure and letter</p>	<p>made more stringent.</p> <p>The second provision of sub-section (1) has been substituted as where contravention of any of the provisions of the chapters mentioned in sub-section (1) of section 92 or of any rules made there under has resulted in an accident causing death or serious bodily injury the fine shall not be less than one lakh rupees.</p> <p>It is also proposed to insert sub-section (1A) so as to provide that if any person who has been convicted of any offence punishable under section 92A is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction,-</p> <p>(i) in case of contravention of sub-section (1) of section 92A, with imprisonment for a term which may extend to one year or with fine which shall not be less than forty thousand rupees but which may extend to five lakhs rupees or with both; and (ii) in case of contravention of sub-section (2) of section 92A, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both. It is also proposed to amend sub-section (2) of said section so as to insert the words,</p>	
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		“and sub-section (1A)” shall be inserted.	brackets, and figure and letter “sub-section (1A)” after the words, brackets, and figure “sub-section (1).	
14.	52.	<p>In Section 95 of the principal Act, for the portion beginning with the words “being examined by, an Inspector” and ending with the words “ten thousand rupees or with both”, the following shall be substituted, namely:-</p> <p><i>“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 implementation of the provisions of the Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand</i></p>	<p>The Bill seeks to amend section 95 of the Act relating to penalty for obstructing inspector.</p> <p>Under the existing provisions contained in said section, whoever willfully 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 registers or other documents in his custody kept in pursuance of this Act or of any rules made there under, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.</p> <p>It is proposed to amend said section so as to enhance the penalty from ten thousand rupees to thirty thousand rupees.</p>	<p>It is necessary for the occupier to provide necessary assistance in carrying out the duties by the inspector.</p> <p>It is a consequential amendment, raising the fine amount which was last increased in 1987.</p>

		<i>rupees or with both”.</i>		
15.	53.	<p>Penalty for wrongfully disclosing results of analysis under section 96</p> <p><u>In the last sentence of the provision, for the words “ten thousand rupees”, the words “thirty thousand rupees” shall be substituted.</u></p>	<p>The Bill seeks to amend section 96 of the Act relating to penalty for wrongfully disclosing results of analysis under section 91.</p> <p>Under the existing provisions contained in said section, whoever wrongfully discloses results of analysis under section 91 shall be punishable with fine which may extent to ten thousand rupees.</p> <p>It is proposed to amend said section so as to enhance the penalty from ten thousand rupees to thirty thousand rupees</p>	Consequential amendment to enhance fine amount which was last increased in 1987.
16.	54.	<p>In Section 96-A of the principal Act, -</p> <p>For the words “two lakh rupees” the words “six lakh rupees shall be substituted.</p> <p>And for the words “five thousand rupees”, the words “fifteen thousand rupees” shall be substituted.</p>	<p>The Bill seeks to amend section 96A of the Act relating to Penalty for contravention of the provisions of sections 41B, 41C and 41H.</p> <p>Under the existing provisions contained in sub-section (1) said section, whoever fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made there under, 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 two lakh rupees, and in case the failure or contravention</p>	Consequential amendment to enhance fine amount which was last increased in 1987.

			<p>continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.</p> <p>It is proposed to enhance the fine from two lakh rupees to six lakh rupees and from five thousand rupees to fifteen thousand rupees in order to make the provisions more stringent</p>	
17.	62.	<p>After Section 112, a new Section 112A to empower the Central Government to make rules may be inserted as follows:</p> <p>“112A. Power to make rules by the Central Government.-</p> <p>“112A. (1) The Central Government shall, by notification, and consultation with the State Governments, frame rules with a view to bring uniformity in the areas of occupational safety, health or such other matter as it may consider</p>	<p>The Bill seeks to amend section 112 of the act relating to General power to make rules by State Government. The said clause empowers the State Government to make rules for carrying out the provisions of the proposed legislation.</p> <p>It is proposed to amend the section 112 by inserting the words “subject to the provisions contained in section 112A” thus empowering the State Governments to make rules where the Central Government has not been empowered to make rules.</p>	<p>The Conference of State Labour Ministers held in November 7, 1988 felt that there should be uniform rules under the Act throughout the country on important aspects of occupational safety and health. The Central Government should therefore have the power to frame rules under the Act apart from the State Governments which have power under Section 112 of the Act.</p> <p>The Central Government should, however, finalize the Rules after consultation with the State Government.</p> <p>The Conference also recommended that provisions should be made to avoid conflict between the Central and the State Rules (in the same manner as legislation in the</p>

	<p>necessary.</p> <p>(2) Every rule made by the Central Government shall be laid, as soon as, may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of</p>		concurrent field).
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		anything previously done under that rule.”		
18.	63.	First Schedule may be omitted	<i>The Bill seeks to omit First Schedule to the Act. The said Schedule specifies list of industries involving hazardous processes. The said proposal is consequential due to amendment of clause (cb) of section 2 of the Act, relating to the definition of “hazardous process” and insertion of a new clause (cc) relating to the definition of the term “hazardous substances”.</i>	In light of the proposed amendment to the definition of hazardous process under Section 2(cb), the First Schedule is omitted.

III. CLAUSE 2 OF THE BILL - DEFINITIONS

9. Clause 2 of the Bill seeks to amend section 2 of the Factories Act, 1948 relating to definitions of ‘hazardous process’; ‘hazardous substance’; ‘Factory’; and ‘Prescribed’. As mentioned earlier, the Ministry have contended that since the term ‘hazardous substance’ is also proposed to be defined as per the Environment (Protection) Act, 1986 by introducing a new sub-section 2(cc), with this amendment, the hazardous process will be identified by use of hazardous substance which will be duly notified from time to time under the new sub-section 2 (cc). The Ministry have further reasoned that the term ‘hazardous substance’ had not been earlier defined though it has been used at a number of places in Chapter IV A of the Act which was introduced *vide* the Factories (Amendment) Act, 1987. It is now proposed to define it in a manner similar to that in the Environment (Protection) Act, 1986.

10. In the above context, the Committee received a number of suggestions from Trade Unions/Organizations/Individuals that the earlier provisions of the definition of ‘hazardous process’ should not be deleted. In view of the above said suggestions, the

Committee desired to know the rationale for the proposal to remove the definition of 'hazardous process' as contained in Section 2 of the Principal Act. In reply, a representative of the Ministry submitted in evidence:

"This particular issue has been repeatedly discussed in the Conferences of Chief Inspector of Factories from various States. Till now, there has been only 29 processes which were enlisted over there...There is always a chance that 'process' is not there, but 'substance' will still be there. So, what was felt in the Conference of Chief Inspector of Factories was that by removing the list of only 29 processes substituting it with the name of the 'substance' will make this more stringent...Apart from that, it will be in line with other statues of the country..."

11. Not convinced with the reasoning, the Committee queried whether it was not a fact that there were certain 'hazardous processes' in certain industries where substance was not involved always. In response, the representative of the Ministry stated in evidence:

"...Right now, we talked about dangerous operation also which is covered under Section 87. We are not touching that. That provision will remain as it is. Dangerous Operation will still remain there..."

12. The Committee then asked about the impediments that would surface, should both 'process' and 'substance' were allowed to co-exist in the Act and the pressing need to dilute the definition of 'hazardous process'. In reply, the representative of the Ministry submitted:

"Had there been any dilution, the Chief Inspector of Factories would not have agreed to it".

IV FIRST SCHEDULE

13. In view of the above said proposed amendment to the definition of hazardous process vide Clause 2 of the Bill, the Ministry propose to delete the First Schedule of the Act.

14. In the above context, the Committee received suggestions from various quarters that the said schedule has specified the list of industries involving hazardous process and the proposed deletion of the schedule is a dangerous proposition and not in the interest of the workers or the public. The Government of Goa also suggested that the First Schedule need not be deleted but be made more specific in regard to the hazardous process in different types of industries.

15. In view of the above suggestions, when the Committee desired to have the comments of the Ministry, they stated that it was proposed to link the hazardous process in relation to the hazardous substance to be used and as may be prescribed in the Rules.

V. CLAUSE 2 (M) – THRESHOLD LEVEL

16. As mentioned earlier, the Government proposes to enhance the threshold level of employment from 10 to 20 workers (in case of factories using power) and from 20 to 40 workers in case of factories (not using power) *vide* Clause 2 (m).

17. In the above context, the Committee received a number of suggestions from various quarters voicing if the amendments are carried out, more number of factories and their workers will be thrown out of the coverage of the Factories Act and workers will be at the mercy of employers on every aspect of their service conditions, rights and protective provisions laid down under the Act. The Unions further represented that as per the estimates made by the Annual Survey of Industries, enhancement of the threshold level of employment in an establishment to 40 workers will take out more than 70 per cent of the factory establishments in the Country out of the coverage of Factories Act.

18. In view of the above suggestions, the Committee desired to have the comments of the Ministry. In response, the Ministry submitted as under:

“Labour is in the Concurrent List. The Factories Act has been framed by the jurisdiction of the Central Government whereas its implementation is done by the State Governments. The State Governments propose State amendments to Factories Act from time to time depending on their requirements. These amendments are enacted after approval by the Central Government.

Section 85 of the Factories Act already empowers the State Governments to declare any establishment to be covered under this Act, irrespective of the number of workers employed in it. Therefore, even the establishments containing less numbers of workers than 10 or 20 can also be covered under this Act. The establishments not covered in the Factories Act will get covered under Shops & Establishment Act, or similar laws of the States.

There have recently been demands by a few State Governments for increasing the threshold limits in their States for application of Factories Act. It is with this end in view that the proposal to provide flexibility to States within their jurisdiction for deciding on these threshold limits has been made. However, lest it should become excessive delegation, the limits have been capped to 20 and 40 workers with power and without power respectively. This will provide flexibility to the State Governments to amend their State Law as per their requirements.”

19. Not convinced with the Ministry’s submission, the Committee asked in evidence about the pressing circumstances for enhancing the threshold. In reply, the Secretary, Ministry of Labour and Employment submitted:

“...On thresholds actually we have got suggestions from all stakeholders. There is clearly no convergence. We have presented it to the Committee also. There is a wide array of suggestions that have been received from the Unions, from industry

and from others. I would like to submit a couple of points for the consideration of the Committee and then it is for the Committee to take a view on the matter.

I mentioned that Labour is in the Concurrent List. Several State Governments have been coming to us and making a few submissions. The first submission is that by capping it at 10 and 20, we are artificially forcing the industry. I am not going into the merits because one could argue for both pros and cons. I am only presenting for the consideration of the Committee the perspective which has been brought in by a number of State Governments. I am just saying there is a perspective.

State Governments have their own stage of development, they have their own local conditions, they have to keep in mind, employment, employability, they have a lot of responsibilities under the Constitution. And not permitting the State Governments any scope for adjusting to local conditions is actually very desirable because they believe that there are enough precautions that are there in the scheme of things. I mentioned that Section 85 empowers a State Government to declare any factory under Shops and Establishments Act that they will be covered; and that there should be flexibility to States within their jurisdiction for deciding the threshold limit. However, it should not have been excessive delegation. And that is the only reason why we have put the caps at 20 and 40 because there should not be excessive delegation and it has to be within the norms.”

20. Asked to state the distinct advantages of the proposed enhancement of the threshold limit, the Secretary, Ministry of Labour and Employment deposed:

“I am not going into the pros and cons because one can argue on both sides. If I were on that side, may be I will argue from that side”.

21. The Secretary further stated:

“The argument which is being given is that, if you look at the numbers you had mentioned, if you want to remain under 20, compliance is easier. So a lot of companies stay at 20 and they do not go beyond 20...As I said, one could argue either way but this is a perspective which is a very strong perspective...The State Governments do have a particular perspective which they have been representing

to the Union Government. It is in the response to that, without according excessive delegation, that this provision has been kept”.

22. Asked to further elaborate, the Secretary Ministry of Labour and Employment submitted:

“The cost of compliance could have very many perspectives and I presented the perspective. I am saying this and this is for the Committee to take an over al view looking to the apparent demographic dividend that we have and how do we leverage employable living...”

23. The Committee then desired to know whether it was at all legally required to empower the State Governments in view of the enactment of the Factories Act by the Rajasthan Government. In reply, the Secretary, Ministry of Labour and Employment deposed:

“The particular State Government got it. But it required a presidential assent for them to be able to do it. That is why the amendment. The logic of the amendment is that there will be an enabling provision which the State Governments may exercise as per their local conditions and local perspectives.”

VI. CLAUSE 36 – SPREADOVER

24. Clause 36 of the Bill seeks to amend Section 56 of the Act relating to spread over. Under the existing provisions contained in the proviso to section 56, the Chief Inspector may increase the spread over up to 12 hours. *Vide* the Bill, it is proposed to amend the said proviso so as to provide that where the State Government is satisfied, it may by notification in Official Gazette increase the period of spread over up to 12 hours in a factory or group or class or description of factories.

25. In the above context, the Committee received suggestions that the proposal to increase the spread over of working time from 10.5 hours to 12 hours would allow the employers to detain the workers for longer hours in the workplace without any extra remuneration leading to their exploitation and harassment.

26. Asked to furnish their comments on the above views, the Ministry submitted as under:

“The provision for extension of spread over up to 12 hours under Section 56 of the Factories Act, 1948 already exists by giving the power to the Chief Inspector to enhance the spread over up from ten and half hours to twelve hours with specifying the reasons in writing. It has been proposed to provide in the Bill this power to the State Government to enhance the spread over from ten and half hours to twelve hours by Notification in Official Gazette, this would remove the ambiguity and the discretion of the Chief Inspectors and thereby ensuring uniformity in application with respect of a factory or group or class or description of factories.”

VII. CLAUSES 38 AND 39 – INCREASE IN OVERTIME

27. Clauses 38 & 39 seek to amend sections 64 and 65 of the Act relating to increase in overtime hours from the existing 50 hours per quarter to 100 hours which can be extended to 125 hours.

28. In the above context, a number of suggestions were received wherein it was mentioned that such enhancement in the overtime hours in the so called ‘public interest’ will have a negative impact on employment generation.

29. When the Committee desired to have the comments of the Ministry on the above suggestion, they submitted as under:

“The need for increasing the limit of overtime work from 50 to 100 hours per quarter prescribed under sub-section (2) of Section 64 and 65 (3) is based on the demand from industries and seasonal factories where work on urgent basis would need to be carried out. The maximum permissible levels of 50 hours per quarter and 75 hours per quarter respectively were felt inadequate for some exceptional work such as in Government press, textile industries and where the workers are pressed in service for completion of urgent jobs within a short period of time.

The proposal to increase the Overtime Hours in a quarter does not also violate the articles of the ILO Convention No. 1 - Working Hours (Industry) which has been ratified by the Government of India and that employing of workers in overtime is to be used only in respect of certain activities specially mentioned in Section 64 (2) and 65 (2) of the Act.”

VIII. CLAUSE 40- - EMPLOYMENT OF WOMEN

30. Clause 40 seeks to substitute a new section 66 for section 66 of the principal Act relating to further restrictions on employment of women. In this regard, many suggestions were received observing that it should be made mandatory not to allow working hours for women in any factory before 7 A.M. and after 6 P.M. It was also suggested that night shifts of women and adolescents up to 18 years of age should be prohibited even in industries like fish canning.

31. Asked to furnish clarifications on the above suggestions, the Ministry stated as under:

“The proposal to remove the restriction of employment of woman in night shift is based on the various Judgments delivered by the Hon'ble High Courts that no discrimination should be made on the basis of gender. The High Court of Madras while declaring the Section 66 ultra vires has issued directions in R. Vasantha vs.

Union of India & Others (2001) Madras High Court to the employers to ensure adequate safeguards and provision of transportation to the women workers working in the night shifts. The Hon'ble Court has issued a set of guidelines for ensuring safety and welfare for women while they are allowed to do night work. The High Court of Gujarat in the Special Leave Application No. 2984 of 2012, Mahila Utkarsh Trust vs. Union of India has declared that the Section 66 (1) (b) of the Factories Act, 1948 as ultra vires and passed a judgment in the similar lines of the judgment in the case of Vasantha vs. Union of India and others in the Madras High Court.

Various women organizations have also been alleging gender discrimination on this count because this provides disincentive to the employers in employing women. In view of this, amendment of Section 66 of the Act has been proposed relating to permission for employment of women for night work for a factory or group or class or description of factories with adequate safeguards for safety and provision of transportation till the doorstep of their residence.”

IX. CLAUSES 49, 51, 52, 53, 54 AND 58 – PROVISIONS REGARDING PENALTY

32. Clause 49 of the Bill seeks to substitute section 92 of the Act relating to General penalty for offences. Clause 51 of the Bill seeks to amend section 94 of the Act relating to the enhanced penalty after previous conviction. Clause 52 seeks to amend section 95 of the Act relating to penalty for obstructing inspector. Clause 53 seeks to amend section 96 of the Act relating to penalty for wrongfully disclosing results of analysis under section 91. Clause 54 seeks to amend section 96 A of the Act relating to penalty for contravention of the provisions of sections 41B, 41C and 41 H. Clause 58 seeks to amend section 102 of the Act relating to power of courts to make orders.

33. In the above context, many petitioners suggested that under section 95, the imprisonment should be for a term of one year and penalty of Rs.5000/- should be enhanced to Rs. One Lakh. Responding to the above suggestions, the Ministry stated that there had been suggestions from various quarters that since the penalties had last been decided in 1987, these should be enhanced. After many deliberations on this, the fines have been increased more or less about three times from the earlier stipulations. Under Section 95, the proposal is to enhance the monetary penalty to Rs. 30000/- from Rs. 10000/, while the imprisonment term remaining same as six months. The main purpose of imposing penalties is to make it as a deterrent.

34. The Committee also received suggestions that penalty provisions under sections 94, 96, 96A and 102 should be made more stringent. Asked to respond, the Ministry clarified that fines under the said provisions have been increased more or less about three times from the earlier stipulations. The Ministry further stated that in section 94, sub-section (1), it has been proposed to substitute the words “ten thousand rupees but which may extend to two lakh rupees” with the words “forty thousand rupees which may extend to six lakh rupees”.

35. Elaborating the matter, the Secretary, Ministry of Labour and Employment deposed in evidence:

“So far as the Factories Act is concerned fines have been increased three times more than the earlier stipulations...I would like to mention that we have been working very closely with State Governments. A lot of State Governments have shown interest in joining...About 10 State Governments have said that they would like to join the portal by March, 2015.”

36. The Committee then pointed out that compliance to the labour laws was very poor and the major demand of all the Trade Unions was proper implementation of labour laws for which the penalty provisions needed to be much severe so as to create a deterrent. In response, the Secretary Ministry of Labour and Employment submitted:

“...With transparency, we are increasing the possibility of compliance; we are increasing the responsibility of the industries. We are increasing the responsibility of the inspectors to report correctly and completely. We are also establishing a data base...I want to bring it to the notice of the Committee the efforts that we have made in using technology to bring in accountability, transparency, effectiveness, efficiency, etc... in whatever we doing, whether we are an inspector or we are in industry, or we are in the labour sector, my own sense is that people are happy to pay penalty. I will be happy to pay a financial penalty but I would be very upset if a red mark is going against me anywhere. I will loathe that something is reported adversely against me.”

37. Asked to state the average number of inspections carried out every year, the Secretary responded:

“Sir, 1,75,000 inspections happen every year against seven lakh and odd enterprises – one in every four or three units is inspected by some inspector or the other... In the last one month we have done about 12,000 odd inspections, 9,000 reports have been uploaded in 72 hours...technology is powerful as people say that technology is the enemy of the vested interests. We are still trying to get it streamlined. We are still working on the system. I am not saying that it is a perfect system as of today. We are confident that with the well intentioned effort, we will be able to make it much more effective.”

38. The Committee then desired to know the details of the compoundable offences that could attract penalty. In reply, a representative of the Ministry submitted that under section 92c, a Fourth Schedule has been incorporated under which 32 offences as under have been made compoundable:

“(i). Section 11 – Cleanliness : Not maintaining cleanliness as per the provisions.

(ii).Section 18 – Drinking Water : Not providing and maintaining arrangements for drinking water as per the provisions.

(iii). Section 19 – Latrines and Urinals : Not providing latrine and urinal accommodation as per the provisions.

- (iv). Section 20 — Spittoons (a) : Not providing the spittoons as per the provisions
- (v). Section 42 - Washing Facilities : Not providing and maintaining washing facilities as per the provisions.
- (vi). Section 43 – Facilities for storing and drying of wet clothing : Not providing facilities as per the provisions.
- (vii).Section 44 – Facilities for sitting : Not providing facilities as per the provisions.
- (viii).Sub-sections (1), (2) and (3) of section 45 – First-aid appliances: Not providing and maintaining first-aid appliances as per the provisions.
- (ix).Section 46 – Canteens : Not providing and maintaining canteen as per the provisions.
- (x).Section 47 – Shelters, rest rooms and lunch rooms : Not providing and maintaining shelters, rest rooms and lunch rooms as per the provisions.
- (xi). Section 48 — Creches : Not providing and maintaining creches as per the provisions.
- (xii). Section 50 – Power to make rules to supplement Chapter V : Not complying with the rules framed under section 50.
- (xiii)Sub-section (2) of section 53 – Compensatory Holidays : Not displaying the notice and not maintain the register for compensatory holiday.
- (xiv). Sub-section (5) of section 59 – Extra wages for overtime – : Not maintaining the prescribed registers.
- (xv). Section 60 – Restriction on double employment : Allowing a worker double employment on any day.
- (xvi). Section 61 – : Notice of periods of work for adults : Not complying with the provisions.
- (xvii). Section 62 – Register of adult workers : Not maintaining register as per the provisions.

- (xviii). Section 63 – Hours of work to correspond with notice : Not complying with the provisions.
- (xix). Section 64 – Power to make exempting rules : Not complying with the rules framed under Section 64.
- (xx). Section 65 – Power to make exempting orders : Not complying with the orders issued under section 65.
- (xxi). Section 79 – Annual leave with wages : Not complying with the provisions.
- (xxii). Section 80 – Wages during leave period : Not complying with the provisions.
- (xxiii). Section 81 – Payment in advance in certain cases : Not complying with the provisions.
- (xxiv). Section 82 – Mode of recovery of unpaid wages : Not complying with the provisions.
- (xxv). Section 83 – Power to make rules : Not maintaining registers as per rules and not complying with the provisions.
- (xxvi).Section 84 – Power to exempt factories : Not complying with the conditions specified in the exempting order.
- (xxvii). 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).
- (xxviii). Section 97 – Offences by workers : Not complying with the provisions.
- (xxix). Section 108 – Display of notices : Not complying with the provisions.
- (xxx). Section 110 – Returns : Not complying with the provisions.
- (xxxi). Section 111A – Right of workers, etc. : Denial of rights of workers.
- (xxxii). Section 114 – No charge for facilities and conveniences : Demanding charge from worker for providing any facility under the Act.”

39. The Secretary, Ministry of Labour and Employment emphasized:

“We do want to see them penalised immediately. The criminal offence also takes a very long time to settle. So you immediately impose a financial penalty on them so that they stop doing that.”

X. ILO CONVENTION AND TRIPARTITE CONSULTATION

40. The Trade Unions alleged both through written and oral depositions that the Government did not consult the Central Trade Unions, the major stakeholders, on the proposed Amendment Bill dealing with registration and regulation of operation of the Factories Act before placing the Bill in Lok Sabha. The Unions further contended that as per ILO Conventions No.144 on Tripartism (which was ratified by the Government of India) such legislative initiative by the Government should be preceded by tripartite consultation between the Government, the Employers' Organisation and the Trade Unions. As no suggestions from the Trade Unions were taken, para 3 of the Statement of Objects and Reasons is wrong.

41. The Committee asked the Ministry to furnish clarifications on the above allegations of the Trade Unions. In response, the Ministry submitted that the Expert Committee which was constituted on 30th December, 2010 under the Chairmanship of Dr. Narendra Jhadav, the then Member of the Planning Commission held extensive discussions with the Trade Unions viz. INUTC, AITUC, CITU, HMS and BMS on 19th January, 2011, 10th February, 2011 and 31st March, 2011.

XI. MISCELLANEOUS

42. In response to the press advertisement, the Committee received views/suggestions that the unorganised workforce should be taken due care of by the Central and State Governments as well as the NGOs and the Private Sector.

43. In the above context, when the Committee desired to have the Ministry's response, they submitted as under:

“The employers and contractors cannot shrink their responsibility to the unorganised workers who are contributing to enhancing their wealth. It is the right of the workers in unorganised or organised sector to have access to adequate wages commensurate with market rates, the nature of the work and earning by the industry. The responsibility of the employers to workers in the unorganised sector outlined in various labour laws such as ‘Contract Labour (Regulation and Abolition) Act, 1970 and Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979 in addition to general laws such as Minimum Wages Act cannot be overlooked. Therefore, the Central and State Governments and employers including contract should take care of the remuneration and social security of unorganised workers. NGOs may support welfare activities if they chose to do so. They cannot be mandated by the Labour Laws to do so.”

44. The Committee also received the following general suggestions from various sources:

- (i) All the factory workers may be controlled by the Labour Commissioner concerned.
- (ii) Labour Courts may be set up within the factory complex for on-the-spot disposal of complaints/grievances.
- (iii) The management should be made legating bound to protect and uplift the interest of the workers.

- (iv) The law of mobility of labour has to be implemented as there are many man-made barriers to labour mobility.

45. Responding to the above suggestions, the Ministry submitted that these were general labour related issues and noted.

46. The Committee were also requested by various representationists that there should be a provision for periodical audit by an independent agency which should certify compliance to the rules and regulations made under the Factories Act. Asked to respond to the above suggestion, the Ministry submitted that the suggestion could be made a part of the State Factories Rules.

47. The Committee were further represented that in case of non-compliance to the Factories Act, before launching prosecution, the employers should be given an opportunity to correct the irregularities within a definite time frame.

48. The Committee asked the Ministry to furnish their comments on the above said suggestions. In reply, the Ministry stated as under:

“Such a mechanism already exists to issue show cause notice/prohibition order depending upon the seriousness of the violation / non-compliance with the various provisions under the Act and the Rules made there under in the State Factories Rules. However, it is felt that an explicit provision may be made in the State factories Rules using the provisions under sec. 9(i) of the Factories Act, 1948, -Exercise of such other powers as may be prescribed.”

49. Some petitioners suggested that it should be made mandatory to employ no children under 15 years of age in the factories in any circumstances. In response, the Ministry contended that it might require amendment to section 67 of the Factories Act and other consequential amendments.

50. A number of representationists suggested that wages to the factory workers should not fall below Rs.6,000/- p.m and workers should be given a living wage based on the consumer price index to uplift their conditions.

51. Asked to respond to the above suggestion, the Ministry deposed as under:

“Under the minimum Wages Act, 1948, both the Central and the State Governments are the appropriate Governments to fix, review and revise the minimum wages for the scheduled employments under their respective jurisdiction. As a step towards moving for a uniform wage structure, as recommended by the National Commission on Rural Labour in 1991 and to reduce the disparity in minimum wages across the country, the concept of National Floor Level Minimum Wage (NFLMW) was mooted by the Government in 1996 on a voluntary basis. It is revised from time to time taking into account the increase in the Consumer Price Index Number for Industrial Workers.”

52. Many petitioners were of the view that the amendment to the Act should be solely intended for the protection and welfare of the labourers. The Ministry in response stated that the amendment proposal in the Act had mainly proposed for the protection, safety and welfare of the labourers with the process of streamlining the sections with prevention and security, the safety and health of the workers, being primary concern.

PART-II**OBSERVATIONS/RECOMMENDATIONS****I. Introductory**

1. The Factories Act, 1948 has been amended seven times, the last being in 1987. In view of several developments over the last 27 years, since the last amendment was done, an Expert Committee was constituted on 30th December, 2010, under the Chairmanship of Dr. Narendra Jadhav, Member, Planning Commission to examine and make specific recommendations on the amendments to the Factories Act, 1948. After holding extensive discussions with various stakeholders, the Expert Committee submitted its Report on 23rd June, 2011. Subsequent to the Ministry's invitation for comments and suggestions on 6th September, 2011, circulation of the draft Cabinet Note to Central Ministries and State Governments and putting the revised proposal in public domain on 12th June, 2014, the Cabinet approval was obtained on 30th July, 2014. The Factories (Amendment) Bill, 2014 containing 64 Clauses was introduced in Lok Sabha on 7th August, 2014 and referred to this Committee for examination and report. The Committee find that many proposals for amendment are in sync with the developments that happened during the last 27 years. However, some amendment proposals need a rethinking and revisit by the Ministry and the Committee have given their considered opinion on these proposed amendments in the succeeding paragraphs.

II. Hazardous Process

2. The Committee note that Clause 2 (definitions) of the Bill seeks to remove the definition of `hazardous process' as contained in section 2 of the Principal Act and substitute it with `hazardous substance'. The Ministry have reasoned that the hazardous process will be identified by use of hazardous substance which will be duly notified from time to time and which will make the provision more stringent. The Committee are not convinced with the contention of the Ministry as there are certain hazardous processes in certain industries where substance is not always involved. The Committee also reject outright the Ministry's explanation that had there been any dilution to the provision, the Chief Inspector of Factories would not have agreed to the proposed amendment. The Committee are of the considered view that the nod by the Chief Inspector of Factories to remove the definition of `hazardous process' does not absolutely justify the proposed amendment. The Committee, therefore, recommend that the term `hazardous process' should find a place along with the term `hazardous substance' in the proposed amendment so as to remove any ambiguity in the interpretation and implementation of the provision.

III. First Schedule

3. The Committee note that in view of the proposed deletion of `hazardous process' vide Clause 2 of the Bill, the Ministry propose to delete the First Schedule of the Act. The Committee find that the said Schedule has specified the list of industries involving in hazardous process and they feel that the proposed deletion of the Schedule will have adverse ramification on the workers as well as the public in general. In view of the fact that the Schedule itself straightway makes the job of

the enforcement machinery both in the Centre and the States much easier, the Committee desire that instead of deleting the First Schedule, the Government should review the list of hazardous industries as contained in the Schedule, from time to time, according to the change in the production scenario so as to make the industries accountable.

IV. Threshold Level

4. The Committee note the Government's proposal to empower the State Governments to enhance the threshold level of employment from 10 to 20 workers (in case of factories using power) and from 20 to 40 workers (in case of factories not using power). A number of Trade Unions/Associations/Individuals have expressed the concern that if the amendment is carried out more than 70 per cent of the factory establishments in the Country will be out of the coverage of the Factories Act and workers will be at the mercy of employers on every aspect of their service conditions, rights and protective provisions laid down under the Act. The Ministry have contended that there have recently been demands by a few State Governments for increasing the threshold limits in their States for application of the Factories Act for which the proposal to provide the flexibility to States within their jurisdiction for deciding on these threshold limits has been made. The Committee are not convinced with the reasonings adduced by the Ministry as State Governments are empowered under the Concurrent List to propose their own amendments to the Factories Act from time to time depending on their requirement. Needless to say, such a Central Legislation enhancing the threshold level to empower the States is not required. The Committee, therefore, do not accept the proposed amendment and they desire that status-quo be maintained, mindful of the serious apprehensions raised at many quarters including the Trade Unions over the proposed amendment to increase the threshold limit.

V. Spread over

5. The Committee note that Clause 36 seeks to amend section 56 of the Act intending to increase the spread over of the working hours from the existing 10.5 hours to 12 hours. Justifying the proposed amendment, the Ministry have submitted that it would remove the ambiguity and the discretion of the Chief Inspectors and ensure uniformity in application with respect of a factory or group or class or description of factories. The Committee apprehend that such a proposal might lead to the harassment of the workers on being compelled to stay in the workplace for a longer period without adequate compensation. They, therefore, urge the Ministry to revisit the proposed amendment prudently and if at all the amendment is to be carried out, it should be ensured through enabling provisions that the workers are compensated with requisite remuneration and are not subjected to harassment.

VI. Overtime

6. The Committee observe that Clauses 38 and 39 seek to amend sections 64 and 65 of the Act relating to increase in overtime hours from the existing 50 hours per quarter to 100 hours, extendable by another 25 hours. The Committee have received several suggestions opposing the amendment, as it would aggravate the unemployment problem. The Ministry have justified that the proposed increase does not violate the Articles of the ILO Convention No.1 and the need for increasing the limit of overtime work is based on the demand from industries and seasonal factories where work on urgent basis would need to be carried out. The Committee are of the considered opinion that increasing the overtime hours across the factories would certainly have an adverse impact on employment generation.

They, therefore, desire the Ministry to distinguish those industries/seasonal factories where increasing the overtime hours is inevitable and make necessary amendments in the related clause with adequate safeguards so that unemployment problem is not aggravated further.

VII Employment of Women

7. Against the proposal to remove the restriction of employment of women in night shifts *vide* clause 40 of the Bill, the Committee have received a number of representations that it should be made mandatory not to allow working hours for women in any factory before 7 a.m. and after 6 p.m. The Ministry have submitted that such a proposal is based on the Judgments of various High courts and the demand from many women organizations. The Ministry have further submitted that there are adequate safeguards for the safety and provision for transportation for the employment of women for night work. In view of a spate of events all over the Country where women working at odd hours have been subjected to physical harassment and brutality as well as mental trauma, the Committee would like to caution the Ministry not to undermine the import of safety provisions and leave any loopholes in the safeguard and protective Clauses for such vulnerable women workers.

8. The Committee note that while seeking to amend section 36 of the Principal Act, it is proposed not to allow any person with any disability or any pregnant women to enter any chamber, tank, vat, pit, pipe etc. Appreciating the well intended provisions and concern for pregnant women and disabled persons, the Committee would, however, like the Ministry to put a caveat in the proposed amendment so as to ensure that the employers, under the garb of the provision do not throw such persons out of the employment or compel them to seek VRS.

VIII Penalty proviso

9. The Committee appreciate to note that under Clauses 49, 52, 53, 54 and 55 the financial penalty provisions are proposed to be increased about three times from the earlier stipulations. The Committee also note that *vide* Clause 51 it has been proposed to substitute the words “ten thousand rupees but which may extend to two lakh rupees” with the words “forty thousand rupees which may extend to six lakh rupees” under section 94, sub-section (1) of the Principal Act. In view of the fact that the penalties had last been decided in 1987, the proposal of the Ministry to increase them about three times is a step in right direction and should be implemented earnestly. The Committee also desire that the penalty provision need to be more severe in those cases where the implementation of labour laws is not up to the mark so as to create a deterrent for the offenders.

10. The Committee are glad to know that the Ministry are in the process of establishing a data base through use of technology with a view to increasing transparency, compliance and responsibilities of the inspectors to report correctly. A number of State Governments have evinced interest to join the Ministry’s portal. While appreciating the measures initiated by the Ministry to foster transparency and enhance responsibility of the inspectors, the Committee would like the

Ministry to further leverage and streamline the process so as to make the system more effective and robust.

11. The Committee note that under section 92 (c), a Fourth Schedule is proposed to be incorporated under which 32 offences *viz.* not maintaining cleanliness; not providing drinking water, spittoons, first-aid appliances; not complying with the rules etc. have been made compoundable. The Committee recommend that the Ministry should act in unison with the State Governments to intensify the monitoring system so as to ensure absolute compliance of the well intended penalty provisions by the offenders.

IX Tripartite Consultation

12. The Trade Unions alleged that the Government did not consult them on the proposed Amendment Bill dealing with registration and regulation of operation of the Factories Act before placing the Bill in Lok Sabha on 7th August, 2014. The Committee are given to understand that under the ILO Conventions No.144 on Tripartism (which was ratified by the Government of India) such legislative initiative by the Government should be preceded by tripartite consultation between the Government, the Employers' Organisations and the Trade Unions. The Ministry have clarified that the Expert Committee which was constituted on 30th December, 2010 under the Chairmanship of Dr. Narendra Jhadav, the then Member of the Planning Commission held extensive discussions with the Trade Unions *viz.* INTUC, AITUC, CITU, HMS and BMS on 19th January, 2011, 10th February, 2011 and 31st March, 2011. Although the then Secretary, Ministry of Labour & Employment was a Member of the Expert Committee, the Committee feel that it is incumbent upon the Ministry to have one to one consultations with the Trade Unions before placing the Bill in Lok Sabha. Moreover, in view of the fact that three years have lapsed since the last consultations with the Trade Unions, the Committee desire that the

Ministry should hold consultations with the recognized Central Trade Unions before finalizing the proposed amendments so as to avert any misunderstandings and distrust.

X Miscellaneous

13. According to the Ministry, the employers and contractors cannot shrink their responsibility to the unorganized workers who are contributing to enhancing their wealth. As the Central and State Governments and Employers including contractors are bound to take care of the remuneration and social security of the unorganized workers/ sectors, the Committee exhort the Ministry to make necessary provisions in this regard in the proposed amendments.

14. The Committee further recommend that the Ministry should consider suitably incorporating the following suggestions in the Factories Act:-

- (i) All the factory workers may be controlled by the Labour Commissioner concerned.**
- (ii) Labour Courts may be set up within the factory complex for on-the-spot disposal of complaints/grievances.**
- (iii) The management should be made legally bound to protect and uplift the interest of the workers.**
- (iv) The law of mobility of labour has to be implemented as there are many man-made barriers to labour mobility.**

15. The Committee desire that the Ministry should take requisite measures to ensure that there is a provision for periodical audit by an independent agency which should certify compliance to the rules and regulations made under the Factories Act so as to make it foolproof. The Committee also recommend that the Ministry should explore the feasibility of amending section 67 of the Factories Act

and other consequential amendments to make it mandatory to employ no children under 15 years of age in any factories/ establishments under any circumstances.

16. To sum up, the Committee are of the considered and firm view that the proposed legislation should be very carefully calibrated so as to guarantee security, safety, health and welfare of the workers/ labourers as well as to facilitate their growth and employability.

**New Delhi;
17th December, 2014
26 Agrahayana, 1936 (Saka)**

**DR. VIRENDRA KUMAR
CHAIRPERSON
STANDING COMMITTEE ON LABOUR**

APPENDIX-I**Minutes of the Fourth Sitting of the Committee**

The Committee sat on 8th October, 2014 from 1130 hrs. to 1300 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

MEMBERS**LOK SABHA**

2. Shri Rajesh Kumar Diwakar
3. Shri Satish Chandra Dubey
4. Shri Rama Chandra Hansdah
5. Shri C.N. Jayadevan
6. Shri Kaushalendra Kumar
7. Shri Hariom Singh Rathore
8. Shri Giriraj Singh
9. Shri Kodikunnil Suresh

RAJYA SABHA

10. Shri Aayanur Manjunatha
11. Shri Rajaram
12. Shri G.N. Ratanpuri
13. Haji Abdul Salam
14. Shri Tapan Kumar Sen

SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Shri Ashok Sajwan - Director
3. Shri D.R. Mohanty - Deputy Secretary
4. Smt. Archana Srivastva - Under Secretary

Witnesses

Sl. No.	Name of the Officer	Designation
1.	Smt. Gauri Kumar	Secretary
2.	Shri A.C. Pandey	Joint Secretary
3.	Shri S.B. Mathur	DG, DGFASLI
4.	Shri H. Viswanathan	Director, DGFASLI
5.	Shri M.R. Rajput	Director, DGFASLI

At the outset, the Chairperson welcomed the Secretary and other officials of the Ministry of Labour and Employment to the sitting to hear their views on 'The Factories (Amendment) Bill, 2014' and invited their attention to the provisions contained in Direction 55 (1) of the Directions by the Speaker.

2. The Members, thereafter, raised several issues and also sought clarifications on the 'The Factories (Amendment) Bill, 2014':-

- (i) To increase the existing prescribed ceiling limit of workers 10 workers for units with power and 20 workers for units without power to 20 workers for units with power and 40 workers for units without power respectively.
- (ii) Empowering the State Governments to amend their State Laws as per their requirements.
- (iii) Amending Section 66 of the Factories Act to provide night work for women with adequate safeguards for safety and provision of transportation till the doorstep of their residence.
- (iv) To enhance the limit of overtime hours from 50 hours per quarter to 100 hours per quarter. Limit to be increased to a maximum of 125 hours per quarter.
- (v) Provision for compounding of certain offences. Enhancing the quantum of penalty for offences.
- (vi) Provision for self-certification has been introduced under which the employer should provide a self-certificate that this is not violating this provision for the purpose of only expansion of the factory through amendment in Section 6.
- (vii) Introduction of new unified labour portal for better compliance.
- (viii) Insertion of new Section 35A proposing for personal protective equipment for workers exposed to various hazardous substances.
- (ix) Introduction of new terms like 'hazardous substances' and 'disability'.
- (x) Provision for canteen facilities, shelters, rest rooms and lunch rooms employing 75 or more workers.
- (xi) Empowering the Central Government also to make rules under the Act on some of the important provisions.
- (xii) New provision for fire safety under Section 37. Equipments to be certified as per the National electric code.

3. The Chairperson directed the Secretary to send written replies to the unanswered queries of the members to the Secretariat within one week.

4. The Chairperson then thanked the Secretary and other officials for giving valuable information to the Committee on the `The Factories (Amendment) Bill, 2014 and responding to the queries of the Members.

(The witnesses then withdrew)

[A copy of the verbatim proceedings was kept for record]

The Committee then adjourned.

Minutes of the Ninth Sitting of the Committee

The Committee sat on 04th December, 2014 from 1500 hrs. to 1620 hrs. in Room No.139, Parliament House Annexe, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

**MEMBERS
LOK SABHA**

2. Shri Rajesh Kumar Diwakar
3. Shri Satish Chandra Dubey
4. Shri Devajibhai Govindbhai Fatepara
5. Dr. Boora Narsaiah Goud
6. Shri C.N. Jayadevan
7. Shri Bahadur Singh Koli
8. Shri Kaushalendra Kumar
9. Shri Hari Manjhi
10. Shri Hariom Singh Rathore
11. Shri Naba Kumar Sarania

RAJYA SABHA

12. Shri Tapan Kumar Sen

SECRETARIAT

1. Shri Ashok Sajwan - Director
2. Shri D.R. Mohanty - Deputy Secretary

Representatives of the Central Trade Unions

1. Shri Swasesh Dev Roye, National Secretary, Centre of Indian Trade Unions
2. Shri B.K. Sinha, Advocate, Legal Cell, Bharatiya Mazdoor Sangh
3. Shri Amit Yadav, Chairman & President, Indian National Trade Union Congress

4. Shri Harbhajan Singh Sidhu, General Secretary, Hind Mazdoor Sabha

2. At the outset, the Chairperson welcomed the Members and the representatives of the Centre for Indian Trade Union (CITU), All India Trade Union Congress (AITUC), Bharatiya Mazdoor Sangh (BMS) and Hind Mazdoor Sabha (HMS) to the sitting of the Committee. Impressing upon the witnesses to keep the proceedings of the Committee confidential, the Chairperson requested them to express the views/suggestions of their respective Trade Unions on 'The Factories (Amendment) Bill, 2014'.

3. The representatives of the Trade Unions accordingly gave their views/suggestions one by one on various amendments proposed in the Bill. Some representatives expressed their opinion on the 'Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014 which is yet to be introduced in Lok Sabha. The representatives also attended to the queries of the Members on several aspects on the proposed amendments.

4. The Chairperson asked those Trade Unions which had not furnished written memorandum on the Bill, to do so within three days. He also thanked the representatives for appearing before the Committee and furnishing requisite information on 'The Factories (Amendment) Bill, 2014'.

The witnesses then withdrew.

5. The Committee, thereafter, decided to undertake an on-the-spot study visit to Tirupati, Hyderabad and Mangalore from 1st January to 6th January, 2015.

A copy of the verbatim proceedings was kept on record.

The Committee then adjourned.

Minutes of the Tenth Sitting of the Committee

The Committee sat on 05th December, 2014 from 1300 hrs. to 1430 hrs. in Room No.139, Parliament House Annexe, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

MEMBERS LOK SABHA

2. Shri Rajesh Kumar Diwakar
3. Shri Satish Chandra Dubey
4. Dr. Boora Narsaiah Goud
5. Shri C.N. Jayadevan
6. Shri Bahadur Singh Koli
7. Shri R. Parthipan
8. Shri Hariom Singh Rathore

RAJYA SABHA

9. Shri Aayanur Manjunatha
10. Haji Abdul Salam
11. Shri Tapan Kumar Sen

SECRETARIAT

1. Shri Devender Singh - Additional Secretary
2. Shri Ashok Sajwan - Director
3. Shri D.R. Mohanty - Deputy Secretary

REPRESENTATIVES OF THE MINISTRY OF LABOUR & EMPLOYMENT

1. Smt. Gauri Kumar Secretary
2. Shri P.P. Mitra Principal Labour & Employment Advisor (PLEA)
3. Shri Dheeraj Kumar Joint Secretary
4. Shri S.B. Mathur DG, DGFASLI
5. Shri H.M. Bhandari AD (S), DGFASLI
6. Shri D.P. Singh Dy. CLC

7. Shri Onkar Sharma RLC
8. Shri M.R. Rajput Director, DGFASLI

2. At the outset, the Chairperson welcomed the Members and the representatives of the Ministry of Labour and Employment to the Committee. Impressing upon the witnesses to keep the proceedings of the Committee confidential, the Chairperson asked the Secretary, Ministry of Labour and Employment to respond to the queries of the Members emanating from the deposition of various Trade Unions on the proposed 'Factories (Amendment) Bill, 2014'.

3. The Secretary and other representatives of the Ministry of Labour and Employment accordingly attended to the queries of the Members on several issues pertaining to the proposed amendments. As some queries required further detailed reply, the Chairperson asked the Secretary, Ministry of Labour and Employment to furnish written reply on those points within three days. The Secretary assured to comply.

4. The Chairperson thanked the representatives of the Ministry of Labour and Employment for appearing before the Committee and furnishing the requisite information required in connection with the examination of the Bill.

The witnesses then withdrew.

A copy of the verbatim proceedings was kept on record.

The Committee then, adjourned.

Minutes of the Twelfth Sitting of the Committee

The Committee sat on Thursday, the 18th December, 2014 from 1500 hrs. to 1530 hrs. in Committee Room `D', Parliament House Annexe, New Delhi.

PRESENT

Dr. Virendra Kumar - **Chairperson**

MEMBERS LOK SABHA

2. Shri Rajesh Kumar Diwakar
3. Shri Satish Chandra Dubey
4. Shri Devajibhai Govindbhai Fatepara
5. Shri C.N. Jayadevan
6. Shri Bahadur Singh Koli
7. Shri R. Parthipan
8. Shri Hariom Singh Rathore
9. Shri Naba Kumar Sarania
10. Shri Kodikunnil Suresh

RAJYA SABHA

11. Shri Tapan Kumar Sen

SECRETARIAT

1. Shri Devender Singh - Additional Secretary
2. Shri Ashok Sajwan - Director
2. Shri D.R. Mohanty - Deputy Secretary
3. Smt. Archana Srivastva - Under Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee and apprised them that the sitting had been convened to consider and adopt the draft Report on 'The Factories (Amendment) Bill, 2014'. Observing that the concerns expressed by the Members during evidence on various aspects of the Bill have been incorporated in the draft Report, the Chairperson gave an overview of the important Observations/Recommendations contained in the draft

Report. The Chairperson then invited suggestions from the Members on the draft Report.

3. The Committee, then took up the draft Report for consideration and after some discussions adopted it.

4. The Committee authorized the Chairperson to finalise the draft Report in the light of consequential changes that might arise out of factual verifications of the draft Report and to present the same to the House.

The Committee then adjourned.

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THE FACTORIES (AMENDMENT) BILL, 2014

A

BILL

further to amend the Factories Act, 1948

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Factories (Amendment) Act, 2014.

(2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In section 2 of the Factories Act, 1948 (hereinafter referred to as the principal Act),—

(i) for clause (cb), the following clause shall be substituted, namely:—

‘(cb) “hazardous process” means any process where, unless special care is taken, raw materials, hazardous substances used therein or the intermediate or finished products, bye products, wastes or effluents thereof would—

(A) cause material impairment to the health of the persons engaged in or connected therewith; or

(B) result in the pollution of the general environment;’;

Short title and

commencement.

Bill No. 93 of 2014

AS INTRODUCED IN LOK SABHA

Amendment

of section 2.

63 of 1948.

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(ii) after clause (cb), the following clause shall be inserted, namely:—

‘(cc) “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;’;

(iii) after clause (e), the following clause shall be inserted, namely:—

‘(ea) “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;’;

(iv) in clause (f), after the words “particular area”, the words “or a factory” shall be inserted;

(v) in clause (k), for sub-clause (iv), the following sub-clause shall be substituted, namely:—

“(iv) composing and processing for printing, printing by letter press, lithography, offset, photogravure, screen printing, flexography, or other similar process or binding; or”;

(vi) in clause (m),—

(a) in sub-clause (i), after the words “whereon ten or more workers”, the words “or such number of workers as may be prescribed by the State Government” shall be inserted;

(b) in sub-clause (ii), after the words “whereon twenty or more workers”, the words “or such number of workers as may be prescribed by the State Government” shall be inserted;

(c) after sub-clause (ii) but before *Explanation. 1*, the following proviso shall be inserted, namely:

“Provided that the number of workers specified in sub-clause (i) and sub-clause (ii) shall not exceed twenty and forty workers, respectively.”;

(vii) in clause (n), in the first proviso, for sub-clause (iii), the following subclause shall be substituted, namely:—

“(iii) in the case of a factory owned or controlled by the Central Government, or any State Government, or any local authority, the person or

persons appointed to manage the factory by the Central Government, the State Government or the local authority or such authority as may be prescribed, as the case may be, shall be deemed to be the occupier;”;

(viii) for clause (p), the following clause shall be substituted, namely:—

‘(p) “prescribed” means prescribed by rules made by the Central Government or the State Government, as the case may be, under this Act;’.

3. In section 6 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation.*—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, or the addition of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or result in hazardous conditions likely to cause accident, dangerous occurrence or injuries to health of workers or public or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes, or chemical or biological wastes injurious to health and a certificate in writing shall be given by a competent person to this effect: Provided that till such certificate is given by a competent person, a certificate given in writing by the occupier shall be valid.”.

1 of 1996.

Amendment
of section 6.

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4. In section 7 of the principal Act, in sub-section (1), in clause (e), for the word “horse- power” at both the places where it occurs, the words “power in Kilowatts” shall be substituted.

5. In section 7B of the principal Act,—

(a) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) It shall be the duty of a person,—

(a) who erects or installs any article for use in a factory, to ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;

(b) who manufactures, imports or supplies any substance for use in any factory—

(i) to ensure, so far as practicable, that such substance is safe and has no risks involved to health of persons working in such factory;

(ii) to carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;

(iii) to take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;

(c) who undertakes the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks to health or safety to which the substance may give rise out of such manufacture or research.”;

(b) in sub-section (6), for the word “article” at both the places where it occurs, the words “article or substance” shall be substituted;

(c) for the *Explanation*, the following *Explanation* shall be substituted,

namely:—

Explanation.—For the purposes of this section—

- (a) “article” shall include plant and machinery;
 (b) “substance” means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and
 (c) “substance for use in any factory” means any substance whether or not intended for use by persons working in a factory.’

6. In section 13 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

7. In section 17 of the principal Act, in sub-section (4), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

8. In section 18 of the principal Act, in sub-section (3), the words “wherein more than two hundred and fifty workers are ordinarily employed” shall be omitted.

9. In section 20 of the principal Act, sub-section (4) shall be omitted.

10. In section 21 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

Amendment of

section 7B.

Amendment of

section 13.

Amendment of

section 17.

Amendment of

section 18.

Amendment

of section 20.

Amendment

of section 21.

Amendment

of section 7.

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11. In section 22 of the principal Act,—

(a) in sub-section (1), for the words and brackets “adult male worker wearing tight fitting clothing (which shall be supplied by the occupier)”, the words and brackets “adult male worker wearing tight fitting clothing or adult female worker wearing tight fitting clothing (which shall be supplied by the occupier), covering loose hair” shall be substituted;

(b) in sub-section (2), for the word “woman” at both the places where it occurs, the words “pregnant woman or a person with disability” shall be substituted;

(c) in sub-section (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

12. In section 23 of the principal Act, in sub-section (2), for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted.

13. Section 26 of the principal Act shall be omitted.

14. For section 27 of the principal Act, the following section shall be substituted, namely:—

“27. No young person or pregnant woman or a person with disability shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work.”

15. In section 28 of the principal Act, in sub-section (4), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

16. In section 29 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

17. In section 31 of the principal Act, in sub-sections (2) and (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

18. In section 34 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

19. In section 35 of the principal Act, for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted.

20. After section 35 of the principal Act, the following section shall be inserted, namely:—

“35A. (1) The occupier, having regard to the nature of the hazards involved in the work and processes being carried out, shall supply to the workers exposed to such hazards, suitable personal protective equipment and protective clothing as may be necessary.

(2) The personal protective equipment and protective clothing supplied to the workers as required under sub-section (1) shall conform to an international standard where national standard for such protective equipment or clothing is not available.

(3) The occupier shall maintain all items of personal protective equipment and protective clothing referred to in sub-section (1) in a clean and hygienic condition and in good repair.

Amendment of section 22.

Amendment of section 23.

Omission of section 26.

Substitution of new section for section 27.

Prohibition of employment of young persons, pregnant woman and persons with disabilities near cottonopeners.

Amendment of section 28.

Amendment of section 29.

Amendment of section 31.

Personal protective equipment.

Amendment of section 34.

Amendment of section 35.

Insertion of new section 35A.

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(4) The Central Government or the State Government may make rules prescribing the standards of maintenance, issue of personal protective equipment and protective

clothing with a view to ensure their effectiveness in relation to the conditions of use and conformity to their quality standards.”.

21. For section 36 of the principal Act, the following section shall be substituted, namely:—

‘36. (1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress or wherein the oxygen content is less than the prescribed content of oxygen.

Explanation.— For the purpose of this sub-section, the expression “adequate size” means,—

(a) in the case of a rectangular shape manhole, of not less than 50 cms. x 30 cms.;

(b) in the case of an oval shape manhole, of not less than 50 cms. major axis and 30 cms minor axis;

(c) in the case of a circular shape manhole, of not less than 50 cms. diameter.

(2) No person shall be required or allowed to enter in any boiler furnace, boiler flue, chamber, tank, vat, pipe or other confined space in any factory for the purpose of working or making any examination therein until—

(a) it has been sufficiently cooled, by ventilation or otherwise, and is safe for persons to enter; and

(b) wherever there is likelihood of deficiency of oxygen,—

(i) a certificate in writing has been given by a competent person, based on test carried out by himself, that the space is not deficient in oxygen so as to be unsafe for persons to enter; or

(ii) the worker is wearing suitable breathing apparatus and a safety harness for confined spaces securely attached to a rope is available of which the free end is held by a person standing outside the confined space.

(3) No person with any disability, or, any pregnant woman, shall be required or allowed to enter in any chamber, tank, vat, pit, pipe, flue or other confined space in any factory as referred to in sub-section (1) and in any boiler, furnace, boiler flue, chamber, tank, vat, pipe or other confined space in any factory as referred to in sub-section (2).

(4) The suitable breathing apparatus, reviving apparatus and safety harness and ropes, shall be kept for instant use in every factory and in every such confined space as referred to in sub-section (1) or in clause (b) of sub-section (2), which any person may enter, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practiced in the use of all such apparatus and in the method of restoring respiration.

(5) The State Government may, by order in writing, exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.’

22. In section 37 of the principal Act,—

(a) in sub-section (1),—

(i) for the portion beginning with the words “any manufacturing process produces” and ending with the words “any such explosion by—”, the following shall be substituted, namely:—

“any manufacturing process, storage or handling of, raw material, intermediate product or finished product produces dust, gas, fumes or vapour to such an extent as to be likely to result in fire or explosion on

Substitution of
new section for
section 36.

Entry into
confined
spaces.

Amendment of
section 37.

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ignition or otherwise, all practicable measures shall be taken to prevent any such fire or explosion by—”;

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

“(d) explosive gas measurement by suitable and calibrated instrument, at such intervals as may be prescribed”;

(b) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) In any factory if any flammable gas, fume or dust is likely to be present in any area, the electrical equipment, apparatus and fittings in that area shall be selected, installed and maintained as per the National Electrical Code and shall conform to the relevant National Standards, or to an International Standard where National Standard is not available.

(4B) The electrical equipment, apparatus and fittings referred to in subsection (4A), shall be duly approved before use in factories by the Directorate General of Occupational Safety and Health.”.

23. In section 38, in sub-section (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

24. In section 40B of the principal Act, for the words “The State Government”, wherever they occur, the words “The Central Government or the State Government” shall be substituted.

25. In section 41A of the principal Act, for the words “The State Government”, wherever they occur, the words “The Central Government or the State Government” shall be substituted.

26. In section 41B of the principal Act,—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) (a) The occupier of a factory involved in the manufacture, storage or handling such hazardous substances in quantities equal to or more than such quantities as may be prescribed, shall draw up in consultation with workers' representatives an on-site emergency plan and detailed disaster control measures for his factory and submit the same for information of the Chief Inspector and other authorities as may be prescribed.

(b) The occupier of the factory shall make known to the workers employed in the factory and to the general public in the vicinity of the factory, the safety measures required to be taken in accordance with the on-site emergency plan and detailed disaster control measures drawn under sub-clause (a) above in the event of an accident taking place:

Provided that the Central Government or the State Government or the Chief Inspector may, subject to the prior approval of the Central Government or the State Government, by order in writing, require any factory carrying on hazardous process, irrespective of the quantity of hazardous substances in the premises, to draw up an on-site emergency plan and disaster control measures.”;

(ii) in sub-section (5),—

(a) in clause (a), for the words “factory engaged”, the words “factory is engaged” shall be substituted;

(b) in clause (b), before the words “within a period of”, the words “at least” shall be inserted.

27. In section 41C of the principal Act, in clause (a), for the words “chemical, toxic or any other harmful substances”, the words “hazardous substances” shall be substituted.

28. In section 41D of the principal Act, in sub-section (1), for the words “prevention and recurrence”, the words “prevention of recurrence” shall be substituted.

Amendment of section 38.

Amendment of section 40B.

Amendment of section 41A.

Amendment of section 41B.

Amendment of section 41C.

Amendment of

section 41D.

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29. In section 41E of the principal Act, in sub-section (1), for the words “Director General of Factory Advice Service and Labour Institutes”, the words “Directorate General of Occupational Safety and Health” shall be substituted.

30. In section 41F of the principal Act, in sub-section (1), for the words and brackets “threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise)”, the words “limits of exposure of chemical and toxic substances in manufacturing process” shall be substituted.

31. In section 41G of the principal Act, in sub-section (1), for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted.

32. After section 41H of the principal Act, the following section shall be inserted, namely:—

“41-I. The Central Government or the State Government may make rules —

(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.”.

33. In section 45 of the principal Act, in sub-section (3), for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted.

34. For section 46 of the principal Act, the following section shall be substituted, namely:—

“46. (1) In every factory wherein two hundred or more workers are ordinarily employed, there shall be provided and maintained a canteen or canteens by the occupier for the use of the workers.

(2) The State Government may prescribe—

(a) the standards in respect of construction, location, accommodation, furniture, cleanliness and other equipment of the canteen;

(b) the foodstuffs to be served therein and the charges which may be made therefor;

(c) the constitution of managing committee for the canteen and representation of the workers in the management of the canteen;

(d) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and the expenditure of the items shall be borne by the occupier;

(e) the periodical medical examination of canteen employees; and

(f) the delegation to the Chief Inspector, subject to such conditions, as may be prescribed, of the power to make rules under clause (b).

(3) The Chief Inspector may, subject to such conditions as may be specified by him, after recording the reasons in writing, relax the requirement of sub-section (1) for a period not exceeding twelve months for existing factories to provide the facility of canteen.”.

35. In section 47 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “one hundred and fifty”, the word “seventy-five” shall be substituted;

(ii) for the words “suitable shelters or rest rooms”, the words “suitable and separate shelters or rest rooms for male and female workers” shall be substituted;

Amendment of

section 41F.
 Amendment of
 section 41G.
 Insertion of
 new section
 41-I.
 Power to
 make rules
 regarding
 hazardous
 process.
 Amendment of
 section 45.
 Substitution of
 new section for
 section 46.
 Canteens.
 Amendment of
 section 47.
 Amendment of
 section 41E.

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(iii) in the first proviso, for the words “as part of the requirements”, the words “as part of requirements relating to the lunch room” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely: —

“(4) The Chief Inspector may, subject to such conditions as may be specified by him, after recording the reasons, relax the requirement of sub-section (1), for a period not exceeding twelve months for existing factories to provide the facility of shelters, rest rooms and lunch rooms.”.

36. In section 56 of the principal Act, for the proviso, the following proviso shall be substituted, namely:

“Provided that where the State Government is satisfied, it may, by notification in the Official Gazette, increase the period of spreadover upto twelve hours in a factory or group or class or description of factories.”.

37. In section 59 of the principal Act, after sub-section (5), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section, the term “such allowances” means all allowances except those of complimentary in nature such as house rent allowance, transport and small family allowance.’.

38. In section 64 of the principal Act,—

(a) in sub-section (4), in sub-clause (iv), for the word “fifty”, the words “one hundred” shall be substituted;

(b) in sub-section (5), for the words “Rules made”, the words, brackets and figures “Rules made before the commencement of the Factories (Amendment) Act, 2014” shall be substituted.

39. In section 65 of the principal Act, in sub-section (3), in clause (iv),—

(a) for the word “seventy-five”, the words “one hundred and fifteen” shall be substituted;

(b) after *Explanation*, the following proviso shall be inserted, namely:—

“Provided that the State Government or the Chief Inspector may, subject to the prior approval of the State Government, by order further enhance the total number of hours of overtime work in any quarter to one hundred and twenty-five in the public interest.”.

40. For section 66 of the principal Act, the following section shall be substituted, namely:—

“66. The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any women;

(b) there shall be no change of shifts except after a weekly holiday or any other holiday; and

(c) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that where the State Government or any person, authorised by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies' toilets, equal opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the door step of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, the employer, representative organisation of the employer and representative organisation of

Amendment of section 59.

Amendment of section 64.

Substitution of new section for section 66.

Further restrictions on employment of women.

Amendment of section 56.

Amendment of section 65.

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workers of the concerned factory or group or class or description of factories, allow women to work between 7.00 P.M. and 6.00 A.M. in such factory or group or class or description of factories, subject to such conditions as may be specified therein:

Provided further that no such permission shall be granted to a woman worker during a period of sixteen weeks before and after her childbirth, of which at least eight weeks shall be before the expected childbirth, and for such additional period, if any, as specified in the medical certificate stating that it is necessary for the health of the woman worker or her child:

Provided also that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered.”.

41. In section 76 of the principal Act, clause (b) shall be omitted.

42. In section 77 of the principal Act, for the words and figures “the Employment of Children Act, 1938”, the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986” shall be substituted.

43. In section 79 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening portion, for the figures and word “240 days”, the figures and word “90 days” shall be substituted;

(ii) in *Explanation* 1, for the figures and word “240 days”, the figures and word “90 days” shall be substituted;

(b) in sub-section (2), for the word “two-thirds”, the word “one-fourth” shall be substituted.

44. In section 87 of the principal Act,—

(a) in the opening portion, for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted;

(b) in clause (b), for the words “women, adolescents or children”, the words “young persons or women or persons with disabilities” shall be substituted.

45. In section 88 of the principal Act, in sub-section (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

46. In section 89 of the principal Act, sub-section (4) shall be omitted.

47. In section 90 of the principal Act, for the words “State Government”, wherever they occur, the words “Central Government or the State Government” shall be substituted.

48. In section 91A of the principal Act, in sub-section (1), for the words “Director General of Factory Advice Service and Labour Institutes”, the words “Director General of Occupational Safety and Health” shall be substituted.

49. For section 92 of the principal Act, the following sections shall be substituted, namely:—

“92. (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 (except sections 11, 18, 19 and 20), IV, IVA (except sections 41B, 41C and 41H), VII and IX (except section 89) of this Act or of any rules 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

Amendment of section 76.

Amendment of section 77.

Amendment of section 79.

Amendment of section 87.

Amendment of section 88.

Amendment of section 89.

Amendment of section 90.

Amendment of section 91A.

Substitution of new sections

for section 92.

26 of 1938.

61 of 1986.

General penalty for offences.

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a term which may extend to two years or with fine which may extend to three lakh rupees 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 thereunder has resulted in an accident causing death or serious bodily injury, the fine shall not be less than seventy-five thousand rupees.

(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 for each day on which the contravention is so continued.

(3) In respect of any contravention of any of the provisions of this Act or of any

rules made thereunder or any order in writing given thereunder 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 and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees for each day on which the contravention is so continued.

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.

92A. 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, 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 or with both.

92B. (1) If any competent person appointed under clause (ca) 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 or with both.

(2) If any worker employed in a factory spits in contravention of sub-section (3) of section 20, he shall be punishable with fine not exceeding one hundred rupees.

(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.

(4) If any worker employed in a factory contravenes the provisions of subsection (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.

92C. (1) The Central Government or the State Government may, by notification in the Official Gazette, prescribe in respect of the offences specified in the Fourth Schedule, which may before the institution of the prosecution, be compounded by such 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).”.

Penalties for offences by persons other than occupier.

Penalties in certain other cases.

Compounding of certain offences.

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50. For section 93 of the principal Act, the following section shall be substituted, namely:—

93. (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, rest rooms and creches.

(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.’.

Substitution of
new section
for section 93.

Liability of
owner of
premises in
certain
circumstances.

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51. In section 94 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “ten thousand rupees but which may extend to two lakh rupees”, the words “forty thousand rupees but which may extend to six lakh rupees” shall be substituted;

(ii) in the first proviso, for the words “ten thousand rupees”, the words “forty thousand rupees” shall be substituted;

(iii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where contravention of any of the provisions of Chapters mentioned in sub-section (1) of section 92 or of any rules made thereunder has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one lakh rupees.”

(b) after sub-section (1), as so amended, the following sub-section shall be inserted, namely:—

“(1A) If any person who has been convicted of any offence punishable under section 92A is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction,—

(i) in case of contravention of sub-section (1) of section 92A, with imprisonment for a term which may extend to one year or with fine which shall not be less than forty thousand rupees but which may extend to five lakh rupees or with both; and

(ii) in case of contravention of sub-section (2) of section 92A, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.”;

(c) in sub-section (2), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “and sub-section (1A)” shall be inserted.

52. In section 95 of the principal Act, for the portion beginning with the words “being examined by, an Inspector” and ending with the words “ten thousand rupees or with both”, the following shall be substituted, namely:—

“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 implementation of the provisions of the Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand rupees or with both.”

53. In section 96 of the principal Act, for the words “ten thousand rupees”, the words “thirty thousand rupees” shall be substituted.

54. In section 96A of the principal Act,—

(a) for the words “two lakh rupees”, the words “six lakh rupees” shall be substituted;

(b) for the words “five thousand rupees”, the words “fifteen thousand rupees” shall be substituted.

55. In section 97 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of section 111, no worker employed in a factory shall contravene any provisions of this Act or of any rule or order made thereunder, imposing any duty or liability on the workers.”

Amendment
of section 94.

Amendment
of section 95.

Amendment
of section 96.

Amendment
of section

96A.

Amendment
of section 97.

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56. In section 98 of the principal Act, for the words “one thousand rupees”, the words “three thousand rupees” shall be substituted.

57. In section 99 of the principal Act, for the words “one thousand rupees”, the words “three thousand rupees” shall be substituted.

58. In section 102 of the principal Act, in sub-section (2), for the words “one hundred rupees”, the words “three hundred rupees” shall be substituted.

59. In section 104 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) A declaration in writing by a certifying surgeon or any other medical authority notified in this behalf by the State Government under sub-section (2) of section 16 of the Child Labour (Prohibition and Regulation) Act, 1986 relating to a worker stating therein that he has personally examined such worker to be under or over the age stated as such in the declaration shall, for the purposes of this Act and rules made thereunder, be conclusive evidence as to the age of that worker.”.

60. In section 111 of the principal Act, sub-section (2) shall be omitted.

61. In section 112 of the principal Act, for the words “The State Government may make rules”, the words, figures and letter “Subject to the provisions contained in section 112A, the State Government may make rules” shall be substituted.

62. After section 112 of the principal Act, the following section shall be inserted, namely:—

“112A. (1) The Central Government may, by notification and consultation with the State Governments, frame rules with a view to bring uniformity in the areas of occupational safety, health or such other matter as it may consider necessary.

(2) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

63. The First Schedule to the principal Act shall be omitted.

64. After Third Schedule to the principal Act, the following Schedule shall be inserted, namely:—

“THE FOURTH SCHEDULE

(See section 92C)

LIST OF COMPOUNDABLE OFFENCES

Serial Section and rules framed thereunder and Nature of Offence

number orders issued thereunder

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.

Amendment of section 98.

Amendment of section 99.

Amendment of section 102.

Amendment of section 104.

61 of 1986.

Insertion of new section 112A.

Power to make rules by Central Government.

Insertion of Fourth Schedule.

Omission of First Schedule.

Amendment of section 111.

Amendment of section 112.

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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 Not providing facilities as per the provisions. drying of wet clothing

7. Section 44 – Facilities for sitting Not providing facilities as per the provisions.

8. Sub-sections (1), (2) and (3) of Not providing and maintaining first-aid appliances section 45 – 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 Not providing and maintaining shelters, rest rooms lunch 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 Not complying with the rules framed under supplement Chapter V section 50.

13. Sub-section (2) of section 53 – Not displaying the notice and not maintain the Compensatory Holidays register for compensatory holiday.

14. Sub-section (5) of section 59 – Not maintaining the prescribed registers. Extra wages for overtime

15. Section 60 – Restriction on double Allowing a worker double employment on any employment day.

16. Section 61 – Notice of periods of Not complying with the provisions. work for adults

17. Section 62 – Register of adult workers Not maintaining register as per the provisions.

18. Section 63 – Hours of work to Not complying with the provisions. correspond with notice

19. Section 64 – Power to make exempting Not complying with the rules framed under section rules 64.

20. Section 65 – Power to make exempting Not complying with the orders issued under orders 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 Not complying with the provisions. certain cases

24. Section 82 – Mode of recovery Not complying with the provisions. of unpaid wages

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 Not complying with the provisions contained in premises in certain circumstances 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.

Serial Section and rules framed thereunder and Nature of Offence number orders issued thereunder

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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 Demanding charge from worker for providing any and conveniences facility under the Act.”.

Serial Section and rules framed thereunder and Nature of Offence
number orders issued thereunder

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STATEMENT OF OBJECTS AND REASONS

The Factories Act was enacted in 1948. It's main object is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. The Act has been amended in the years 1949, 1950, 1951, 1954, 1970 and 1976. The last amendment to the Factories Act, 1948 was made in the year 1987 as the Factories (Amendment) Act, 1987, wherein a separate Chapter was inserted relating to hazardous process.

2. There have been several developments over the last twenty years ever since the last amendment was made. These developments include changes in the manufacturing practices and emergence of new technologies, ratification of ILO Conventions, Judicial decision, recommendations of the Committees and decisions taken in the Conferences, of Chief Inspectors of Factories.

3. In view of above developments and suggestions from various Ministries of the Central Government, employers and trade union representatives, it has been decided to amend the Factories Act, 1948 by an amendment Bill, namely, the Factories (Amendment) Bill, 2014.

4. The Factories (Amendment) Bill, 2014, *inter alia*, provides the following, namely:—

(a) to amend section 18 of the Act so as to extend the provisions relating to drinking water to all factories irrespective of number of workers;

(b) to amend section 22 of the Act so as to prohibit the pregnant woman or a person with disability to work on or near machinery in motion;

(c) to substitute a new section for existing section 27 relating to “prohibition of employment of woman and children near cotton openers” so as to prohibit employment of young persons, pregnant woman and persons with disabilities in any part of a factory for pressing cotton in which a cotton-opener is at work;

(d) to substitute a new section 35A relating to “protection of eyes” so as to impose obligation upon the occupier to make a provision of “Personal Protective Equipment” for workers exposed to various hazards;

(e) to substitute a new section for existing section 36 of the Act relating to “precautions against dangerous fumes, gases, etc.” to provide adequate facilities to the persons who are liable to enter into confined spaces;

(f) to amend section 37 of the Act relating to “explosive or inflammable dust, gas, etc.”, so as to take practical measures against explosion or inflammable dust, gas, etc.;

(g) to amend section 41B of the Act relating to “compulsory disclosure of information by the occupier” to provide for preparation of emergency plan and disaster control measures in consultation with the workers;

(h) to amend section 46 of the Act relating to “canteens” to provide canteen facilities in respect of factories employing two hundred or more workers instead of the present stipulation of two hundred and fifty workers;

(i) to amend section 47 of the Act relating to “shelters, rest rooms and lunch rooms” so as to provide for shelters or rest rooms and lunch rooms in respect of factories employing seventy-five or more workers instead of present stipulation of one hundred and fifty workers;

(j) to substitute a new section for section 66 of the Act providing further restrictions on employment of women;

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(k) to insert a new section 112A so as to empower the Central Government to make rules in consultation with the State Governments, with a view to bring uniformity in the areas of occupational safety, health or such other matters as the Central Government may consider necessary; and

(l) to insert the Fourth Schedule providing the list of compoundable offences.

7. The Bill seeks to achieve the above objects.

NEW DELHI; NARENDRA SINGH TOMAR

The 5th August, 2014.

Notes on clauses

Clause 1 of the Bill provides for the short title and commencement. A provision has been made empowering the Central Government to appoint date of commencement of the proposed legislation and different dates for different provisions of the proposed legislation.

Clause 2 of the Bill seeks to amend section 2 of the Factories Act, 1948 relating to definitions of “hazardous process”, “hazardous substance”, “factory” and “prescribed”.

Clause 3 of the Bill seeks to amend section 6 of the Act, relating to approval, licensing and registration of factories.

Under the existing provisions contained in the *Explanation* to the said section, a factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

It is proposed to substitute the *Explanation* to said section so as to provide that a factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, or the addition of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or result in hazardous conditions likely to cause accident, dangerous occurrences or injuries to health of workers or public or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes, or chemical or biological wastes injurious to health and a certificate in writing shall be given by a competent person to this effect. Provided that till such certificate is given by the competent person, a certificate given in writing by the occupier shall be valid.

Clause 4 of the Bill seeks to amend section 7 of the Act relating to Notice by occupier.

Under the existing provisions contained in clause (e) of sub-section (1) of said section, the total rated horse-power installed or to be installed in the factory, which shall not include the rated horse-power of any separate stand-by plant.

It is proposed to substitute the words “horse-power” in clause (e) of sub-section (1) of said section by the words “power in Kilowatts” in order to convert the unit from British to Metric system.

Clause 5 of the Bill seeks to amend section 7B of the Act relating to the general duties of manufacturers, etc., as regards articles and substances for use in factories.

Under the existing provisions contained in sub-section (5) of said section, where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

It is proposed to substitute sub-section (5) of said section so as to impose responsibility upon a person,— (a) who erects or instals any article for use in a factory, to ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory; (b) who manufactures, imports or

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supplies any substance for use in any factory—(i) to ensure, so far as practicable that such substance is safe and has no risks involved to health of persons working in such factory; (ii) to carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary; (iii) to take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health; (c) who undertakes the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimization of any risks to health or safety to which the substance may give rise out of such manufacture or research”. It is also proposed to substitute sub-section (6) and the *Explanation* to said section in the light of addition of the word “substance”.

Clause 6 of the Bill seeks to amend section 13 of the Act relating to the provision of ventilation and temperature.

Under the existing provisions contained in section (2) of the said section, the State

Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 7 of the Bill seeks to amend section 17 of the Act relating to the provision of lighting.

Under the existing provisions contained in sub-section (4) of said section, the State Government may prescribe, standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

It is proposed to amend sub-section (4) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 8 of the Bill seeks to amend section 18 of the Act relating to the provision of drinking water.

Under the existing provisions contained in sub-section (3) of said section, in every factory wherein more than two hundred and fifty workers are ordinarily employed provision shall be made for cool drinking water during hot weather by effective means and for distribution thereof.

It is proposed to amend sub-section (3) of the said section so as to omit the words, “wherein more than two hundred and fifty workers are ordinarily employed”. By the omission of the said words the responsibility lies upon each and every factory, to provide the facilities of cool drinking water during hot weather by effective means, irrespective of strength of workers.

Clause 9 of the Bill seeks to amend section 20 of the Act relating to the provision of spittoons. Under the existing provisions contained in sub-section (4) of said section whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees. It is proposed to amend section 20 of the Act so as to omit sub-section (4) of the said section. The said proposal is consequential due to insertion of a new section 92B namely “Penalty in certain other cases”.

Clause 10 of the Bill seeks to amend section 21 of the Act relating to the provision of fencing of machinery.

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Under the existing provisions contained in sub-section (2) of said section the State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 11 of the Bill seeks to amend section 22 of the Act relating to the provision of work on or near machinery in motion.

Under the existing provisions contained in sub-section (2) of said section, no woman or a young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

It is proposed to amend sub-section (1) of section 22 so as to provide that the words and brackets “adult male worker wearing tight fitting clothing (which shall be supplied by the occupier)” shall be replaced as “adult male worker wearing tight fitting clothing or adult female worker wearing tight fitting clothing (which shall be supplied by the occupier) covering loose hair”.

It is also proposed to amend sub-section (2) of said section so as to prohibit the pregnant woman or a person with disability instead of “women”.

It is also proposed to amend sub-section (3) of said section, so as to substitute the words “the State Government” by the words “the Central Government or the State

Government”, which is consequential in nature.

Clause 12 of the Bill seeks to amend section 23 of the Act relating to employment of young persons on dangerous machines.

Under the existing provisions contained in sub-section (2) of said section, the provisions contained in sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 13 of the Bill seeks to amend section 26 of the Act relating to casing of new machinery.

It is proposed to omit section 26 of the said Act, since it is proposed to amend subsection (5) of section 7B making the manufacturers, suppliers of articles including machinery responsible for manufacturing supplying safe machinery to be used in factory.

Clause 14 of the Bill seeks to amend section 27 of the Act relating to Prohibition of employment of women and children near cotton openers.

Under the existing provisions contained in the said section, no woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work. The proviso to the said section says that, if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

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It is proposed to amend said section so as to prohibit the employment of young persons or pregnant woman or persons with disability instead of women.

Clause 15 of the Bill seeks to amend section 28 of the Act relating to hoists and lifts.

Under the existing provisions contained in sub-section (4) of said section, the State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

It is proposed to amend sub-section (4) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”.

The proposed amendment is consequential in nature.

Clause 16 of the Bill seeks to amend section 29 of the act relating to lifting machines, chains, ropes and lifting tackles.

Under the existing provisions contained in sub-section (2) of said section the State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories— (a) prescribing further requirements to be complied with in addition to those set out in this section; (b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”.

The proposed amendment is consequential in nature.

Clause 17 of the Bill seeks to amend section 31 of the Act relating to pressure plant.

Under the existing provisions contained in sub-section (2) of the Act the State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories. Sub-section (3) of said section provides that the State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.

It is proposed to amend sub-sections (2) and (3) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature

Clause 18 of the Bill seeks to amend section 34 of the Act relating to Excessive Weights.

Under the existing provisions contained in the sub-section (2) of said section, the

State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

It is proposed to amend sub-section (2) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 19 of the Bill seeks to amend section 35 of the Act relating to Protection of eyes.

Under the existing provisions contained in the said section, the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process, involving risk of injury to the eyes from particles or fragments thrown off in the course of the process or risk to the eyes by reason of exposure to excessive light.

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It is proposed to amend sub-section (2) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 20 of the Bill seeks to insert a new section 35A namely Personal Protective Equipment and protective clothing to the workers having regard to the nature of the hazards involved in the work. The said clause empowers the State Government or the Central Government to make rules prescribing the standards of maintenance, issue of personal protective equipment and protective clothing with a view to ensure their effectiveness in relation to the conditions of use and conformity to their quality standards.

Clause 21 of the Bill seeks to amend section 36 of the Act relating to precautions against dangerous fumes, gases, etc.

It is proposed to substitute the said section so as to provide certain provisions in respect of circumstance where a person is required to enter any chamber, tank, vat, pit, flue or other confined space in any factory in which any gas, fume vapor or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby.

Clause 22 of the Bill seeks to amend section 37 of the Act relating to explosive or inflammable dust, gas, etc.

Under the existing provisions contained in the sub-section (1) of said section, where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by— (a) effective enclosure of the plant or machinery used in the process; (b) removal or prevention of the accumulation of such dust, gas, fume or vapour; (c) exclusion or effective enclosure of all possible sources of ignition.

It is proposed to amend sub-section (1) of said section so as to provide that any manufacturing process, storage or handling of, raw material, intermediate product or finished product produces dust, gas, fumes or vapour to such an extent as to be likely to result in fire or explosion on ignition or otherwise, all practicable measures shall be taken to prevent any such fire or explosion. It is also proposed to insert new sub-section (4A) so as to provide that in any factory if any flammable gas, fume or dust is likely to be present in any area, the electrical equipment, apparatus and fittings installed in that area shall be selected, installed and maintained as per the National Electrical Code and shall conform to the relevant National Standards, or to an International Standard where National Standard is not available.

It is also proposed to insert a new sub-section (4B) so as to provide that the electrical equipment, apparatus and fittings referred to in sub-section (4A), shall be duly approved before use in factories by the Directorate General of Occupational Safety and Health.”

Clauses 23 of the Bill seeks so amend section 38 of the Act relating to precautions in case of fire.

Under the existing provisions contained in sub-section (3) of the said section, the State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (1) and (2).

It is proposed to amend sub-sections (3) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 24 of the Bill seeks to amend section 40B of the Act relating to Safety Officers.

Under the existing provisions contained in sub-section (1) of the said section, in every

factory,— (i) wherein one thousand 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
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any other hazard to health, to the persons employed in the factory, the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification. Sub-section (2) of the said section provides that, the duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.

It is proposed to amend of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 25 of the Bill seeks to amend section 41A of the Act relating to Constitution of Site Appraisal Committees.

It is proposed to amend the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 26 of the Bill seeks to amend section 41B of the Act relating to the Compulsory disclosure of information by the occupier.

Under the existing provisions contained in sub-section (4) of the said section, every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan 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 in the event of an accident taking place.

It is proposed to amend sub-section (4) of the said section so as to specify that the— (a) occupier of a factory involved in manufacture, storage or handling such hazardous substances in quantities equal to or more than such quantities as may be prescribed, shall draw up in consultation with workers representatives an on-site emergency plan and detailed disaster control measures for his factory and submit the same for information of Chief Inspector and other authorities as may be prescribed,

(b) The occupier of the factory shall make known to the workers employed in the factory and to the general public in the vicinity of the factory, the safety measures required to be taken in accordance with the on-site emergency plan and detailed disaster control measures drawn under sub-clause (a) above in the event of an accident taking place. Proviso to this sub-section provided that the Central Government or the State Government or the Chief Inspector may, subject to the prior approval of the Central Government or the State Government, by order in writing, require any factory carrying on hazardous process, irrespective of the quantity of hazardous substances in the premises, to draw up an on-site emergency plan and disaster control measures.

It is further proposed to amend clause (a) and clause (b) of sub-section (5) of the said section so as to substitute the words “factory engaged” by the words “factory is engaged” and to insert the words “at least” before the words “within a period of” so as to make the said sub-section more comprehensive.

Clause 27 of the Bill seeks to amend section 41C of the Act relating to the specific responsibility of the occupier in relation to hazardous process.

Under the existing provisions contained in clause (a) of the said section, every occupier of a factory involving any hazardous process shall— (a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed.

It is proposed to amend clause (a) of the said section so as to substitute the words “chemical, toxic or any other harmful substance” by the words “hazardous substances”, in order to make the section more comprehensive.

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Clause 28 of the Bill seeks to amend section 41D of the Act relating to the power of Central Government to appoint Inquiry Committee.

Under the existing provisions contained in sub-section (1) of section 41D of the Act, 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 any 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 and recurrence of such extraordinary situations in future in such factory or elsewhere.

It is proposed to amend sub-section (1) of said section so as to substitute the words “prevention and recurrence” by the words “prevention of recurrence” in order to make the section more comprehensive.

Clause 29 of the Bill seeks to amend section 41E of the Act relating to the emergency standards.

Under the existing provisions contained in sub-section (1) of the said section, 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 Director- General of Factory Advice Service and Labour Institutes or any institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

It is proposed to amend sub-section (1) of the said section so as to substitute the words “Director-General of Factory Advice Service and Labour Institutes” by the words “Director General of Occupational Safety and Health” due to renaming of “Directorate General of Factory Advice Service and Labour Institutes” as “Directorate General of Occupational Safety and Health”.

Clause 30 of the Bill seeks to amend section 41F of the Act relating to the permissible limits of exposure of chemical and toxic substances.

Under the existing provisions contained in sub-section (1) of the said section, the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

It is proposed to substitute the words “threshold limit of exposure of chemical and toxic substances in manufacturing process (whether hazardous or otherwise)” by the words “limits of exposure of chemicals and toxic substances in manufacturing process” in order to make the section more comprehensive.

Clause 31 of the Bill seeks amend section 41G of the Act relating to workers’ participation in safety management.

Under the existing provisions contained in sub-section (1) of the said section, the State Government may, by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up Safety Committee.

It is proposed to amend sub-section (1) of the said section to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 32 of the Bill seeks to insert a new section 41-I relating to power to make rules regarding hazardous process. The said clause provides that the Central Government or the State Government may make rules— (a) specifying standards of health and safety to be followed in hazardous process, (b) prohibiting or restricting employment of young persons, 25

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.

Clause 33 of the Bill seeks to amend section 45 of the Act relating to the First-aid appliances.

It is proposed to amend sub-section (3) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

Clause 34 of the Bill seeks to substitute section 46 of the Act relating to canteens.

Under the existing provisions contained in the said section, the State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers. It is proposed to substitute the said section, so as to provide that in every factory wherein two hundred or more workers are ordinarily employed, there shall be provided and maintained a canteen or canteens by the occupier for the use of the workers.

It is also proposed to confer power upon the State Government to make rules on certain provisions relating to the canteens and also empowers the Chief Inspector to relax the requirement of providing canteens, for a period not exceeding twelve months, for existing factories, after recording the reason in writing.

Clause 35 of the Bill seeks to amend section 47 of the Act relating to shelters, rest rooms and lunch rooms.

Under the existing provisions contained in sub-section (1) of the said section, in every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers. The proviso to the said section says that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section.

It is proposed to amend sub-section (1) of the said section so as to impose responsibility on the employer of every factory to provide shelters and rest rooms wherein seventy five workers are ordinarily employed. The said clause also substitutes the words “suitable and separate shelters or rest rooms for male and female workers” for the words “suitable shelters or rest rooms”. The said clause also proposes to insert a new sub-section (4) so as to empower the Chief Inspector to relax the requirement of providing of shelters, rest rooms and lunch rooms, for a period not exceeding twelve months, for existing factories after recording the reasons.

Clause 36 of the Bill seeks to amend section 56 of the Act relating to spreadover.

Under the existing provisions contained in the proviso to section 56, the Chief Inspector may increase the spreadover up to 12 hours for reasons to be specified in writing.

It is proposed to amend the said proviso so as to provide that where the State Government is satisfied it may by notification in Official Gazette increase the period of spreadover upto 12 hours in a factory or group or class or description of factories.

Clause 37 of the Bill seeks to amend section 59 of the Act relating to extra wages for overtime.

Under the existing *explanation* to sub-section (3) of section 59, no mention has been made as what allowances has to be considered for computing the earnings for the days on which the worker actually worked.

It is proposed to amend the explanation clause by explaining the term such allowances. “such allowances” means all allowances except those of complementary in nature such as house rent allowance, transport and small family allowance.

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Clause 38 of the Bill seeks to amend section 64 of the Act relating to power to make exempting rules.

Under the existing provisions contained in clause (iv) of sub-section (4) of the said section, the total number of hours of overtime shall not exceed fifty for any one quarter.

It is proposed to amend clause (iv) of sub-section (4) of the said section so as to increase the total number of hours of overtime for any one quarter from fifty to one hundred.

It is also proposed to amend sub-section (5) of the said section so as to substitute the words “Rules made” by the words “Rule made before the commencement of Factories (Amendment) Act, 2014”.

Clause 39 of the Bill seeks to amend section 65 of the Act relating to power to make exempting orders.

Under the existing provisions contained in clause (iv) of sub-section (3) of the said section, 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 seventy-five.

It is proposed to amend clause (iv) of sub-section (3) of the said section so as to increase the total number of hours of overtime work in any quarter from seventy-five to one hundred and fifteen. It is also proposed to insert a proviso in the said sub-section after explanation which enables that the State Government or the Chief Inspector may, subject to the prior approval of the State Government, by order further enhance the total number of hours of overtime work in any quarter to one hundred and twenty-five in the public interest.

Clause 40 of the Bill seeks to substitute a new section 66 for section 66 of the Act relating to further restrictions on employment of women.

The existing provisions contained in the said section provides further restrictions on employment of women that—(a) no exemption from the provisions of section 54 may be

granted in respect of any women, (b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M., (c) there shall be no change of shifts except after a weekly holiday or any other holiday.

Sub-section (2) of the said section provides that the State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fishcanning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

Sub-section (3) of the said section provides that the rules made under sub-section (2) shall remain in force for not more than three years at a time.

It is proposed to substitute a new section 66 to the said section so as to provide that where the State Government or any person, authorised by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies toilets, equal opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the door step of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, representative organization of women workers, the employer, representative organization of the employer and representative organization of workers of the concerned factory or group or class or description of factories allow women to work between 7.00 P.M. and 6.00 A.M. in such factory or group or class or description of factories, subject to such conditions as may be specified therein.

It is further proposed to provide that no such permission shall be granted to a women worker during a period of sixteen weeks before and after her childbirth, of which at least eight weeks shall be before the expected childbirth, and for such additional period, if any, as specified in the medical certificate stating that it is necessary for the health of the woman worker or her child.

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It is also proposed to provide that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered.

Clause 41 of the Bill seeks to amend section 76 of the Act relating to the power of State Government to make rules.

Under the existing provisions contained in clause (b) of said section the State Government make rules prescribing the physical standards to be attained by children and adolescents working in factories. It is proposed to omit this clause.

Clause 42 of the Bill seeks to amend section 77 of the Act relating to certain other provisions of law not barred. Under the existing provisions contained in section 77 of the Act the provisions of Chapter VII relating to employment of young persons shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.

It is proposed to amend said section so as to adopt the provisions of Child Labour (Prohibition and Regulation) Act, 1986 instead of Employment of Children Act, 1938 to the said Act.

Clause 43 of the Bill seeks to amend section 79 of the Act relating to Annual leave with wages.

Under the existing provisions contained in opening portion of sub-section (1), every worker who has worked for a period of 240 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) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

It is proposed to amend sub-section (1) of the said section so as to decrease the computation of period of work from “240 days” to 90 days.

It is also proposed to amend *Explanation 1* to the sub-section (1) of said section so as to decrease the computation of period of work from 240 days to 90 days. It is also proposed to amend sub-section (2) of said section so as to replace the words “two thirds” by “onefourth” in order to make the section more comprehensive.

Clause 44 of the Bill seeks to amend section 87 of the Act relating to the Dangerous operations.

Under the existing provisions contained in clause (b) of section 87 of the Act, where

the State Government 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 disease, it may make rules applicable to any factory or class or description of factories in which the manufacturing process or operation is carried on prohibiting or restricting the employment of women, adolescents or children in the manufacturing process or operation. It is proposed to amend the opening portion and clause (b) of said section so as to empower the Central Government or the State Government to make rules prohibiting or restricting the employment of young persons or women or persons with disabilities. *Clause 45* of the Bill seeks to amend section 88 of the Act relating to the notice of certain accidents.

Under the existing provisions contained in sub-section (3) of said section, the State Government may make rules for regulating the procedure at inquiries under the said section. It is proposed to amend sub-section (3) of said section to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

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Clause 46 of the Bill seeks to amend section 89 of the Act relating to notice of certain diseases.

Under the existing provisions contained in sub-section (4) said section, if any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to one thousand rupees.

It is proposed to omit sub-section (4) of the said section. The said proposal is consequential due to insertion of a new section 92B namely “Penalties in certain other cases”.

Clause 47 seeks to amend section 90 of the Act relating to power to direct enquiry into cases of accident or disease.

Under the existing provisions contained in the said section, the State Government is empowered to make rules with respect to the provisions contained in the said section. It is proposed to amend said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature

Clause 48 seeks to amend section 91A of the Act relating to the Safety and occupational health surveys.

It is proposed to amend sub-section (1) of said section so as to substitute the words “Director General of Factory Advice Service and Labour Institutes” by the words “Director General of Occupational Safety and Health” due to renaming of “Directorate General of Factory Advice Service and Labour Institutes” as “Directorate General of Occupations Safety and Health”.

Clause 49 of the Bill seeks to substitute section 92 of the Act relating to General penalty for Offences.

It is proposed to amend the action so as to provide that in case of contravention of the provisions of Chapter I, III (except sections 11, 18, 19 and 20), IV, IVA(except sections 41B, 41C and 41H), VII and IX (except section 89) of this Act, or of any rules 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 or with fine which may extend to three lakh rupees or with both, and in any case it shall not be less than thirty thousand rupees. It is further proposed that,—(i) 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 seventy-five thousand rupees; (ii) 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 for each day on which the contravention is so continued; (iii) in respect of any contravention of any of the provisions of this Act or 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 and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees for each day on which the contravention is so continued. It is further proposed to consolidate the provisions relating

to penalties for violation of various provisions of the Act by a person other than occupier. It is further to insert a new section 92B as penalty for offences by others than the occupier such as the competent person, medical practitioner or any worker. If any competent person appointed under clause 2(ca) fails to comply with any of the provisions under the act or rules he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extends to three lakh rupees or with both. It is also proposed as a consequential due to amendment of section 20, section 89, section 97 and section 111 of the Act. It is also proposed to compound in respect of offences specified in the Fourth Schedule to the Act namely section 92C which relates to Compounding of certain offences.

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Clause 50 of the Bill seeks to substitute section 93 of the Act relating to Liability of owner of premises in certain circumstances.

It is proposed to substitute section 93 of the Act so as to impose liability upon the owner of premises in certain circumstances. It is also proposed to punish the owner of premises for contravention of any of the provisions of said section as if he were the occupier or manager of a factory and shall be punishable in accordance with the provisions of section 92.

Clause 51 of the Bill seeks to amend section 94 of the Act relating to the enhanced penalty after previous conviction.

It is proposed to amend sub-section (1) of said section so as to substitute the words “ten thousand rupees but which may extend to two lakh rupees” with the words “forty thousand rupees which may extend to six lakh rupees”.

It is also proposed to insert sub-section (1A) so as to provide that if any person who has been convicted of any offence punishable under section 92A is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction,— (i) in case of contravention of sub-section (1) of section 92A, with imprisonment for a term which may extend to one year or with fine which shall not be less than forty thousand rupees but which may extend to five lakhs rupees or with both; and (ii) in case of contravention of sub-section (2) of section 92A, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both. It is also proposed to amend sub-section (2) of said section so as to insert the words, brackets, and figure and letter “sub-section (1A)” after the words, brackets, and figure “subsection (1).

Clause 52 seeks to amend section 95 of the Act relating to penalty for obstructing inspector.

Under the existing provisions contained in said section, 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 registers or other documents in his custody kept in pursuance of this Act or of any rules made there under, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

It is proposed to amend said section so as to enhance the penalty from ten thousand rupees to thirty thousand rupees.

Clause 53 seeks to amend section 96 of the Act relating to penalty for wrongfully disclosing results of analysis under section 91.

Under the existing provisions contained in said section, whoever wrongfully discloses results of analysis under section 91 shall be punishable with fine which may extent to ten thousand rupees.

It is proposed to amend said section so as to enhance the penalty from ten thousand rupees to thirty thousand rupees

Clause 54 seeks to amend section 96A of the Act relating to Penalty for contravention of the provisions of sections 41B, 41C and 41H.

Under the existing provisions contained in sub-section (1) said section, whoever fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made there under, 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 two lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

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It is proposed to enhance the fine from two lakh rupees to six lakh rupees and from five thousand rupees to fifteen thousand rupees in order to make the provisions more stringent. *Clause 55* of the Bill seeks to amend section 97 of the Act relating to offences by workers.

Under the existing provisions contained in sub-section (1) of said section, it is provided that 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 there under, imposing any duty or liability on workers, he shall be punishable with fine which may extend to five hundred rupees. It is proposed to amend sub-section (1) of said section so as to omit the provisions relating to penalty for contravention of any provisions of this Act with reference to section 111 of the Act. The said proposal is consequential due to insertion of new section 92B namely penalties in certain other cases.

Clause 56 seeks to amend section 98 of the Act relating to penalty for using false certificate of fitness.

Under the existing provisions contained in section 98, whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows 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 one thousand rupees or with both.

It is proposed to amend the said section so as to increase the penalty from one thousand rupees to three thousand rupees in order to make the provision more stringent.

Clause 57 seeks to amend section 99 of the Act relating to penalty for double employment of child.

Under the existing provisions contained in the said section, if a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to one thousand rupees unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

It is proposed to amend the said section so as to increase the penalty from one thousand rupees to three thousand rupees in order to make the provision more stringent.

Clause 58 seeks to amend section 102 of the Act relating to Power of Court to make orders.

It is proposed to amend the said section so as to increase the penalty from one hundred rupees to three hundred rupees in order to make the provision more stringent.

Clause 59 of the Bill seeks to amend section 104 of the Act relating to the onus as to the age.

Under the existing provisions contained in the sub-section (2) of said section, 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.

It is proposed to amend sub-section (2) of said section so as to provide that a declaration in writing shall be given by a certifying surgeon or any other medical practitioner under sub-section (2) of the section 16 of Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) relating to a worker stating therein that he has personally examined such worker to be under or over the age stated as such in the declaration shall, for the purposes of this Act and rules made thereunder, be conclusive evidence as to the age of that worker.

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Clause 60 of the Bill seeks to amend section 111 of the Act relating to the obligations of workers.

Under the existing provisions contained in the sub-section (2) of said section, if any worker employed in a factory contravenes any of the provisions of this section or of any rule 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.

It is proposed to amend section 111 of the Act so as to omit sub-section (2) of said section. The said proposal is consequential due to insertion of new section 92B namely, penalties in certain other cases.

Clause 61 of the Bill seeks to amend section 112 of the Act relating to general power to

make rules by State Government. The said clause empowers the State Government to make rules for carrying out the provisions of the proposed legislation.

It is proposed to amend the section 112 by inserting the words “subject to the provisions contained in section 112A” thus, empowering the State Governments to make rules where the Central Government has not been empowered to make rules.

Clause 62 of the Bill seeks to insert a new section 112 A namely, “Power to make rules by Central Government”.

The said clause empowers the Central Government to make rules in consultation with the State Governments with a view to bring uniformity in the areas of occupational safety, health or such other matters as it may consider necessary. It also provides that the rules made under the proposed legislation are required to be laid before both the Houses of Parliament.

Clause 63 of the Bill seeks to omit First Schedule to the Act. The said Schedule specifies list of industries involving hazardous processes. The said proposal is consequential due to amendment of clause (cb) of section 2 of the Act, relating to the definition of “hazardous process” and insertion of a new clause (cc) relating to the definition of the term “hazardous substances”.

Clause 64 of the Bill seeks to insert a new Schedule after the Third Schedule to the Act which provides the list of Compoundable Offences. The said proposal is consequential in nature.

FINANCIAL MEMORANDUM

There are no financial implications of the Factories (Amendment) Bill, 2014. Hence consultation with Ministry of Finance is not required.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government in addition to the State Government to prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.

2. Clause 7 of the Bill empowers the Central Government in addition to the State Government to prescribed standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

3. Clause 10 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of section 21(2).

4. Clause 11 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prohibit in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

5. Clause 12 of the Bill empowers the Central Government in addition to the State Government to make rules so as to restrict the employment of young persons on dangerous machines.

6. Clause 15 of the Bill empowers the Central Government in addition to the State Government to make rules regarding hoists and lifts.

7. Clause 16 of the Bill empowers the Central Government in addition to the State Government to make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories so as to prescribe further requirements to be complied with in addition to those set out in this section, or to exempt from compliance with all or any of the requirements of Section 29, wherein its opinion, such compliance is unnecessary or impracticable.

8. Clause 17 of the Bill empowers the Central Government in addition to the State Government to make rules providing for the examination and testing of any plant or machinery and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories, or to exempt, subject to such conditions as may be specified therein, any part of any plant or machinery from the provisions of section 31.

9. Clause 18 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prescribe the maximum weights which may be lifted,

carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

10. Clause 19 of the Bill empowers the Central Government in addition to the State Government to make rules in respect of any prescribed manufacturing process which involves risk of injury to the eyes from particles or fragments thrown off in the course of the process, or risk to the eyes by reason of exposure to excessive light so as to provide for requirement of effective screens or suitable goggles for the protection of persons employed on or in the immediate vicinity of the process.

11. Clause 20 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prescribe a standard of maintenance, issue of personal
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protective equipment and protective clothing with a view to ensure their effectiveness in relation to the conditions of use and conformity to their quality standards.

12. Clause 23 of the Bill empowers the Central Government in addition to the State Government to make rules in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (1) and (2) of section 38.

13. Clause 24 of the Bill empowers the Central Government in addition to the State Government to prescribe the duties, qualifications and conditions of service of Safety Officers.

14. Clause 25 of the Bill empowers the Central Government in addition to the State Government to make rules related to constitution of site appraisal committees.

15. Clause 31 of the Bill empowers the Central Government in addition to the State Government to make rules related to workers participation in safety management by setting up safety committee.

16. Clause 32 of the Bill empowers the Central Government in addition to the State Government to make rules for – (a) specifying standards of health and safety to be followed in hazardous process; (b) prohibiting or restricting employment of young persons, pregnant women, any class of adult workers in manufacture, storage or handling involving hazardous process; and (c) prohibiting, restricting or controlling the use of hazardous substances.

17. Clause 33 of the Bill empowers the Central Government in addition to the State Government regarding recognition of the certificate in first-aid treatment for the person in charge of the first-aid box.

18. Clause 44 of the Bill empowers the Central Government in addition to the State Government to make rules regarding exposure of a person in serious risk in the factories.

19. Clause 45 of the Bill empowers the Central Government in addition to the State Government to make rules regarding the procedure for the notice of the certain accidents to be given by the factory management.

20. Clause 47 of the Bill empowers the Central Government in addition to the State Government to make rules for regulating the procedure at inquiries in respect of matters relating to power to direct enquiry into cases of accident or disease.

21. Clause 62 of the Bill empowers the Central Government to make rules. However, the Central Government may, and in consultation with the State Governments, frame rules with a view to bring uniformity in the areas of occupational safety, health or such other matter as it may consider necessary.

22. The matters in respect of which regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE FACTORIES ACT, 1948

(63 of 1948)

* * * * *

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

* * * * *

(*cb*) "hazardous process" means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof 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:

Provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule;

* * * * *

(f) "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 by the Chief Inspector of Factories;

* * * * *

(k) "manufacturing process" means any process for—

* * * * *

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or

* * * * *

(n) "occupier" of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

* * * * *

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

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, 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, section 11 or section 12;

Interpretation.

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(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, 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 provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or section 45, 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, agency, master or other officer-in-charge or person;

* * * * *

(p) "prescribed" means prescribed by rules made by the State Government under this Act;

* * * * *

6. (1) The State Government may make rules—

* * * * *

Explanation.— A factory shall not be deemed to be extended within the meaning

of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

7. (1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—
* * * * *

(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;
* * * * *

7B. (1) Every person who designs, manufactures, imports or supplies any article for use in any factory, shall—
* * * * *

(5) Where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the

Approval,
licensing and
registration of
factories.
Notice by
occupier.
General duties
of
manufacturers,
etc., as
regards
articles and
substances for
use in
factories.

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effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

(6) For the purposes of this section, an article is not to be regarded as properly used if it is used without regard to any information or advice relating to its use which has been made available by the person who has designed, manufactured, imported or supplied the article.

Explanation.— For the purposes of this section, "article" shall include plant and machinery.

* * * * *

13. (1) * * * * *

(2) The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.

* * * * *

17. (1) * * * * *

(4) The State Government may prescribe, standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

18. (1) * * * * *

(3) In every factory wherein more than two hundred and fifty workers are ordinary employed, provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

* * * * *

20. (1) * * * * *

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

CHAPTER IV

SAFETY

21. (1) * * * * *

(2) The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

22. (1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out—

(a) in case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation, while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this

Ventilation
and
temperature.
Lighting.
Drinking
water.
Spittoons.
Fencing of
machinery.
Work on or
near
machinery in
motion.

38

behalf and who has been furnished with a certificate of his appointment, and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless—

(i) the belt is not more than fifteen centimetres in width;

(ii) the pulley is normally for the purpose of drive and not merely a flywheel or balance wheel (in which case a belt is not permissible);

(iii) the belt joint is either laced or flush with the belt;

(iv) the belt, including the joint and the pulley rim, are in good repair;

(v) there is reasonable clearance between the pulley and any fixed plant or structure;

(vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and

(vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person;

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

(3) The State Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

23. (1) * * * * *

(2) Sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

* * * * *

26. (1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;
 (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1) or any rules made under sub-section (3), shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Employment
 of young
 persons on
 dangerous
 machines.
 Casing of new
 machinery.

39

(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

27. No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

28. (1) * * * * *

(4) The State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

Explanation.—For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.

29. (1) * * * * *

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories—

(a) prescribing further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

* * * * *

31. (1) * * * * *

(2) The State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.

* * * * *

34. (1) * * * * *

(2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

35. In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reasons of exposure to excessive light,

the State Government may by rules require that effective screens or suitable goggles

shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

Prohibition of employment of women and children near cottonopeners.

Hoists and lifts.

Lifting machines, chains, ropes and lifting tackles.

Pressure plant.

Excessive weights.

Protection of eyes.

40

36. (1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust; or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.

* * * * *

37. (1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

(a) effective enclosure of the plant or machinery used in the process;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

(c) exclusion or effective enclosure of all possible sources of ignition.

* * * * *

38. (1) * * * * *

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect the provisions of sub-sections (1) and (2).

* * * * *

40B. (1) In every factory,—

(i) wherein one thousand 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 persons employed in the factory,

the occupier shall, if so, required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualification and conditions of service of Safety Officer, shall be such as may be prescribed by the State Government.

* * * * *

CHAPTER IVA

PROVISIONS RELATING TO HAZARDOUS PROCESSES

41A. (1) The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee consisting of—

(a) the Chief Inspector 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;

Precautions
against
dangerous
fumes, gases,
etc.
Explosive or
inflammable
dust, gas, etc.
Precautions in
case of fire.
Safety
Officers.
Constitution
of Site
Appraisal
Committees.
6 of 1974.

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(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;

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

(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, and not more than five other members who may be co-opted by the State Government who shall be—

(i) a scientist having specialised knowledge of the hazardous process which will be involved in the factory,

(ii) a representative of the local authority within whose jurisdiction the factory is to be established; and

(iii) not more than three other persons as deemed fit by the State Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within a period of ninety days of the receipt of such application in the prescribed form.

(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.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process.

(5) Where the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Board established under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

41B. (1) * * * * *

(4) Every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan 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 in the event of an accident taking place.

(5) Every occupier of a factory shall,—

(a) if such factory engaged in a hazardous process on the commencement of the Factories (Amendment) Act, 1987, within a period of thirty days of such commencement;

and

Compulsory disclosure of information by the occupier.

14 of 1981.

6 of 1974.

14 of 1981.

6 of 1974.

14 of 1981.

20 of 1987.

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(b) if such factory proposes to engage in a hazardous process at any time after such commencement, within a period of thirty days before the commencement of such process,

inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

* * * * *

41C. Every occupier of a factory involving any hazardous process shall—

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

* * * * *

41D. (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 any 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 and recurrence of such extraordinary situations in future in such factory or elsewhere.

* * * * *

41E. (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 Director-General of Factory Advice Service and Labour Institutes or any institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

* * * * *

41F. (1) The maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

* * * * *

41G. (1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled, 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 that the State Government may, by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up such Committee.

* * * * *

45. (1) * * * * *

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who holds a certificate in first-aid treatment recognised by the State Government and who shall always be readily available during the working hours of the factory.

* * * * *

Specific responsibility of the occupier in relation to

hazardous
processes.
Power of
Central
Government
to appoint
Inquiry
Committee.
Emergency
standards.
Permissible
limits of
exposure of
chemical and
toxic
substances.
Workers'
participation
in safety
management.
First-aid
appliances.
43

46. (1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

47. (1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exists no worker shall eat any food in the work room.

* * * * *

56. The periods 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 spreadover more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing increase the spreadover up to twelve hours.

* * * * *

59. (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, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus 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 month during which the overtime work was done, and such time rates shall be deemed to be 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.

Canteens.
Shelters, rest
rooms and
lunch rooms.
Extra wages
for overtime.
Spreadover.
44

Explanation.—For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

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

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

Explanation 2.—"Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rate of .8 and .6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and
(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

* * * * *

64. (1) * * * * *

(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:—

* * * * *

(iv) the total number of hours of overtime shall not exceed fifty 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 under this section shall remain in force for not more than five years.

65. (1) * * * * *

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

* * * * *

(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 seventy-five.

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

66. (1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.:

Power to

make
exempting
rules.
Power to
make
exempting
orders.
Further
restrictions
on
employment
of women.

45

Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.;

(c) there shall be no change of shifts except after a weekly holiday or any other holiday.

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

* * * * *

76. The State Government may make rules—

* * * * *

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

* * * * *

77. The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.

* * * * *

79. (1) Every worker who has worked for a period of 240 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) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation 1.— For the purpose 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 240 days or more, but he shall not earn leave for these days.

* * * * *

(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 two-thirds of the total number of days in the remainder of the calendar year.

* * * * *

Power to
make rules.
Certain other
provisions of
law not
barred.
Annual leave

with wages.
26 of 1938.

46

87. Where the State Government 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 disease, it may make rules applicable to any factory or class or description of factories in which the manufacturing process or operation is carried on—

* * * * *

(b) prohibiting or restricting the employment of women, adolescents or children in the manufacturing process or operation;

* * * * *

88. (1) * * * * *

(3) The State Government may make rules for regulating the procedure at inquiries under this section.

* * * * *

89. (1) * * * * *

(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 one thousand rupees.

* * * * *

90. (1) The State 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 Third Schedule 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 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 .

(3) The person holding an inquiry under this section shall make a report to the State Government stating the causes 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 State Government may make rules for regulating the procedure at inquiries under this section.

* * * * *

91A. (1) The Chief Inspector, or the Director General of Factory Advice Service and Labour Institutes, or the Director General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes or the Director General of Health Services 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, 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.

* * * * *

Dangerous
operations.
Notice of
certain
accidents.
Notice of
certain
diseases.
Power to
direct enquiry
into cases of

accident or
disease.
Safety and
occupational
health
surveys.
5 of 1908.
45 of 1860.
47

CHAPTER X

PENALTIES AND PROCEDURE

92. Save as is 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 any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to one thousand rupees for each day on which the contravention is so continued:

Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than twenty-five thousand rupees in the case of an accident causing death, and five thousand rupees in the case of an accident causing serious bodily injury.

Explanation.—In this section and in section 94 "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.

93. (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 the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Wherein any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

- (i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;
- (ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;
- (iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;
- (iv) precautions in case of fire;
- (v) maintenance of hoists and lifts; and
- (vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

General
penalty for
offences.
Liability of
owner of
premises in

certain
circumstances.

48

(6) 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-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 14 and 15;

(ii) Chapter IV, except sections 22, 23, 27, 34, 35 and 36:

Provided that in respect of the provisions of sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.

94. (1) If any person who has been convicted of any offence punishable under section 92 is again 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 ten thousand rupees but which may extend to two lakh 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 ten thousand rupees:

Provided further that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than thirty-five thousand rupees in the case of an accident causing death and ten thousand rupees in the case of an accident causing serious bodily injury.

(2) For the purposes 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.

95. 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 registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

96. 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 ten thousand rupees or with both.

Enhanced
penalty after
previous
conviction.
Penalty for
obstructing
Inspector.
Penalty for
wrongfully
disclosing
results of
analysis under
section 91.

49

96A. (1) Whoever fails to comply with or contravenes any of the provisions of section 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 two lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

* * * * *

97. (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.

* * * * *

98. Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows 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 one thousand rupees or with both.

99. If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to one thousand rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

* * * * *

102. (1) * * * * *

(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 or 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 therefore by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees 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.

* * * * *

104. (1) * * * * *

(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.

* * * * *

111. (1) * * * * *

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule 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.

* * * * *

112. The State Government may make 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 purposes of this Act.

* * * * *

Penalty for
contravention
of the
provisions of
sections 41B,
41C and 41H.
Offences by
workers.
Penalty for
using false
certificate of
fitness.

Penalty for
 permitting
 double
 employment
 of child.
 Power of
 Court to
 make orders.
 Onus as to
 age.
 Obligations of
 workers.
 General power
 to make rules.

‘‘THE FIRST SCHEDULE

[See section 2 (cb)]

LIST OF INDUSTRIES INVOLVING HAZARDOUS PROCESSES

1. Ferrous Metallurgical Industries
 - Integrated Iron and Steel
 - Ferrow-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
- 50
- 51
- Industrial Gases (nitrogen, oxygen, acetylene, argon, carbondioxide, 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. Man-made 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 fats 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.”.

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GMGIPMRND—2021LS(S3)—05.08.2014.

LOK SABHA

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BILL

further to amend the Factories Act, 1948

(Shri Narendra Singh Tomar, Minister of Labour and Employment)