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**JOINT/SELECT COMMITTEE  
REPORTS OF LEGISLATIVE  
ASSEMBLY - 1926**

**The Indian Factories (Amendment) Bill**

3624 (4)  
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Act & Bills section

FB-60, PLB

List of Reports of Select or Joint Committees  
presented in the Legislative Assembly in 1926.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Naturalization (Amendment) Bill.	28.1.26.	
2.	The Insolvency (Amendment) Bill.	2.2.26.	
3.	The Indian Registration (Amendment) Bill by Dewan Bahadur T. Rangachariar.	9.2.26.	
4.	The Code of Civil Procedure (Amendment) Bill (Section 102 and 103).	9.2.26.	
5.	The Legal Practitioners (Amendment) Bill.	9.2.26.	
6.	The Hindu Religious and Charitable Trusts Bill by Dr. Hari Singh Gour.	10.2.26.	
7.	The Coparceners Liability Bill. by Dr. Hari Singh Gour.	19.2.26.	<i>Copy not available.</i>
8.	The Indian Tariff (Amendment) Bill.	23.2.26.	
9.	The Transfer of Property (Amendment) Bill by Sir Hari Singh Gour.	4.3.26.	
10.	The Indian Factories (Amendment) Bill.	8.3.26.	
11.	The Indian Income-tax (Amendment) Bill.	8.3.26.	
12.	The Indian Bar Councils Bill.	18.8.26.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Factories Act, 1911, was referred, have considered the Bill and the papers

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noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have made a considerable number of alterations in the Bill, but most of them are of a purely drafting nature. We propose to explain the more important of these together with such alterations of substance as we have suggested.

*Clause 2.*—We observe that, owing to the method adopted in drafting this clause, persons employed in the places to which it refers would not, without an amendment of the Workmen's Compensation Act, 1923, obtain the benefits of that Act. At the same time we consider that the required purpose can be attained without this disadvantage and in an improved form by defining the expression "manufacturing process". The definition will include the substance of the last part of sub-clause (a) of clause (3) of section 2 of the Act and of the *Explanation* to clause (2) of that section. This alteration involves the omission of clause 19.

*Clause 4.*—The amendment made here is purely of a drafting nature.

*Clause 5.*—After considerable discussion we have by a majority decided to eliminate this clause. The majority of us are of opinion that a provision of this kind or even a provision which would enable the Local Government by rules to lay down standards of temperature suitable for various localities and various classes of factories would, until technical investigation and research in regard to this very difficult problem has been completed on a far more thorough scale than heretofore, impose a real burden upon employers with only a problematical advantage to the employee.

*Clause 7 (now clause 6).*—We have redrafted this clause and have at the same time modified the original proposal in order to enable the Local Government to limit the prohibition against the cleaning of moving machinery to the cleaning of such parts as they may specify.

*Clause 10 (now clause 9).*—We have made no amendment of substance in this clause, but we desire to put on record our opinion that factory inspectors should be required to indicate in their annual reports the extent to which the provisions of Chapter V of the Act have been used.

*Clause 12 (now clause 11).*—We have combined the two proposed new sections 31A and 31B into one section which we insert in the Act after section 32, and we have definitely limited the operation of what was before clause 31B to fish curing and fish canning factories which we understand to be the only class of factories for which the provision is required.

*Clauses 14 and 15 (now clauses 13 and 14).*—The amendments made in these clauses are purely of a drafting nature, except that we have enabled the proviso embodied in clause 15 (now clause 14) to be applied to classes of factories.

*Clause 16 (now clause 15).*—Opinions on the Bill varied as to the time within which the notice referred to in section 36 of the Act should be submitted. Some thought twenty-four hours too long; others thought it too short. We have proposed that it should be thirty-six hours.

*Clauses 17 and 22.*—The omission of these clauses is consequential upon the omission of clause 5.

*Clause 20.*—We have by a majority decided to omit this clause as we are inclined to think it is not in consonance with the principle laid down, as regards police officers, in section 495 (4) of the Code of Criminal Procedure, 1898. At the same time there is nothing to prevent a Local Government, if it so desires, from appointing factory inspectors to be Public Prosecutors, for cases under the Act, under section 492 of the Code.

*Clause 21 (now clause 17).*—We have by a majority rejected a suggestion for the omission of this clause. We think that a deliberate evasion of the provisions of the Act which is rendered possible by failure to give notice under section 33 should not go unpunished merely because it has been successfully continued for more than six months.

3. The Bill was published as follows :—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India . . .	19th September, 1925.
Fort Saint George Gazette . . .	6th October, 1925.
Calcutta Gazette . . .	15th October, 1925.
United Provinces Gazette . . .	3rd October, 1925.
Punjab Government Gazette . . .	9th October, 1925.
Burma Gazette . . .	17th October, 1925.
Central Provinces Gazette . . .	3rd October, 1925.
Assam Gazette . . .	14th September, 1925.
Bihar and Orissa Gazette . . .	21st October, 1925.
Coorg District Gazette . . .	1st December, 1925.
North-West Frontier Province Gazette . . .	23rd October, 1925.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil . . .	3rd November, 1925.
	Telugu . . .	3rd November, 1925.
	Hindustani . . .	22nd December, 1925.
	Kanarese . . .	3rd November, 1925.
	Malayalam . . .	10th November, 1925.
Punjab	Urdu . . .	13th November, 1925.

*In the Vernaculars.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Burma	Burmese	31st October, 1925.
Coorg	Kanarese	1st December, 1925.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

B. N. MITRA.\*

T. RANGACHARIAR.\*

W. S. J. WILLSON.

N. M. JOSHI.\*

L. GRAHAM.\*

A. G. CLOW.\*

B. DAS.

BIPIN CH. PAL.\*

SARFARAZ HOSAIN KHAN.\*

*The 8th March, 1926.*

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\* Subject to note of dissent.

## NOTES OF DISSENT.

We are opposed to the omission of any provision relating to the maintenance of a reasonable temperature in factories. We recognise the force of the main criticisms directed against the terms of clause 5 of the original Bill. There are obvious dangers in leaving it to Inspectors to decide what constitutes a reasonable temperature, and it is probably true that in most factories no restrictions are required, while in others regulations could only be imposed after careful investigations and with full regard to seasonal variations, the nature of the processes and other circumstances.

But the main principle of the clause was not opposed by a single Local Government, and we consider that the Select Committee should have recast the clause in such a manner as to meet the criticisms mentioned above. There are factories where unnecessary hardship is at present caused to the operatives by the maintenance of temperatures which could be substantially reduced by simple and inexpensive means, and it is desirable that Local Governments should be in a position to insist on reasonable steps being taken in such cases.

B. N. MITRA.

L. GRAHAM.

BIPIN CHANDRA PAL.

A. G. CLOW.

It appears to me that clause 21 (new clause 17) of the Bill is not a desirable provision. There must be a limit of time within which prosecutions under such special laws for failure to send in notices should be instituted. If no limit of time is fixed prosecutions may be launched even after the factory which was opened for a short time had ceased to work. A working factory is not easily concealed. The Executive Government must be in a position to discover within 6 months factories which are working. In Municipal areas the Licensing Department is sure to know. In rural tracts the revenue and income-tax and local autho-

rities are sure to get the information. Inspectors of Factories can easily acquaint themselves with the existence of factories if they care to. One day they have to discover in order to be able to prosecute. Why should they not be told to discover such cases of omission to give the required notice within 6 months? There are similar provisions to give notices under other special laws. Failure to give the notice entails a prosecution. Generally it is the rule to provide a limit of time. The reasons given are not adequate in my view to dispense with that limit.

T. RANGACHARIAR.

*The 6th March, 1926.*

I agree with Diwan Bahadur T. Rangachariar,

and I need not write a separate note of dissent.

SARFARAZ HOSAIN KHAN.

*The 7th March, 1926.*

I do not agree with the majority in omitting clause 5 of the Bill. I think it is absolutely necessary in the interest of workers working in factories that there should be some provision regulating the temperature in factories. I hope the Assembly will reinstate that clause.

I do not approve of the extension of exemptions proposed in clause 10. The Factory Act of 1923

itself has gone beyond reasonable limit in the matter of exemptions. Moreover, where exemptions are given it is necessary that the workers who lose the advantage of the sections from which exemption is sought to be given, should be compensated in some other way, but this Bill does not attempt to do even this.

N. M. JOSHI.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the Committee.]

A

## BILL

*Further to amend the Indian Factories Act, 1911.*

WHEREAS it is expedient further to amend the Indian Factories Act, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Factories (Amendment) Act, 1926.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In section 2 of the Indian Factories Act, 1911 (hereinafter referred to as the said Act),—

(a) in clause (2), the *Explanation* shall be omitted;

(b) in sub-clause (a) of clause 3, for the words "*process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article*" the words "*manufacturing process*" shall be substituted; and in sub-clause (b) of the same clause, for the words "*such process*" the words "*manufacturing process*" shall be substituted; and

(c) after clause (3) the following clause shall be inserted, namely:—

"(4) '*manufacturing process*' means any process for, or incidental to,

(a) *making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport or sale, any article, or part of an article, or*

(b) *refining oil or pumping or filtering water, or*

(c) *supplying, generating or transforming pneumatic, hydraulic or electrical energy,*

*and includes the baling of any material for transport."*

3. In section 3 of the said Act, for the figures "1901" the figures "1923" shall be substituted.

4. In sub-section (1) of section 7 of the said Act,—

(a) after the words "such person and" the words "if he is fit for employment in a factory" shall be inserted; and

(b) for the words "*whether he is fit for employment in a factory*" the words "*that he is fit for such employment*" shall be substituted.

5. In section 10 of the said Act, for the words  
 Amendment of sec- "be provided, maintained and  
 tion 10, Act XII of used before a specified date"  
 1911. the following shall be sub-  
 stituted, namely:—

"shall be provided before such date as may  
 be specified in the order, and shall there-  
 after be maintained and used."

6. (1) Section 19 of the said Act shall be re-  
 numbered as sub-section (1)  
 Amendment of sec- of that section, and in that  
 tion 19, Act XII of sub-section as so renumbered  
 1911. the words "as the case may be" shall be omitted.

(2) To the same section the following sub-  
 section shall be added, namely:—

"(2) The Local Government may, by notifica-  
 tion in the local official Gazette,  
 prohibit in any factory or class of  
 factories specified in the notification  
 the cleaning by any person of any  
 part so specified of any mill-gearing  
 or machinery while the same is in  
 motion by the action of steam, water or  
 other mechanical or electrical power."

7. In sub-section (1) of section 21 of the said  
 Amendment of sec- Act,—  
 tion 21, Act XII of  
 1911.

(a) for sub-clause (ii) of clause (a) the follow-  
 ing sub-clause shall be substituted, name-  
 ly:—

"(ii) at the request of the employees con-  
 cerned, periods of rest, at intervals not  
 exceeding five hours, of not less than  
 half an hour each, the total duration  
 of the periods of rest on that day  
 not being less than one hour for each  
 period of six hours' work done";

(b) to clause (a) the following proviso shall be  
 added, namely:—

"Provided that, in lieu of the periods pro-  
 vided under sub-clause (i) or sub-  
 clause (ii) there may be fixed for each  
 male person employed for not more  
 than eight and a half hours on each  
 working day, at the request of the  
 employees concerned and with the  
 previous sanction of the Local Gov-  
 ernment, a period of rest of not less  
 than half an hour, so arranged that  
 no such person shall work for more  
 than five hours continuously, and".

8. In section 25 of the said Act, the words  
 Amendment of sec- "woman or" shall be omit-  
 ted.  
 tion 25, Act XII of  
 1911.

9. In sub-section (1) of section 30 of the said  
 Amendment of sec- Act,—  
 tion 30, Act XII of  
 1911.

(a) in clause (c) after the word "except"  
 the number and brackets "(i)" shall  
 be inserted, and after the words  
 "seasons or" the number and  
 brackets "(ii)" shall be inserted;

- (b) after the words "as it may impose" the words "and in such area as may be specified in the notification" shall be inserted;
- (c) in the *paragraph* beginning "in case (a)" after the word "sections" the figures "21" shall be inserted;
- (d) in the *paragraph* beginning "in case (b)," after the word "sections" the figures "21", and after the figures "22" the figures "26" shall be inserted;
- (e) in the *paragraph* beginning "in case (c)" for the word and figures "and 22" the word and figures "22 and 28" shall be substituted;
- (f) after the *paragraph* beginning "in cases (d) and (e)" the following *paragraph* shall be added, namely:—

"in case (e) (i) such class of factories from the provisions of section 26".

10. In section 31 of the said Act, after the figure "(1)" the words and figure "or sub-section (2)" shall be inserted.

Amendment of section 31, Act XII of 1911.

11. After section 32 of the said Act the following section shall be inserted, namely:—

Insertion of new section 32A in Act XII of 1911.

"32A. The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

*Other special exemptions.*

(a) any factory or class of factories from the provisions of section 22 in respect of persons employed therein in any engine-room or boiler-house, or

(b) any fish-curing or fish-canning factory from the provisions of clause (a) of section 24 where the employment of women outside the limits provided by that clause is necessary to prevent any damage to or deterioration of any raw material."

12. In sub-section (3) of section 33 of the said Act, for the words "the occupier shall himself" the words "or during which the person designated does not manage the factory, any person found acting as manager of the factory or, if no such person is found, the occupier himself shall" shall be inserted.

Amendment of section 33, Act XII of 1911.

13. In section 34 of the said Act, for the words "When any accident occurs in a factory causing" the words "When in any factory an accident occurs which causes" shall be substituted, and after the words "occurrence of the accident" the following shall be inserted, namely:—

Amendment of section 34, Act XII of 1911.

"or which is due to any cause which has been notified in this behalf by the Local Government in the local official Gazette".



14. To section 35 of the said Act the following provisos shall be added, namely:—  
 Amendment of section 35, Act XII of 1911.

“Provided that, where the Local Government is satisfied that the conditions of work in any factory or class of factories are such that no contravention of the provisions of Chapter IV is possible in the case of that factory or of factories of that class, as the case may be, the Local Government may, by notification in the local official Gazette, exempt, on such conditions, if any, as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section in respect of persons, other than children, employed therein :

Provided, further, that, where in the opinion of the inspector a muster roll or register kept in a factory gives the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall be kept in place of the register prescribed under this section, and such muster roll or register shall thereupon, for all the purposes of this Act, be deemed to be the register so prescribed.”

15. For sub-section (3) of section 36 of the said Act the following sub-section shall be substituted, namely:—  
 Amendment of section 36, Act XII of 1911.

“(3) The said notice shall be correctly maintained and kept up to date and any change in the standing orders of the factory shall be entered therein by the manager before such change comes into force; and, when any such change is entered in the notice, a copy of the notice or of the order in which the change is made shall be sent in duplicate by the manager to the inspector within thirty-six hours.”

16. After section 41 of the said Act the following section shall be inserted, namely:—  
 Insertion of new section 41A in Act XII of 1911.

“41A. Where a child is employed in any factory and such child has already been employed on the same day in any other factory, the parent or guardian or person having legal custody of or control over or direct benefit from the wages of the child shall be punished with fine, which may extend to twenty rupees, unless it appears to the Court that the offence was committed without the consent, connivance or wilful default of the parent, guardian, or such person as aforesaid.”

17. In section 49 of the said Act, after the word “thereunder” the words and figures “other than an offence under section 33” shall be inserted.  
 Amendment of section 49, Act XII of 1911.

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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Report of the Select Committee on the  
Bill further to amend the Indian  
Factories Act, 1911.

*(With Bill as amended.)*