

THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948



With Rules, Notifications, Guj. Shops and Establishment, [Employees Life Insurance] Act. 1980, Notification declaring Local Authority under section 2(15); Shops or Commercial Establishment - new minimum wages rate; employment in any Residential Hotel, Restaurant or Eating House - new minimum wages rate; The Gujarat Hotel workers wages in kind (computation of cash value.) Rules 1999; Service Rules for the Employees working under the Act; Model Leaves Rules; Forms and Precedents; Special Notes on misconduct- meaning and scope.

[(ASAMENDED UPTO DATE)]

Compiler :

K.C.Raval

B.A., LL.B., M.L.W., LL.M.
ADVOCATE, Vadodara



HEMDIP AGENCIES

2nd Floor, Pushpa Bhuvan, Madanzampa Road,
BARODA-390001



THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948

With Rules, Notifications, Guj. Shops and Establishment, [Employees Life Insurance] Act, 1980, Notification declaring Local Authority under section 2(15); Shops or Commercial Establishment - new minimum wages rate; employment in any Residential Hotel, Restaurant or Eating House - new minimum wages rate; The Gujarat Hotel workers wages in kind (computation of cash value), Rules, 1999; Service Rules for the Employees working under the Act; Model Leaves Rules; Forms and Precedents; Special Notes on misconduct- meaning and scope.

[AS AMENDED UPTO DATE]

: Compiler :

K. C. Raval

B.A., LL.B., M.L.W., LL.M

ADVOCATE, Vadodara



HEMDIP AGENCIES

2nd Floor, Pushpa Bhuvan, Madanzampa Road

BARODA-390001



Published by :
R. V. Shah
For, Hemdip Agencies
2nd Floor, Pushpa Bhuvan
Madanzampa Road
BARODA-390001

© Publishers

First Edition June, 1999

Second Revised Edition - 2006

Price : Rs. 185-00

*Every precaution has been taken to print
the book correctly and accurately.
However, any Errors or omissions
brought to the Notice of the Publishers
will be appreciated.*

Composed by :
TEXT IMAGE
204, Relief Shopping Center,
Near G. P. O., Ahmedabad-1.
Phone : 30421555

: Available at :

HEMDIP AGENCIES

Head & admn. Office :
2nd Floor, Pushpa Bhuvan
Madanzampa Road,
Baroda - 390 001
Tele/Fax : 2422603, 5560603
Mobile : 98250 94794

Branch Office :
2, Anurag Com. Centre,
Near Bombay Shopping Centre
R-C-Dutt Road,
Baroda - 390 007
Phone : 2337503
Mobile : 98240 93240

PREFACE

After publication of recent compilation of the industrial Disputes (Gujarat) Rules, 1966, it is with great pleasure that I now place in your hands an up date compilation of **The Bombay Shops and Establishments Act, 1948** together with State Rules framed thereunder, relevant notifications, Gujarat Shops & Establishments (Employees Life Insurance) Act, 1980 currently applicable minimum wages rates etc.

With more and more employment generated by shops, commercial establishments, hotels restaurants, eating houses and theatres or other places of public amusement or entertainment, a need is felt that the basic working knowledge of the applicable statutory provisions is available to all concerned including employers / managers/employees/ their unions, consultants and Advocates for proper and effective implementations. I do hope my endeavour in this direction will be of some benefit to the readers.

It is therefore, hoped that this compilation will be of valuable assistance to Advocates, Labour and Industrial Courts, Govt. Labour Officer's, Trade Union leaders, Management Consultants, Managers, Law Students and active employees.

I take this opportunity to thank and appreciate the efforts of **shri Dipakbhai Shah of Hemdip Agencies, Vadodara** in bringing out this much needed publication with great zeal and enthusiasm.

Vadodara

(K.C.Raval)
Advocate

The Bombay Shops & Establishments Act, 1948

CONTENTS

Section

Page No.

CHAPTER I PRELIMINARY

1.	Short title, extent and operation	2
2.	Definitions.	2
3.	References to time of day	5
4.	Exemptions	5
5.	Application of Act to other establishments and persons	6
6.	Suspension of all or any of the provisions of this Act	6

CHAPTER II REGISTRATION OF ESTABLISHMENTS

7.	Registration of establishments	6
8.	Change to be communicated to Inspector	8
9.	Closing of establishment to be communicated to Inspector	8

CHAPTER III SHOPS AND COMMERCIAL ESTABLISHMENTS

10.	Opening hours of shops	9
11.	Closing hours of shops	9
12.	Hawking Prohibited before opening and after closing hours of shops	9
13.	Opening and closing hours of commercial establishments	10
14.	Daily and weekly hours of work in shops and commercial establishments	10
15.	Interval for rest	11
16.	Spread over in shops	11
17.	Spread over in commercial establishments.	11
18.	Holidays in a week in shops and commercial establishments.	12

CHAPTER IV RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES.

19.	Opening and closing hours of restaurants and eating houses	13
20.	Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops	14
21.	Daily hours of work in residential hotels, restaurants and eating houses	14

<i>Index</i>	<i>The Bombay Shops and Establishments Act, 1948</i>	<i>V</i>
22.	Interval for rest	14
23.	Spread-over	14
24.	Holidays in a week.	15
25.	[deleted]	15

CHAPTER V

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT

26.	Closing hours of theatres or other places of public amusement or entertainment.	15
27.	Theatres or other places of public amusement or entertainment not to sell goods of the kind sold after the closing hours of shops	15
28.	Daily hours of work in theatres or other places of public amusements or entertainment.	15
29.	Interval for rest.	16
30.	Spread -over	16
31.	Holidays in a week	16

CHAPTER VI

EMPLOYMENT OF CHILDREN, YOUNG PERSONS AND WOMEN

32.	No child to work in any establishment.	16
33.	Young persons and women to work between 6 a.m to 7 p.m	17
34.	Daily hours of works for young persons.	17
34A.	Prohibition of employment of young persons and women in dangerous works	17

CHAPTER VII

LEAVE WITH PAY AND PAYMENT OF WAGES

35.	Leave.	17
36.	Pay during leave	18
37.	Payment when to be made	18
38.	Application and amendment of the Payment of Wages Act.	19
38A.	application of Act VII of 1923 to employees of establishment	19

CHAPTER VII

HEALTH AND SAFETY

39.	Cleanliness	19
40.	Ventilation	19
41.	Lighting	20
42.	Precautions against fire	20

42A First Aid	20
---------------	----

CHAPTER IX

ENFORCEMENT AND INSPECTIONS

43. Powers and duties of local authorities	20
43A Power of State Government to enforce provisions of Act within areas of local authorities	20
44. Power to make by laws.	21
45. Delegation.	21
46. Power of State Government to provide for performance of duties on default by local authority	21
47. Expenses of local authority to be paid out of its fund	22
48. Appointment of inspectors	22
49. Powers and duties of Inspectors	22
50. Inspectors to be public servants	23
51. Employer and manager to provide registers, records, etc, for inspection.	23

CHAPTER X

OFFENCES AND PENALTIES

52. Contravention of certain provisions and offences	23
53. Contravention of section 12	24
54. Employee contravening sections 18(2), 24,31 and 65	24
55. False enteries by employer and manager	24
56. Enhanced penalty in certain cases after previous conviction	25
57. Penalty for obstructing Inspector	25
58. Determination of employer for the purpose of this Act.	25
59. Exemption of employer or manager for liability in certain cases	26
59A Protection in respect of employment of certain children	27
60. Cognizance of offences.	27
61. Limitation of prosecutions.	27

CHAPTER XI

MISCELLANEOUS AND SUPPLEMENTAL

62. Maintenance of registers and records and display of notices	28
62A Employer to furnish identity card to employees	28
62B Exhibition of signboard	29
63. Wages for overtime work	29

64.	Evidence as to age.	29
65.	Restriction on double employment on a holiday or during leave	30
66.	Notice of termination of service	30
67.	Rules	30
68.	Protection to persons acting under this Act	32
69.	Rights and privileges under other law, etc, not affected.	32
70.	Persons employed in factory to be governed by Factories Act and not by this act.	32
71.	Submission of annual report, etc	33
72.	Repeal of Bombay Shops and Establishments Act, 1939	33
	SCHEDULE - I [Section -1(3)]	33
	SCHEDULE -II [Section -4]	
I.	Exemption (subject to note mentioned below).	35
II.	Establishment, employees and other persons.	38

THE GUJARAT SHOPS AND ESTABLISHMENTS RULES, 1962

Rule	Page No.
1. Short title	75
2. Definitions	75
3. Appointment of prescribed authority.	75
4. Suspension of provisions of the act.	76
5. Form of Statement, fees and other particulars under section 7(1)	76
6. Manner of registering establishment and the form of registration certificate	76
7. Form of application, fees and other particular under section 7(6).	76
8. Form of renewal of registration certificate.	76
9. Grant of "duplicate" of registration or renewal of certificate	77
10. Form of notifying a change and fee.	77
11. Fixing six days in a year for additional overtime.	77
12. Notice to be given to Inspector when additional overtime is to be worked	77
13. Form of manner of publication or order under section 18(1B)	78
14. Form of register or entering refusal of leave.	78
15. Fixing times and methods for cleaning the establishment	78
16. Rubbish not to be allowed or accumulate.	78
17. Precautions against fire.	79
18. First aid appliances	79
19. Supervisions of Government over local authority	79
20. Inspectors.	79
21. Duties of Inspectors	80

22.	Submissions of diary by Inspector.	80
23.	Maintenance of registers and records and display of notice	80
24.	Evidence of age.	83
25.	Display of signboard on the entrance of establishment	83
Form-A.	Statement under 7(1) [Rule-5]	83
Form-B.	Register of establishment [Rule 6 and 8]	85
Form-C.	Registration Certificate of establishment [Rules 6&8]	86
Form-D.	Form of application for renewal of registration certificate[Rule-7]	87
Form-E.	Notice of change[Rule -10]	88
Form-F.	Register for entering refusal of leave [Rule -14]	89
Form-G.	Register showing dates of lime washing etc. [Rule-15]	90
Form-H.	Diary of Inspector for the month ending 19..[Rule -22]	90
Form-I.	Register of employment in a shop or commercial establishment for the week ending [Rule -23(1)]	91
Form-J.	Register of employment in a shop or commercial establishment where opening and closing hours are ordinarily uniform for the week ending [Rule-23(10)]	92
SCHEDULE -I	The Fee to be paid along with the Statement in Form "A" [Rule -5]	93
SCHEDULE II.	The Fee to be paid along with the Statement in Form "D" [Rule-7]	94
SCHEDULE III.	The Fee to be paid along with the Statement in Form "E" [Rule -10]	94
Notification :	[Arranged section wise]	95

The Gujarat Shops and Establishments (Employees life Insurance Act,) 1980

Appendix-I	Notification declaring Local Authority under section 2(15) (District wise).	117
Appendix-II	Shops or Commercial establishment new minimum wage rate	122
Appendix-III	Employment in any Residential Hotel, restaurant or Eating Houses as defined in the Bombay shops and Establishment Act, 1948- new minimum wages rate	126
Appendix-III A	The Guj. Hotel Workers in kind (Computation of cash value) Rules. 1999	130
Appendix-IV	Service Rules for the Employees working under Act	132
Appendix-V	Registers to be maintained under Act 7 Rules-23	142
Appendix-VI	Registration & Renewel under Act & Rules-5	143
Appendix-VII	Model Leave Rules	144
Appendix-VIII	Leave and Holidays in Brief	149
Appendix-IX	Forms and Precedents	150
Appendix-X	Misconduct - Meaning and Scope	173

THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948

[BOMBAY ACT No. LXXIX OF 1948]

[11th January, 1949]

Amended by Bom. 17 of 1949.

" " " 53 of 1949.

" " " 59 of 1949.

" " " 8 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 9 of 1951.

" " " 28 of 1952.

" " " 58 of 1954.

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Adapted and modified by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Guj. 11 of 1962.

" " " 26 of 1977 w.e.f. 15-9-1977.

" " " 35 of 1980.

" " " 27 of 1981.

An Act to consolidate and amend the law relating to the regulations of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, others places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulations of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes, hereinafter specified : It is hereby enacted as follows :--

CHAPTER I

PRELIMINARY

1. Short title extent and operation :

¹[(1) This Act may be called the Bombay Shops and Establishments Act, 1948.

²[(2) It extends to the whole of the State of Gujarat.]

(3) It shall in the first instance come into force in the local areas specified in Schedule I :

³[**PROVIDED** that in the areas in which all or any of the provisions of the Saurashtra Shops and Establishments Act, 1955 (Sau. Act No. X of 1955) were in force immediately before the Commencement of the Bombay Shops and Establishment (Gujarat Extension and Amendment) Act, 1961, (Guj. XI of 1962) all the provisions of the Act shall come into force on such commencement.]

(4) The ⁴[State] Government shall by notification published in the *Official Gazette* Direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(5) The ⁴[State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

2. Definitions :

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

(1) “**Apprentice**” means a person who is employed, whether on payment of wages or not, for the purpose of being trained, in any trade, craft or employment in any establishment;

⁵[(2) “**Child**” means a person who has not completed his fourteenth year;]

⁶[(3) “**Closed**” means not open for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee, or of connected with the establishment;]

-
1. For Statement of Objects and Reasons, see *Bombay Government Gazette* 1948, part-V, page 499.
 2. Sub-section (2) was substituted for the original by *Guj. 1 of 1962, s. 2 (1)*.
 3. This provision was inserted, by *Guj. 11 of 1962, s. 2 (2)*.
 4. This word was substituted for the word “Provincial” by the *Adaptation of Laws Order, 1950*.
 5. Clause (2) was substituted by *Guj. 35 of 1980, s. 2*.
 6. Clause (3) was substituted for the original by *Guj. 11 of 1962, s. 3 (a)*.

(4) **“Commercial establishment”** means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes a society registered under the Societies Registration Act, 1860 (XXI of 1860) and a charitable or other trust, whether registered or not, which carries on,¹ [whether for purposes of gain or not,] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(5) **“Day”** means the period of twenty-four hours beginning at midnight :

Provided that in the case of an employee whose hours of work extend beyond mid-night, day means the period of twenty-four hours beginning when such employment commences irrespective of mid-night;

²[(6) **“Employee”** means a person wholly or principally employed, whether directly or through any agency and whether for wages or other consideration, in or in connection with any establishment; and includes an apprentice but does not include a member of the employer’s family;]

(7) **“Employer”** means a person owning or having ultimate controls over the affairs of an establishment;

(8) **“Establishment”** means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement, or entertainment to which this Act applies and includes such other establishment as the³ [State] Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(9) **“Factory”** means any premises which is a factory within the meaning of³ [clause (m) of section 2 of the Factories Act, 1948 (LXIII of 1948) or which is deemed to be a factory under section 85 of the said Act];

(10) **“Goods”** includes all materials, commodities and articles;

(11) **“Holiday”** means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;

(12) **“Inspector”** means an Inspector appointed under section 48;

(13) **“Leave”** means leave provided for in Chapter VII of this Act;

(14) **“Local area”** means any area or combination of areas to which this Act Applies;

⁴[(15) **“Local authority”** means -

-
1. These words were inserted by Bom. 28 of 1952, s. 2 (1).
 2. Clause (6) was substituted for the original by Guj. 11 of 1962, s. 3 (b).
 3. This word was substituted for the word “Provincial” by the Adaptation of Laws Order, 1950.
 4. Clause (15) was substituted for the original by Guj. 11 of 1962, s. 3 (c).

- (i) a municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949; (Bom. LIX of 1949).
- ¹[(ii) a municipality constituted under the Gujarat Municipalities Act, 1963; (Guj. 34 of 1964); or
- (iii) a district panchayat constituted under the Gujarat Panchayats Act, 1961] (Guj. 6 of 1962);

and includes any other body which the State Government may by notification in the *Official Gazette*, declare to be a local authority for the purposes of this Act;]

(16) **"Manager"** means a person declared to be a manager under section 7;

(17) **"Member of the family of an employer"** means the husband, wife, son, daughter, father, brother or sister of an employer who lives with and is dependant on such employer;

²[(18) **"Opened"** means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee, of or connected with the establishment;]

(19) **"Period of work"** means the time during which an employee is at the disposal of the employer;

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

(21) **"Prescribed authority"** means the authority prescribed under the rules made under this Act;

(22) **"Register of establishments"** means a register maintained for the registration of establishments under this Act;

(23) **"Registration certificate"** means a certificate showing the registration of an establishment ³[granted or renewed under section 7];

(24) **"Residential hotel"** means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes a ⁴[residential club];

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

(26) **"Schedule"** means a Schedule appended to this Act;

(27) **"Shop"** means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, ⁵[mainly

1. These clauses were substituted by Guj. 26 of 1977, s. 2.

2. Clause (18) was substituted for the original by Guj. 11 of 1962, s. 3(d).

3. These words and figure were inserted, by Guj. 11 of 1962, s. 3 (e).

4. These words were substituted for the word 'club' by Bom. 9 of 1951, s. 3. Second Schedule.

5. These words substituted for the word "used" by Bom. 28 of 1952, s. 2 (3).

used] in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment;

(28) **"Spread over"** means the period between the commencement and the termination of the work of an employee on any day;

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

(30) **"Wages"** means wages as defined in the Payment of Wages Act, 1936 (IV of 1936);

(31) **"Week"** means the period of seven days beginning at mid-night of Saturday;

¹[(32) **"Year"** means a year commencing on the first day of January;]

(33) **"Young person"** means a person who is not a child and has not completed his seventeenth year.

3. Reference to time of day :

References to the time of day in this Act are references to Indian standard time which is five and half hours ahead of Greenwich mean time.

4. Exemptions :

²[(1)] Notwithstanding anything contained in this Act-the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule :

Provided that the ³[State] Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule ⁴[subject to such conditions, if any, as may be specified in such notification] and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

⁴[(2) Every notification issued under the proviso to sub-section (1) shall be laid for less than thirty days before the State Legislature as soon as may be after it is issued and shall be subject to such rescission by the State Legislature or to such modification as the State Legislature may make during the session in which the notification is so laid or the session immediately following.

1. Clause (32) was substituted for the original by Guj. 11 of 1962, s.3 (f).-

2. Section 4 was renumbered as sub-section (1) of that section by Guj. 26 of 1977, s. 3.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. These words were inserted by Bom. 28 of 1952, s. 3.

5. Sub-sections (2) and (3) were substituted for sub-section (2) by Guj. 27 of 1981, s. 2.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.]

5. Application of Act to other establishments and persons :

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

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

6. Suspension of all or any of the provisions of this Act :

The ¹[State] Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

CHAPTER II

REGISTRATION OF ESTABLISHMENTS

7. Registration of establishments :

(1) Within the period specified in sub-section (4), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed; containing:-

- (a) the name of the employer and the manager, if any;
- (b) the postal address of the establishment;
- (c) the name, if any, of the establishment;
- (d) the category of the establishment, i.e., whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and
- (e) such other particulars as may be prescribed.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(2) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer.

¹[* * * *]

(3) In the event of any doubt or difference of opinion between an employer and the Inspectors as to the category to which an establishment should belong the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.

(4) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (1) :-

1 Establishments	2 Date from which the period of 30 day to commence.
(i) Establishments existing in local area mentioned in Schedule I on the date on which this Act comes into force.	The date on which this Act comes into force.
(ii) Establishment existing in local areas on the date on which this section comes into force.	The date on which this section comes into force in the local area.
(iii) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work.

²[(5) A registration certificate granted under sub-section (2) shall, unless it is cancelled earlier, remain in force from the date of its grant upto the end of the year in which it is granted, and shall be renewable from time to time ³[for a period not exceeding three years at a time so however that any such period shall not include a fraction of a year];

1. The words "The Registration certificate shall be prominently displayed at the establishment" is were deleted by Guj. 11 of 1962, s. 4 (1).
2. Sub-sections (5), (6), (7), (8) and (9) were inserted by Guj. 11 of 1962, s. 4 (2).
3. These wordswere substituted for the words "for one year at a time" by Guj. 26 of 1977, s. 4 (1).

Provided that a registration certificate granted before the commencement of the Bombay Shops and Establishments (Gujarat Extension and Amendment) Act, 1961, (Guj. XI of 1962) and in force immediately before such commencement shall remain in force upto the end of December, 1961 unless it is cancelled earlier.

(6) An employer, holding a registration certificate shall, except in the circumstances mentioned in section 9, make an application for its renewal in the prescribed form to the Inspector not later than fifteen days before the date of its expiry. Such application shall be accompanied by such fee as may be prescribed.

(7) On receipt of an application in accordance with sub-section (6), the Inspector shall on being satisfied about the correctness of the particulars mentioned in the application renew the registration certificate in the prescribed form.

(8) The registration certificate renewed under sub-section (7) shall, unless it is cancelled earlier, remain in force, ¹[for the period] for which it is renewed.

(9) The registration certificate shall be prominently displayed at the premises of the establishment.]

8. Change to be communicated to Inspector :

It shall be the duty of an employer to notify to the Inspector, in a prescribed form ²[any change in any of the particulars contained in the statement submitted under section 7 within such period, after the change has taken place, as the State Governments may prescribe in respect of any establishment or class of establishment]. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate if necessary.

9. Closing of establishment to be communicated to Inspectors :

The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishment and cancel the registration certificate :

³[Provided that if the Inspector does not receive the information but he is otherwise satisfied that the establishment has been closed, he may remove such establishment from such register and cancel such certificate.]

1. These words were substituted for the words "for the year" by Guj. 26 of 1977, s. 4 (2).

2. This portion was substituted for the portion beginning with the words "any change" and ending with the words "taken place" by Bom. 28 of 1952, s. 4.

3. This proviso was added by Bom. 28 of 1952, s. 5.

CHAPTER III

SHOPEs AND COMMERCIAL ESTABLISHMENTS

10. Opening hours of shops :-

(1) No shop -

- (a) dealing wholly in milk, vegetable, fruits, fish, meat, bread or any other goods notified by the ¹[State] Government shall on any day be opened earlier than 5 a.m.;
- (b) ²[* * *] other than those specified in clause (a) of this sub-section shall on any day be opened earlier than 7.00 a.m.;

(2) Subject to the provisions of sub-section (1), the ¹[State] Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

11. Closing hours of shops :

(1) Notwithstanding anything contained in any other enactment for the time being in force, no shop -

- (a) ²[* * *] other than those specified in clause (b) of this sub-section shall on any day be closed later than 8-30 P.M.;
- (b) ³[dealing mainly in] *pan, bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11.00 P.M. :

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

(2) Subject to the provisions of sub-section (1), the ¹[State] Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

12. Hawking prohibited before opening and after closing hours of shops :

(1) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate :

⁴[Provided that nothing in this sub-section shall apply to the sale of newspapers.]

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. The words "dealing in goods" were deleted by Bom. 53 of 1949, s. 2 First Schedule.
3. These words were substituted for the words "dealing in" by Guj. 11 f 1962, s. 5.
4. This proviso was added, by Guj. 11 of 1962, s. 6.

(2) Any person contravening the provisions of sub-section (1) shall be liable to have his goods seized by an Inspector.

¹[(3) The goods seized under sub-section (2) shall be returned to the person from whom they were seized on his depositing rupees twenty-five as security for his appearance in the Court.

(4) If the person fails to make the deposits, the goods seized shall be produced without delay before a Magistrate who may give such directions as to their temporary custody as he thinks fit.

(5) Where no prosecution is instituted for contravention of the provisions of sub-section (1) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized.

(6) Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall so far as they may be applicable, apply to the disposal of the goods seized under this section.]

13. Opening and closing hours of commercial establishments :

(1) No commercial establishment shall on any day be opened earlier than 8-30 A.M. and closed later than 8-30 P.M.

(2) Subject to the provisions of sub-section (1), the ²[State] Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

14. Daily and weekly hours of work in shops and commercial establishments :

(1) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(2) An employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed three hours in any week.

(3) On not more than six days in a year which the ²[State] Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking, settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (1), if such excess period does not exceed twenty-four hours.

1 Sub-sections (3) to (6) were substituted for the proviso by Bom. 28 of 1952, s. 6.

2. This word was substituted for the words "Provincial" by the Adaptation of Laws Order, 1950.

¹[15. Interval for rest :

²[(1) The period of work of an employee in a shop or commercial establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had ³[an interval for rest of at least :-

- (i) half an hour, if he is employed in a commercial establishment engaged in any manufacturing process, and
- (ii) one hour in any other case, subject, however, to the provisions of sub-section (2).

⁴[(2) In the case of employees other than those employed in a commercial establishment engaged in any manufacturing process, the State Government, on an application made in that behalf by the employees concerned, may permit the reduction of the interval for rest to half an hour.]

16. Spread-over in shops :

The spread-over of an employee in a shop shall not exceed eleven hours in any day

PROVIDED that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day :

PROVIDED also that where an employee works on any day in accordance with the provisions of sub-section (2) of section 14, the spread over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (3) of the said section, the spread-over shall not exceed sixteen hours in any such day.

17. Spread-over in commercial establishment :

The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day :

PROVIDED that the ⁵[State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

1. Section 15 was substituted for the original by Bom. 28 of 1952, s. 7.

2. Section 15 was renumbered as sub-section (1) of that section by Guj. 11 of 1962, s. 7.

3. This portion was substituted for the words "an interval for rest of at least one hour", *ibid.*, s. 7 (1).

4. Sub-section (2) was inserted *ibid.*, s. 7 (2).

5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

18. Holidays in a week in shops and commercial establishments :

¹[(1) Every shop and commercial establishment shall remain closed on one day of the week. ²[Except where the day is fixed under sub-section (1B) the employer shall] prepare a calendar or list of such closed days, ³[* *] notify such calendar or list to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. ⁴[Such calendar or list shall be prepared at the beginning of the year but in the case of a shop or establishment to which this Act becomes applicable for the first time after the beginning of a year, the first calendar applicable for the first time after the beginning of a year, the first calendar or list for the remaining part of the year shall be prepared before the expiry of one month from the date of the application of this Act thereto.]

(1A) Notwithstanding anything contained in sub-section (1) ⁵[but except where the day is fixed under sub-section (1B)], a shop or commercial establishment may remain open on any day notified as ⁶[a closed day] under sub-section (1), if -

- (a) it remains closed on any other day of the week; and
- (b) the employer has notified to the Inspector, his intention to close the shop or the commercial establishment, as the case may be, on the day substituted under clause (a), at least seven days before the substituted day or the day notified as closed day under sub-section (1), whichever is earlier.]

⁷[(1B) (a) Notwithstanding anything contained in sub-section (1) in respect of any area within the jurisdiction of a local authority, the local authority and in respect of any other area, the State Government may by an order published in the prescribed manner, fix the day on which a shop or commercial establishment shall remain closed every week; and different days may be fixed with reference to different classes of shops or establishment, different parts of the same area or different periods of the year.

(b) Every shop and commercial establishment to which such order applies shall remain closed accordingly :

-
1. Sub-sections (1) and (1A) were substituted for the original sub-section (1) by Bom. 28 of 1952, s. 8 (1).
 2. These words, brackets, figure and letter were substituted for the words "The employer shall" by Guj. 11 of 1962, s. 8 (1) (i).
 3. The words "at the beginning of the year" were deleted, *ibid.*, s. 8 (1) (ii).
 4. This portion was added, *ibid.*, s. 8 (1) (iii).
 5. These words, brackets, figures and letter were inserted, *ibid.*, s. 8 (2).
 6. These words were substituted for the words "closed day", *ibid.*, s. 8 (2).
 7. This sub-section was inserted, *ibid.*, s. 8 (3).

PROVIDED that nothing in this clause shall apply to a shop or commercial establishment, the employer of which has notified to the Inspector at the beginning of the year his intention to close the shop or establishment on a public holiday within the meaning of the Negotiable Instruments Act, 1881 (XXVI of 1881).

- (c) The making of an order under clause (a) shall be subject to the condition of previous publication:]

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(3) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed. ¹[If any employee is paid a piece rated wage, he shall none the less be paid his wage for the day on which the shop or commercial establishment remains closed, at a rate equivalent to the daily average of his wages for the days on which he has actually worked during the six days preceding such closed day, exclusive of any earning in respect of overtime :]

²[**PROVIDED** that nothing in this sub-section shall apply to any person whose total period of continuous employment is less than six days.]

CHAPTER IV

RESIDENTIAL HOTELS, RESTAURANTS AND EATING HOUSES

19. Opening and closing hours of restaurants and eating houses :

(1) Notwithstanding anything contained in any other enactment for the time being in force, no-restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than 11 p.m. for service :

PROVIDED that an employee in such restaurant or eating house may be required to commence work not earlier than 4.30 a.m. and shall not be required to work later than 11.30 p.m. :

PROVIDED also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

1. This portion was added by Bom. 28 of 1952, s. 8 (2).

2. This portion was added. *ibid.*, s. 8 (3)

(2) Subject to the provisions of sub-section (1), the ¹[State] Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(3) Notwithstanding anything contained in this section or any other enactment for the time being in force, or not more than ten days in a year on festive or special occasions, the ¹[State] Government may, by notification in the *Official Gazette*, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

20. Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops :

Before and after the hours fixed for the opening and closing of shops under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

21. Daily hours of work in residential hotels, restaurants and eating houses :

(1) Except on the days that may be notified under sub-section (3) of section 19, no employee shall be required or allowed to work in any residential hotels, restaurant or eating house for more than nine hours in any day.

(2) On the days which may be notified under sub-section (3) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (1), if such excess period does not exceed three hours in any day.

²[22. Interval for rest :

The period of work of an employee in a residential hotel, restaurant, or eating house each day shall be so fixed that no period of continuous work, shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour.]

³[**PROVIDED** that, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

23. Spread-over :

The spread -over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours :

PROVIDED that the ¹[State] Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (3) of section 19.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. Section 22 was subs. for the original by Bom. 28 of 1952, s. 9.

3. This proviso was added by Guj. 11 of 1962, s. 9.

24. Holidays in a week :

(1) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday :

PROVIDED that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (1). If an employee is employed on a daily wages, he shall none the less be paid his daily wage for the holiday.

25. Employer to furnish identity card to employee.

[Deleted by Guj. 26 of 1977. s. 5.] now refer sec. 62A

CHAPTER V**THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT****26. Closing hour of theatres or other places of public amusement or entertainment :**

Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than twelve mid-night.

27. Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops :

After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

[28. Daily hours of work in theatres or other places of public amusement or entertainment :

(1) No employee shall be required or allowed to work in any theatre or other places of public amusement or entertainment for more than nine hours in any day.

(2) Any employee may be required or allowed to work in a theatre or other place of public amusement or entertainment for any period in excess of the limit fixed under sub-section (1), if such period does not exceed six hours in any week.]

1. Section 28 was substituted for the original, by Bom. 28 of 1952, s. 11.

[29. Interval for rest :

The period of work of an employee in a theatre or other place of public amusement or entertainment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest of at least one hour:]

²[**Provided** that, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.]

30. Spread-over :

The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day;

Provided that the ³[State] Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular or other place of public amusement or entertainment.

31. Holidays in a week :

(1) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(3) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (1). If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

CHAPTER VI**EMPLOYMENT OF CHILDREN, YOUNG PERSONS AND WOMEN****32. No child to work in any establishment :**

No child shall be required or allowed to work whether as employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

1. Section 29 was substituted for the original, by Bom. 28 of 1952. s. 12.

2. This proviso was added by Guj. 11 of 1962, s. 10.

3. This word was sub. for the word "Provincial" by the Adaptation of Laws Order, 1950.

33. Young persons and women to work between 6 a.m. and 7 p.m. :

No young person or woman shall be required or allowed to work whether as an employee or otherwise in any establishment before 6-00 a.m. and after 7 p.m. notwithstanding that such young person or woman is a member of the family of the employer.

34. Daily hour of work for young persons :

(1) Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(2) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

¹[34-A. Prohibition of employment of young persons and workmen in dangerous work :

No young person or women a working in any establishment whether as an employee or otherwise, shall be required or allowed to perform such work as may be declared by the State Government by notification in the *Official Gazette*, to be work involving danger to life, health or morals.]

CHAPTER VII**LEAVE WITH PAY AND PAYMENT OF WAGES****35. Leave :**

²[(1) (a). Subject to the provisions of clause (b), every employee who has been employed for not less than three months in any year, shall for every 60 days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not less than five days;

(b) every employee who has worked for not less than two hundred and forty days, during a year shall be allowed leave, consecutive or otherwise, for a period of not less than twenty-one days.

Provided that such leave may be accumulated up to a maximum period of ³[sixty-three days.]

Explanation : The leave allowed to an employee under clauses (a) and (b) shall be inclusive of the day or days during the period of such leave on which a shop or commercial establishment remains closed under section 18, or on which he is entitled to a holiday under sub-section (1) of section 24 or section 31.]

1. Section 34A was inserted by Guj. 11 of 1962, s. 11.

2. Sub-section (1) was substituted for the original, *ibid.*, s. 12 (i).

3. The words were substituted for the words "Forty-two days" by Guj. 26 of 1977, s. 6(1).

¹²[(1A) Every employee who has accumulated leave shall, when he goes, on leave for a period of not less than twenty-one days, be entitled to surrender, out of the balance of leave remaining to his credit on the commencement of his leave, any period of leave, not exceeding twenty-one days; and such employee shall, for the period of leave so surrendered by him, be entitled to payment of wages as if the leave so surrendered had been allowed to him under sub-section (1) :

PROVIDED that no employee shall be entitled to surrender leave under this sub-section more than once in any period of two years.

(1B) In addition to the leave permissible under sub-section (1), every employee shall be entitled to leave with wages as follows :-

- (i) casual leave for seven days in a year,
- (ii) leave on medical grounds for not more than seven days in a year, and
- (iii) leave for not more than four days in a year on any of the days which the State Government may, by notification in the *Official Gazette*, specify to be the National and Festival holidays.]

(2) If an employee entitled to leave, under sub-section (1) ³[retires, resigns or] ⁴[**] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(3) If an employee entitled to leave under sub-section (1), ⁴[**] is refused the leave, he may give intimation to the Inspector or any other officer authorised in this behalf by the ⁵[State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

36. Pay during leave :

Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earning in respect of overtime.

37. Payment when to be made :

An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

-
1. Sub-section (1A) was deleted by Guj. 11 of 1962, s. 12 (ii)
 2. These sub-sections were inserted, by Guj. 26 of 1977, s. 6(2)
 3. These words were inserted, *ibid*, s. 6(3)
 4. The word, brackets, figure and letter "or (1A)" were deleted by Guj. 11 of 1962, s. 12 (iii).
 5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

38. Application and amendment of the Payment of Wages Act :

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936, (IV of 1936) herein referred to as "the said Act" the ¹[State] Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (2) of the said Act ²[shall in such local as areas may be specified in the notification apply] to all or any class of establishment or to all or any class of employees to which or whom this Act for the time being applies.

(2) On the application of the provision of the said Act to any establishment or to any employees under sub-sec. (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of enforcement of the provisions of the said Act within the local limits of his jurisdiction.

³[38A. Application of Act VIII of 1923 to employee of establishment :

The provisions of the Workmen's Compensation Act, 1923 (VIII of 1923) and the rules made from time to time thereunder, shall *mutatis mutandis*, apply to every employee (other than an employee who is in receipt of monthly wages exceeding ⁴[one thousand rupees) of an establishment to which Act applies ⁵[* * *].

Explanation : For the purposes of this section the expression 'wages' shall have the same meaning as is assigned to it under the Workmen's Compensation Act, 1923. (VIII of 1923).]

CHAPTER VIII
HEALTH AND SAFETY

39. Cleanliness :

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

40. Ventilation :

The premises of every establishment shall be ventilated in accordance with such standards and by such method as may be prescribed.

1. This word was substituted for the word "Provincial" by the Adaption of Laws Order, 1950.
2. These words were substituted for the words "shall apply" by Bom. 58 of 1954, s. 2, Schedule.
3. Section 38A was inserted by Guj. II of 1962, S. 13.
4. These words were substituted for the words "four hundred rupees" by Guj. 26 of 1977, S. 7 (i).
5. The words "and in which at least five employees are employed on the date of the accident as if he were a workmen within the meaning of that Act" were deleted, *ibid*, s. 7 (ii).

41. Lighting :

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

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

42. Pre-cautions against fire :

In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

[42A. First Aid :

In every establishment wherein a manufacturing process as defined in clause (k) of sec. 2 of the Factories Act, 1948, (LXIII of 1948) is carried on, there shall be provided and maintained a first aid box containing such articles as may be prescribed.]

CHAPTER IX

ENFORCEMENT AND INSPECTION

43. Powers and duties of local authorities :

Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the ²[State] Government as may be prescribed;

PROVIDED that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such condition it any as may be specified in the order, by its chief Executive officer or any other officer subordinate to it :

PROVIDED also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the ²[State] Government to enforce the said provisions.

[43A. Power of State Government to enforce provisions of Act with in areas of local authorities :

Notwithstanding anything contained in section 43, the State Government may, by a notification in the *Official Gazette*, direct that in the areas subject to the jurisdiction of such local authority as may be specified in the notification the provisions of this Act shall be enforced by the State Government from such date and for such period as may be specified in the notificatin and thereupon such local authority and officers of such local authority shall be discharged from the duty of enforcing the provisions of this Act within such area from the date and for the period as so specified :

1. Section 42A was inserted by Bom. 28 of 1952, s. 14.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

PROVIDED that the bye-laws, if any, made by the local authority under sec. 44 and in force in such area before the date so specified shall continue to be in force with amendments, if any, made therein, until such by e laws are amended or superseded by the State Government.]

44. Power to make bye-laws :

A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the ¹[State] Government, make by-laws, not inconsistent with the provisions of the Act or the rules or orders made by the ¹[State] Government thereunder, for the purpose of carrying out the provisions of this Act.

45. Delegation :

(1) The ¹[State] Government may by order direct that any of its functions under any of the provisions mentioned below shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be exercised or discharged by any local authority or any officers subordinate to it ²[in the area within the jurisdiction of the local authority], namely :-

³[Section 6, sub-section (2) of section 11], sub-section (2) of section 13, section 17, sub-sections (2) and (3) of section 19, section 23 and section 30.

(2) Nothing in this Act shall derogate from the right of the ¹[State] Government to exercise any or all the functions hereby delegated to any local authority or officer subordinate to it.

46. Power of ²[State] Government to provide for performance of duties on default by local authority :

(1) If any local authority makes default in the performance of any duty imposed by or under this Act, the ¹[State] Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid the ¹[State] Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. These words were inserted by Guj. 11 of 1962, s. 14.

3. These words, brackets and figures were substituted for the words, brackets and figures "Sub-section (2) of section 11" *ibid*.

authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

47. Expenses of local authority to be paid out of its fund :

Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality ¹[or any other local authority] under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

²[48. Appointment of Inspectors :

(1) For an area ³[within the jurisdiction of a local authority whose duty it is to enforce the provisions of this Act] the local authority and for other areas, the State Government shall, subject to the provisions of sub-section.(3), appoint as many Inspectors as the local authority or the State Government, as the case may be, may deem necessary for the purpose of carrying out the provisions of this Act.

(2) Notwithstanding anything contained in sub-sec. (1), in the areas within the jurisdiction of a local authority, the State Government may appoint Inspectors for such supervision as the State Government may prescribe.

(3) A person possessing the prescribed qualifications shall be qualified for being appointed as an Inspector.

(4) A local authority or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any) as may be specified in the direction, be exercised --

(a) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its municipal Commissioner or Deputy Municipal Commissioner; and

(b) in the case of the State Government, by any officer subordinate to it.]

49. Powers and duties of Inspectors :

Subject to any rules, made by the ⁴[State] Government in this behalf, an Inspector may, within the local limits for which he is appointed, --

1. *These words were substituted for the words "or a local board" by Guj. 26 of 1977, s. 9.*
2. *Section 48 was substituted for the original by Guj. 11 of 1962, s. 15.*
3. *These words were substituted for the words "within the jurisdiction of a local authority" by Guj. 26 of 1977, s. 10.*
4. *This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.*

- (a) enter, at all reasonable times and with such assistants, if any, being persons in the service of the ¹[Government] or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;
- (b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary, for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

50. Inspectors to be public servants :

Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

51. Employer ³[and manager] to produce registers, records, etc. for inspection :

Every employer ²[and in his absence the manager] shall on demand produce for inspection of an Inspector all registers, records and notice required to be kept under and for the purposes of this Act.

CHAPTER X

OFFENCES AND PENALTIES

52. Contravention of certain provisions and offences :

- (a) If any employer fails to send to the Inspector a statement within the period specified in section 7 ⁴[or fails to apply for the renewal of his registration certificate as required by sub-section (6) of section 7] or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9; or
- (b) if in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder; or
- (c) if in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31; or

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

2. These words were inserted by Bom. 28 of 1952, s. 15 (10).

3. These words were inserted *ibid.* s. 15(2).

4. These words, brackets and figures were inserted by Guj. 11 of 1962, s. 16 (1).

(d) if in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, ¹[33, 34 or 34A]; or

²[(e) if any employer or manager contravene the provisions of section 51 or any employer contravenes the provisions of section 62; or 65]; or

(f) if in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished with the fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees :

³[**Provided** that, if the contravention of any of the provisions of section 7 is continued after the expiry of fifteenth day after conviction, the employer shall on conviction be punished with a further fine which may extend to ten rupees for each day on which the contravention is so continued.]

53. Contravention of section 12 :

If any person contravenes the provisions of section 12, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

54. Employee contravening sections 18(2), 24, 31 and 65 :

If an employee contravenes the provisions of sub-section (2) of section 18, 24, 31 or 65, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

55. False entries by employer and manager :

If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false any material particular, or wilfully, omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or causes or allows to be sent, to an Inspector, any statement information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder, which, to his knowledge, is false in any material particular, he shall, on conviction be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees :

1. These figures, word and letter were substituted for the word and figures "33 or 34", *ibid.*, s. 16 (2).

2. Clause (e) was substituted for the original by Bom. 28 of 1952, s. 16.

3. This proviso was added by Guj. 11 of 1962, s. 16 (3).

PROVIDED that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

56. Enhanced penalty in certain cases after previous conviction :

If any employer and manager who have been convicted of any offence Sub-section (1) of section 10, 11, 13, 14, 18, 19, 24, 31, or 34 under sub-section (2) or (3) of section 14 or under section 55 of under section 21, 26 28, 32, ¹[33, 34A], 51, 57, 62 or 65, are again guilty of an offence involving contravention of the same provisions, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees; and if they are again so guilty they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees :

PROVIDED that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction :

PROVIDED further that, for the purpose of this section, no cognisance shall be taken of any conviction made more than two years, before the commission of the offence which is being punished :

PROVIDED also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

57. Penalty for obstructing Inspector :

Whoever wilfully obstructs an Inspector in the exercise of any power under section 49, or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupee.

58. Determination of employer for the purposes of his Act :

(1) Where the owner of an establishment is a firm or other association of individuals, any one of the individual, partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable :

PROVIDED that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the ²[State] to be the employer for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the

1. These figures and letter were substituted for the figures "33" by Guj. 11 of 1962. s. 17.

2. This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

nomination is received by the Inspector until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer in the establishment is punishable :

PROVIDED that the company may give notice to the Inspector that it has nominated a director or, in the case of private company, a share holder who is resident in the ¹[State] to be the employer in the establishment for the purposes of this Act, and such director or share holder shall so long as he is so resident to deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector for until he cases to be a director or share holder.

59. Exemption of employer or manager from liability in certain cases :

(1) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or order made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court --

- (a) that he has used due diligence to enforce the execution of this Act, and
- (b) that the said other person committed the offence in question without his knowledge consent or connivance, that other person shall be convicted, if the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the statisfaction of the Inspector at any time prior to the institution of the proceedings --

- (a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act.
- (b) by what person the offence has been committed, and
- (c) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders;

the Inspector shall proceed against the person whom he belives to be the actual offender without first proceeding, against the employer or manager of the establishment and such person shall be liable, to the like fine as if he were the employer or manager.

1. This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

¹[59A. Protection in respect of employment of certain children :

If any specified person has been required or allowed to work whether as in employee or otherwise in an establishment, before the commencement of the Bombay Shops and Establishment (Gujarat Amendment), Act, 1980 (Guj. 35 of 1980) (hereinafter referred to as "the Amending Act") and such act of requiring or allowing such commencement, then noting contained in this Act as amended by the amending Act, shall be deemed to render the continuance of the Act or requiring of allowing such person to so work after such commencement, a contravention of section 32.

Explanation : For the purposes of this section "specified person" means a person who at the time when he was required or allowed to work whether as an employere or otherwise in an establishment had completed his twelfth(12) year but had not completed his fourteenth year.]

60. Cognizance of offences :

(1) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previus sanction of the ²[District Magistrate] or the local authority, as the case may be :

³[**PROVIDED** that any local authority may direct that the powers conferred on it by this sub-section shall, in such circumstances and subject to such contitions, if any, as may be specified in the direction, by exercised by its standing committee or by any committee appointed by it in this belaf or, such local authority is a municipal corporation, by its Municipal Commisssiner ⁴[or Deputy Municipal Commissioner] ⁵[or by any other officer as may be specified in the direction.]

(2) No court inferior to that of ⁶[* * *] a Magistrate of a Second Class shall try any offence against this Act or rule or order made thereunder.

61. Limitation of prosecution :

No court shall take cognizance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within ⁷[three months from the date on which the alleged commission of the offence come to the knowledge of an Inspector.]

-
1. Section 59A was inserted by Guj. 35 of 1980, S. 3.
 2. These words wre substituted for the words "State Government" by Bom. 9 of 1951, s. 3, Second Schedule.
 3. This proviso was added by Bom. 28 of 1952, s. 17.
 4. These words were inserted by Guj. 11 of 1962, s. 18.
 5. These words were inserted by Guj. 26 of 1977, s. 11.
 6. The words "a Presidency Magistrate or" were deleted by the Gujarat Adaptation of Laws (tate and Concurren Subject) Order, 1960.
 7. These words were substituted for the words "six months of the date on which the offence is alleged to have been committed" by Bom. 28 of 1952, s. 18.

CHAPTER XI

MISCELLANEOUS AND SUPPLEMENTAL

62. Maintenance of registers and records and display or notices :

Subject to the general or special order of the ¹[State] Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

²[62A. Employers to furnish identity card to employees :

(1) This section shall apply to every residential hotel, restaurant and eating house in the whole of the State and it shall apply to such other establishment or classes of establishments in the whole of the State or any part thereof as may be specified by a notification in the *Official Gazette*, from such date as may be specified in such notification.

(2) The employer of every establishment to which this section applies shall furnish each employee therein with an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :--

- (a) name and address of the employer;
- (b) the name, if any, and postal address of the establishment;
- (c) full name, address and designation of the employee;
- (d) date of birth of the employee;
- (e) the date on which the employee joined service in the establishment;
- (f) recent passport size photograph of the employee duly signed by the employee;
- (g) hours of work, the interval for rest and holiday, of the employee;
- (h) signature (with date) of the employer or manager;

Provided that it shall not be necessary to furnish such identity card to any employee to whom an identity card containing similar particulars and information is furnished under any other law applicable to him.

(3) The cost of such identity card including the cost of the photograph shall borne by the employer.

(4) If the identity card furnished by the employer is lost by the employee, a

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. These section were inserted by Guj. 26 of 1977, s. 12.

duplicate card shall be furnished free of charge by the employer immediately on production of his passport size photograph by the employee for being affixed on the card.

(5) No employee shall work as an employee in an establishment to which this section applies unless he holds an identity card required to be furnished under this section and no employer shall permit or require any person who does not hold such card to work in such establishment.

(6) If an employer of any establishment to which this section applies contravenes any of the provisions of this section, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

62B. Exhibition of signboard :

Every employer shall conspicuously display on the main entrance of the establishment, a wooden or metal signboard of such size, painted in such manner and containing such particulars as may be prescribed.]

63. Wages for overtime work :

(1) Where an employee in any establishment other than a residential hotel, restaurant or eating house, is required to work in excess of the limit of hour of work, he shall be entitled, in respect of the overtime work, to wages at the rate of one and a half times his ordinary rate of wages.

(2) Where an employee in a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of twice his ordinary rate of wages.

Explanation : For the purposes of this section the expression "Limit of hours work" shall mean :-

- (a) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;
- (b) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and
- (c) in the case of employees in any other establishment, such hours as may be prescribed.

64. Evidence as to age :

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

(2) A declaration in writing by a ¹[qualified medical practitioner] relating to an

1. These word were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.

employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

Explanation : For the purposes of this section, a ¹[qualified medical practitioner] shall have the same meaning as in the Factories Act, ²[1948] (LXIII of 1948).

65. Restriction on double employment on a holiday or during leave :

No employee shall work in any establishment nor shall any employer knowingly permit an employee to work in any establishment on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

66. ⁴[Notice of termination of services :

No employer shall dispense with the services of an employee who has been in his ³[continuous employment :-

- (a) for not less than a year, without giving such person at least thirty days' notice in writing, or wages in lieu of such notice;
- (b) for less than a year but more than three months, without giving such person at least fourteen day's notice in writing, or wages in lieu of such notice] :

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct.

⁵[**Explanation :** For the purposes of this section, "misconduct" shall include :-

- (a) absence from service without notice in writing or without sufficient reasons for seven days or more;
- (b) going on or abetting a strike in contravention of any law for the time being in force; and
- (c) causing damage to the property, of his employer].

67. Rules :

(1) The ⁶[State] Government may make rules to carry out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :-

-
1. *These word were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.*
 2. *These figures were substituted for the figures "1964" ibid.*
 3. *This portion, was substituted for the portion beginning with "continuous employment for not less than three Months" and ending with "in lieu of such notice" by Guj. 11 of 1962, s. 19 (1).*
 4. *This margint note was substituted for the marginal note "Notice of dismissal", ibid., s. 19 (2).*
 5. *This explanation was added by Bom. 28 of 1952, s. 19.*
 6. *This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.*

- (a) the appointment of prescribed authority under clause (21) of section 2;
- (b) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6;
- (c) the form of submitting a statement, the fees and other particulars under sub-section (1), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (2) of section 7; and ¹[the form and the period for notifying] a change and the fees under section 8;
- ²[ca] the form of application for the renewal of a registration certificate under section 7;]
- (d) fixing six days in a year for additional overtime under sub-section (3) of section 14;
- (e) fixing ten days in a year for overtime under sub-section (3) of section 19;
- (f) further particulars to be prescribed for an identity card under section 25;
- ³[(g) * * * * *]
- (h) fixing times and methods for cleaning the establishments under section 39; fixing standards and methods for ventilation under section 40; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under section 42;
- ⁴[(ha) the articles which a first aid box maintained under section 42A shall contain];
- (i) the supervision which the ⁵[State] Government shall exercise over local authorities under section 43;
- (j) the qualification of Inspectors appointed under section 48 and their power and duties under section 49;
- (k) the registers and records to be maintained and notices to be displayed under section 62;
- ⁶[(kk) the other particulars to be contained in an identity card under sub-section (2) of section 62A;

-
1. These words were substituted for the words "the form for notifying" by Bom. 28 of 1952, s. 20 (1).
 2. Clause (ca) was inserted by Guj. 11 of 1962, s. 20 (a) (i).
 3. Clause (g) was deleted, *ibid*, s. 20 (a) (ii).
 4. Clause (ha) was inserted by Bom. 28 of 1952, s. 20 (2).
 5. Clause (ca) was inserted by Guj. 11 of 1962, s. 20 (a) (i).
 6. These clauses were inserted by Guj. 26 of 1977, s. 13 (i).

(kkk) the size of, the manner of painting, of, and the particulars to be contained in, the signboard to be displayed under section 62B;]

(l) the limit of hours of work under clause (c) of the Explanation to section 63;

(m) any other matter which is or may be prescribed.

(3) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.

¹[(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.]

68. Protection to persons acting under this Act :

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

69. Rights and privileges under other law, etc., not affected :

Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

³[70. Persons employed in factory to be governed by Factories Act and not by this Act :

Nothing in this Act shall be deemed to apply to a factory and the provisions of the Factories Act, 1948, (LXIII of 1948) shall, notwithstanding anything contained in that Act, apply to all persons employed in and in connection with a factory :

PROVIDED that, where any shop or commercial establishment situate within the precincts of a factory is not connected with the manufacturing process of the factory, the provisions of this Act shall apply to it :

PROVIDED further that, the State Government may, by notification in the *Official Gazette*, apply all or any of the provisions of the Factories Act, 1948, (LXIII of 1948) to any shop or commercial establishment situate within the precincts of a factory, and on the application of that Act to such shop or commercial establishment, the provisions of this Act shall cease to apply to it.]

1. These Sub-sections were inserted by Guj. 11 of 1962, s. 20 (b).
2. The Sub-sections were substituted by Guj. 26 of 1977, s. 13 (ii)
3. Section 70 was substituted for the original by Guj. 11 of 1962, s. 21:

71. Submission of annual report, etc. :

It shall be the duty of every local authority to submit, within ¹[two months] after the close of the year, ²[the Commissioner of Labour, Ahmedabad] a report on the Act within the local area under its jurisdiction during such year. ³[It shall also submit to him] from time to time such annual or periodical returns as may be required.

72. Repeal of Bombay Shops and Establishments Act, 1939 :

On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939, (Bom. XXIV of 1939), shall be repealed :

PROVIDED that —

- (a) every appointment, order, rule, by-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, by-law, regulation, notification or notice, made, issued or given under this Act :
- (b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

SCHEDULE I

[Section 1(3)]

Local areas

1. ³[⁴[* * *] *]
2. The Ahmedabad Municipal Borough and Cantonment.
3. ⁴[* * *]
4. ⁴[* * *]
5. ⁴[* * *]

*. These words were substituted for the words "three months" *ibid*, s. 22 (a).

1. These words were substituted for the words "the State Government" by *Guj. 11 of 1962*, s. 22 (b).

2. These words were substituted for the words "It shall also submit to it", *ibid*.

3. This item was substituted for the original by *Bom. 17 of 1945*, s. 9 read with *Bom. 8 of 1950*.

4. Entries 1, 3, 4, 5, 6, 7, 10, 14, 17, 18, 19, 21, 23, 24, 26, 27, 28, 29, 30, 31, 32, 36, 38 and 42 were deleted by the *Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960*.

6. ³[* * *]
7. ³[* * *]
8. The Godhra Municipal Area.
9. The Surat Municipal Borough
10. ³[* * *]
11. ⁴[* * *]
12. ²[* * *]
13. ²[* * *]
14. ¹[* * *]
15. ²[* * *]
16. The Bulsar Municipal Area.
17. ¹[* * *]
18. ¹[* * *]
19. ¹[* * *]
20. The Nadiad Municipal Borough.
21. ¹[* * *]
22. The Dohad Municipal Area.
23. ¹[* * *]
24. ¹[* * *]
25. The Kapadvanj Municipal Area.
26. ¹[* * *]
27. ¹[* * *]
28. ¹[* * *]
29. ¹[* * *]
30. ¹[* * *]
31. ¹[* * *]
32. ¹[* * *]

-
1. Entries 1, 3, 4, 5, 6, 7, 10, 14, 17, 18, 19, 21, 23, 24, 26, 27, 28, 29, 30, 31, 32, 36, 38 and 42 were deleted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
 2. Item 11, 12, 13 and 15 were deleted by Bom. 17 of 1945, s. 9 read with Bom. 8 of 1950.
 3. Entries 1, 3, 4, 5, 6, 7, 10, 14, 17, 18, 19, 21, 23, 24, 26, 27, 28, 29, 30, 31, 32, 36, 38 and 42 were deleted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
 4. Items 11, 12, 13 and 15 were deleted by Bom. 17 of 1945, s. 9 read with Bom. 8 of 1950.

33. #[* * *]
 34. #[* * *]
 35. #[* * *]
 36. *[* * *]
 37. The Ankleshwar Municipal Area.
 38. *[* * *]
 39. The Broach Municipal Area.
 40. #[* * *]
 41. #[* * *]
 42. *[* * *]

SCHEDULE II

(Section 4)

Exemptions ¹[(Subject to the note mentioned below)]

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
I. Establishments		
1.	² [Establishments] of the Central Government.	All provisions.
2.	² [Establishments] of the ³ [State] Government.	Do.
3.	² [Establishments] of the Local Authorities.	Do.
4.	⁴ [* * * *]]
5.	² [Establishments] of any Railway Administration.	Do.
6.	Bazars or fairs for the sale of goods for charitable or other purposes from which no profit is derived.	Do.
⁵ [6A.	Offices of the Reserve Bank of India.	Do.

*. Entries 1, 3, 4, 5, 6, 7, 10, 14, 17, 18, 19, 21, 23, 24, 26, 27, 28, 29, 30, 31, 32, 36, 38 and 42 were deleted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

#. Items 33, 34, 35, 40 and 41 were deleted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

1. These words and brackets were added by G.N., Lab D., No. 8/48-I dated 28th April, 1949.

2. This word was substituted for the word "Officers" *ibid*.

3. This word was sub. for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. Entry 4 was deleted by G.N.E. & L.D., No. BSE-1061-I, dated the 5th May, 1961.

5. This entry was added by G.N., Lab. D., Nq. 184/48, dated 4th February, 1949.

Serial No. 1	Establishments, employees or other persons 2	Provisions of the Act 3
¹ [6B.	² [Offices of Trade Commissioners and of Consular Officers and other diplomatic representatives of Foreign Governments.	Do]
³ [6C.	Offices of Air Service companies.	Do].
⁴ [6D.	Office of the Unit Trust of India [a Corporation established under the Unit Trust of India Act, 1963 (Act 52 of 1963)] at Ahmedabad.	All provisions].
⁵ [6E.	Offices of Agricultural Produce Market Committees established under the Bombay Agricultural Produce Markets Act, 1939 (Bombay XXII of 1939).	All provisions.
6F.	Establishments pertaining to any kind of educational activities	Do.]
⁶ [6G.	⁷ [The High Court Law Library, High Court, Ahmedabad].	Do.]
	⁸ [* * * *]	
⁹ [6H.	The Sales Department of Gandhi Smarak Sangrahalaya, Harijan Ashram. Ahmedabad.	Do.]
	¹⁰ [* * * *]	
	¹¹ [* * * *]	
	* * * *	
¹² [6-I.	All Commercial banks including their branches situate in the State of Gujarat	All provisions].

1. This entry was added by G.N., Lab. D., No. 184/48, dated 26th February, 1949.
2. These words were substituted for the words "Office of the Commercial Secretary for Canada" by G.N. Lab. D. No. 184/48, dated 11th April, 1949.
3. This entry was substituted for the original by G.N., Lab. D., No. 8/48-I, dt. 28-4-1949.
4. Entry 6D. inserted by Noti. No. GHU-87-423-BSE-1086-17541-M (3), dt. 30-7-1987. G. Gaz. Exty. Pt. IV-B, dt. 30-7-1987, P. 147.
5. Entries 6E and 6F were added by G.N., Lab. D., No. 8/48-I, dated 28th April, 1949.
6. This entry was added by G.N., Lab. D., No. 8/48, dated 17th May, 1949.
7. These words were substituted for the words "The High Court of Law Library High Court, Bombay" by G.N.E. and L.D. No. BSE-1061-I, dated the 5th May, 1961.
8. Entries 6H, 6I, 6J and 6K were deleted by G.N., L. & S. W. D., No. BSE 1458-J, dated 18th March, 1959.
9. This entry was added by G.N.E. & L.D. No. KH-SH-1/BSE-1068/89350-T, dated 2nd January, 1969.
10. Entry 6L was deleted by G.N.E. & L.D., No. BSE-1061-I, dated the 5th May, 1961.
11. Entries 6M, 6N, 6O, 6P, 6Q and 6R were deleted by G.N.L. & S.W.D. No. BSE 1458-J, dated the 18th March, 1959.
12. This Entry was added by G.N.L & E.D.No. KH-R-188-BSE-1082-8702-T dt. 30-3-1983

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
⁺ [6J.	All office of the Gujarat Industrial Development corporation in the state of Gujarat	[#] All provisions]. (Except Section 63)
¹ [6K.	Establishment of the Food Corporation of India a Corporation established under the Food Corporation Act, 1964 (Act No. 37 of 1964) in the State of Gujarat.	All provisions].
² [6L.	Establishments of the Gujarat State Road Transport Corporation established under the Road Transport Corporation Act, 1950 (Act no. LXIV of 1950) in the State of Gujarat.	All provisions].
³ [6M.	Gujarat Ayurved Vikas Mandal Ahmedabad including its branches situated in the State of Gujarat.	All provisions].
⁴ [6N.	Gujarat Rural Housing Board, Gandhinagar including their branches situated in the State of Gujarat.)	All provisions (Except Section 63)].
⁵ [6O.	The State Trading Corporation of India Limited, Gandhidham (Kachhh.)	All provisions (Except Section 35)
⁶ [6P.	The National Textile Corporation (Gujarat) Limited, Ahmedabad established under the Sick Textile Undertakings (Nationalisation) Act, 1974. (Act 51 of 1974)	All provisions [except section 63].
⁷ [6Q.	Office of the Rashtriya Chemicals and Fertilizers Limited Government of India undertaking) (A unit	All provisions].

+ This Entry was added by G.N.L & E.D.No. KH-R-188-BSE-1082-16428-T dt. 2-4-1983.

This substituted for "All Provisions" by Noti. No. GHR-92-265-BSE-1082-1047-M(3) dt 19-12-92. sub. in Guj. Govt. Gaz. Exty. pt. [VB dt 23-12-92, p. 268-1]

1. Ins. by Noti. No. GHU-85-436-BSE-1082-1047-M-3 dt. 23-9-1985, Guj. Govt. Gaz., Exty. Pt. IV-B, dt. 23-9-1985, P. 190.

2. Ins by Noti. No. GHU-89-23-BSE-1083-853-M (3) dt. 30-1-1989, Guj. Govt. Gaz. Exty. Pt. IV-B, dt. 30-1-1989, P. 17 w.e.f. 1-2-1989.

3. Ins by Noti. No. GHU-89-25-BSE-1086-13225-M (3) dt. 2-2-1989, Guj. Govt. Gaz., Exty. Pt. IV-B, dt. 2-2-1989, P. 19 w.e.f. 15-2-1989.

4. Ins. by Noti. No. GHU/89/38/BSE-1085-17410-M (3) dt. 15-2-1989 Guj. Govt. Gaz., Exty. Pt. IV-B dt, 15-22-1989, P. 34, w.e.f. 1-3-1989.

5. Ins. by Noti. No. GHU-89-37-BSE-1086-3004-M (3) dt. 15-2-1989 Guj. Govt. Gaz. Exty. Pt. IV-B, dt. 15-2-1989, P. 35 w.e.f. 1-3-1989.

6. Ins. by Noti. No. GHU-89-88-BSE-1084-17191-M (3) dt. 14-3-1989, Guj. Govt. Gaz. Exty., Pt. IV-B dt. 14-3-1989 P. 53-1 w.e.f. 1-4-1989.

7. Ins. by Noti. dt. 1st August, 1989; G.G.G. Ext., Pt. IV-B, dt. 1-8-1989 P. 156.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
	established under the provisions of section 7 read with sub-section (3) of section 10 of the Industrial Employment (Standing Orders) Act, 1946) at Ahmedabad.	
¹ [6R.	The New India Assurance Company Limited, Ahmedabad including its branches situated in the State of Gujarat.	All provisions].
² [6S.	The Industrial Development Bank of India, Ahmedabad established under the Industrial Development Bank of India Act, 1964 (Act No. 18 of 1964).	All provisions].
³ [6T.	The Small Industries Development Bank of India (SIDBI) a Subsidiary of the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (Act No. 18 of 1964).	All provisions].

II. ⁴[Establishments, employees and other persons]

- | | | |
|----|---|--|
| 7. | ⁵ [Employees in an establishment exclusively attending to the receipt, Delivery, clearance or despatch of goods, or to assisting travel arrangements of passengers by rail or other means of transport.] | Sections 10, 11, 13 to 18
(both inclusive). |
| 8. | Employees exclusively employed in any establishment in the collection, delivery or conveyance of goods outside the premises of any establishment. | Do.
⁶ [and 21 and 24.] |

1. *Ins. by Noti. dt. 1st August, 1989; G.G.G. Exty., Pt. IV-B, dt. 1-8-1989 P. 157.*
2. *Ins. by Noti. dt. 16th March 1991; G.G.G. Exty., Pt. IV-B, dt. 16-3-1991 P. 65.*
3. *Ins. by Noti. GHR-92.38-BSE-1090-1629-M(3) dt. 5th Feb., 1992; G.G.G., Exty., Pt. IV-B, dt. 5-2-1992, P. 17-1.*
4. *These words were substituted for the word "Employee" by G.N., Lab. D., No. 8/48-I, dated 14th April, 1949.*
5. *This portion was substituted for the original by G.N., Lab., D., No. 8/48-I, dated 28th April, 1949.*
6. *These words and figures were added by G.N., Lab. D., No. 8/498, dated 11th July, 1949.*

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
9.	Employee in Such chemists or druggists establishments as are approved by the *[State] Government or the prescribed authority by a general or special order in this behalf.	¹ [Sections 10, 11, 13 to 18] (both inclusive).
10.	² [Establishments] for the purpose of attending upon the sick, infirm, destitute or mentally unfit.	Do. ³ [and 33.] ⁴ [In the case of hospitals, nursing homes and maternity homes, the exemption from the provisions of section 18 shall be subject to the condition that the employees employed therein are given one weekly holiday or two half-day holidays in a week and no deductions are made from the wages on account thereof.]
11.	⁵ [Establishments] wholly or principally engaged in the sale of ice, aerated waters or funeral requisites.	⁶ [Section 10, 1, 13 to 18] (both inclusive.)
12.	Travellers, canvassers and such other employees who are declared by the *[State] Government by Notification published in <i>Official Gazette</i> in this behalf to be employees whose work is inherently intermittent.	—do—

1. These words and figures were substituted for the word "Do" by G.N. Lab. D., No. 8/48, dated 11th July, 1949.
2. This word was substituted for the words "Employees employ" by G.N., Lab., D., No. 8/48-I, dated 14th April 1949.
3. This word and figures were added by G.N., Lab.D., No. 8/48-I, dated 28th April, 1949.
4. This portion was added by G.N.L., & S.W.D. No. BSE, 1457, dated 24th June 1957.
5. This word was substituted for the words "Employees in any establishments" by G.N., Lab., and H.D., No. 8/48, dated 28th September 1950.
6. These words and figures were substituted for the letters "Do" by G.N. Lab., D. No. 8/48, dated 14th April 1949.
7. This Explanation was added by G.N. Lab., D., No. 8/48-I, dated 28th April, 1949.
- * This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
	⁷ [<i>Explanation</i> :- The following employees shall be deemed to be employees whose work is inherently intermittent :- <ol style="list-style-type: none"> (1) Employees employed in the sections of establishments carrying out repairs for the maintenance of water supply, gas supply, electricity and drainage or repair to ships. (2) Employees employed in bill collection works. (3) Employees employed in the Road Service Department of the Western India Automobiles Association.] ¹(4) Employees employed in the section of establishment for the purpose of maintenance and repairs of Buildings or of projectors or sound equipments in cinemas] ²[or of air-conditioning and refrigeration plants.] ³[or of punched-card accounting equipment] ⁴[or of lifts.] 	
13.	⁵ [⁶ **] Stalls, refreshment rooms and canteens at railway stations, docks, wharves, airports and the State Transport Bus Stations.]	⁷ [Sections 19, 20 and 23.]
14.	Employees working in any establishment as watchmen, caretakers, ⁸ [fire fighting staff] and messengers.	Sections 10, 11, ¹³ , to 19 (both inclusive), 22 to 24 (both inclusive) 26, 28 to 31 (both inclusive.)

1. This portion was added by G.N., Lab., D., No. 8/48, dated 19th May, 1949.
2. These words were added by G.N. Lab., No. 8/48, dated 11th July, 1949.
3. These words were added by G.N., Lab., and H.D. No. 8/48, dated 20th February, 1950.
4. These words were added by G.N., Lab., and H.D. No. 8/48, dated 22nd June, 1950.
5. These words were substituted for the words begining with the word "Employees" and ending with the word "airports" by G.N., Lab. and H.D., No. 8/48, dated 14th December, 1951.
6. These words were deleted by G.N., E. and L.D. No. KH-SH-322/BSE, 1062-T, dated 4th may, 1966.
7. These words and figures were substituted for the word and figures "section 19" by G.N. Lab., D. No. 8/48, dated 3rd June, 1949.
8. These words were adeed, *ibid*.

Serial No. 1	Establishments, employees or other persons 2	Provisions of the Act 3
15.	The members of an employer's family.	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive), 28 to 31 (both inclusive), ¹ [33 and 63.]
² [16A.	Persons occupying position of management :	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive), ¹ [33 and 63.]
	Provided that the number of such persons in any establishment shall not, except with the sanction of the prescribed authority, ³ [exceed 10 per cent.] of the total number of employees there in, any fraction being rounded up to the next higher integer.	In respect of commercial establishment also sections 13 and 18.
16B.	An employee engaged in confidential capacity :	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive), ¹ [33 and 63.] In respect of commercial establishments, also Sections 13 and 18.
	Provided that the number of such employees in any establishment shall not ⁴ [exceed 10 per cent.] of the total number of employees therein, any fraction being rounded up to the next higher integer.	
⁵ [17.	Employers of Commercial establishments.	⁶ [Sections 13 and 18 (1)] so far as concerns their own attendance and the attendance of the staff exempted from section 18.

1. These word and figures were substituted for the word and figures "and" 33^v by G.N. D.D. No. BSE-1555, dated 18th June, 1956.

2. These entries were substituted for the original by G.N., D.D. No. S/58, dated 25th March 1954.

3. These words and figures were substituted for the words and figures, "exceed 5 percent" by G.N.E. & L.D. No. BSE-1061-I, dated 26th April, 1962.

4. These words and figures were substituted for the words and figures, "exceed 5 percent" by G.N.E. & L.D. No. BSE-1061-I, dated 26th April, 1962.

5. Entries 17 to 21 were added by G.N. Lab. D. No. 8/48-III, dated 14th April, 1949.

6. These words figures and brackets were substituted for the word, figures and brackets "Section 18 (1)" by G.N. Lab. D. No. 8/48 dated 28th April, 1949.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
18.	Legal and Income Tax Practitioners.	Sections 13 and 18(1) so far as concerns their own attendance and the attendance of the staff exempted from section 18.
19.	Establishments dealing wholly in fruits, flowers, vegetables, ¹ [betel leaves, meat,] ² [bread], ³ [and/or biscuits] ⁴ [mawas], eggs and fish.	Section 18.
20.	Female attendants for women's cloak-rooms or lavatories at theatres or other places of public amusement or entertainment or at residential hotels or restaurants.	Section 33.
21.	Female House Keepers employed in residential hotels and female artists in cabaret or entertainment shows.	Section 33.]
⁵ [21-A.	Female employees of Co-operative Consumer's Stores registered under the Gujarat Co-operative Societies Act, 1961 in the State of Gujarat.	Section 33 so far as closing hours are concerned and subject to the condition that no female employee shall be required or allowed to work later than 8-30 p.m.
⁶ [22.	Establishments of legal and income tax practitioners.	Section 15.
23.	Sections of newspaper or news agency offices pertaining to news collection, editing and publishing.	Sections 13 to 18 (both inclusive.)
24.	Ice ⁷ [and Ice-fruit] manufacturing establishments.	Sections 13 and 18.

1. These words were inserted, by G.N. Lab. D-No. 8/48 dated 28th April, 1949.

2. This word was added by G.N. Lab. D-No. 8/48 dated 17th May, 1949.

3. These words were inserted by G.N.E.L. and D. No. KH-SH-974-BSE-1474-50600-T, dated 2nd August, 1974.

4. This word was added by G.N. Lab. and H.D. No. 8/48-I, dated 22nd June, 1950.

5. This entry was added by G.N.E. and LD No. KH-SH-3350-BSE-670-54248-T, dated 4th September, 1971.

6. Entries 22 to 34 were added by G.N. Lab D. No. 8-48-I, dated 28th April 1949.

7. These words were added by G.N. Lab. H.D. No. 8/48-I, dated 16th April, 1951.

Serial No. 1	Establishments, employees or other persons 2	Provisions of the Act 3
25.	Bakeries.	Provision relating to opening hours and section 18.
26.	Such haircutting establishments and hammam-khanas as open not earlier than 6 a.m. and close not later than 9-30 p. m.	Sections 10, 11 and 16.
¹ [27.	Shops dealing in Milk and Milk Products viz., Milk, Curds, Cream, Butter Milk, Shrikhand, Maskar, Basudi, Matho and loose unpacked "Ghee" sold alongwith above Milk and Milk products as a part of the same establishment.	Sections 11, 16 and 18.]
² [28.	Photography Establishments.	Provision of opening hour in section 10 and provision of closing hour in section 11 or section 13, as the case may be).
29.	Railway Bookstalls.	Sections 10, 11 and 18.
30.	Those establishments in organised markets (like the cotton or stocks and securities markets) recognised by the prescribed authority as involving intermittent work, which observed not more than six and a half total hours of work per day between the limits of 11.30 a.m. and 6.30 p.m.	Section 15.
31.	Sections in banks pertaining to safe deposit vaults or lockers or godowns.	Section 18.
³ [31A.	Safe Deposit vault of the Gujarat Safe Deposit Co. Ltd., Surat.	Section 18 so far as two employees are concerned, subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.]

1. This Entry was substituted by G.N., L.S.W. & T.D.D. No. KH-L-128-BSE/1449-48293-T dated 22nd February, 1960.
2. This entry was substituted for the original by G.N.D.D. No. BST-1456-J, dated 9th September, 1956.
3. This entry was inserted by G.N.E. & L.D. No. KY-SY-483/BSE-1668-33768-T, dt. 15-6-1968.

Serial No. 1	Establishments, employees or other persons 2	Provisions of the Act 3
32.	Establishments employing not a single employee.	¹ [Section 62, save as regards any visit book prescribed to be maintained.]
33.	Employers of all establishments.	Provision relating to closing hour in sections 11, 12 and 19 so far as their own work is concerned, provided no sale or service to customers is rendered.
² [34.	Any establishment wherein a manufacturing process as defined in clause (a) of section 2 of the Factories Act, 1948, is carried on.	Provisions relating to closing hours in section 13];
³ [35.	Shops supplying cycles on hire or petromax or any other lanterns on hire.	Provisions relating to closing hours in section 11.
36.	Shops dealing in newspapers.	Section 18].
⁴ [37.	Code Departments of commercial establishments.	Section 13 and 18].
⁵ [38.	Operators employed in cinema theatres on days on which extra charity shows recognised by the prescribed authority are held.	Sections 28 and 30.
39.	Children and young persons exclusively employed in the sports sections of residential clubs.	Sections 32 to 34 (both inclusive)]
⁶ [40.	Establishments of Telegram Commission Agents.	Sections 13 and 18.
41.	Young person employed as performers in dramatic shows.	Section 33].

1. This portion was substituted for the word and figures "Section 62" by G.N. Lab. and H.D. No. 8/48, dated 17th March, 1962.
2. This entry was substituted for the original by G.N., D.D., no. S. 58, dt. 3rd January, 1955.
3. Entries 35 and 36 were added by G.N., Lab. D. No. 8-48, dated 14th May, 1949.
4. This entry was added by G.N. Lab., D., No. 8/48, dt. 19th May, 1949.
5. Entries 38 and 39 were added by G.N. Lab., D. No. 8/48, dt. 31st May, 1949.
6. Entries 40 and 41 were added by G.N. Lab., D. No. 8/48, dt. 3rd June, 1949.

Serial No. 1	Establishments, employees or other persons 2	Provisions of the Act 3
¹ [42.	Such shops dealing in pan, bidi, cigarettes, matches and other ancillary articles as open not earlier than 6.00 a.m.	Section 10.]
² [42A.	Retails shops dealing mainly in pan or beattle leaves.	Section 18].
³ [43.	Upcountry depots and transhipment stations belonging to oil companies.	Section 18].
⁴ [44.	Such employees of the Co-operative Bank as are engaged in propaganda, supervision and training in business methods of agriculturists and rural artisans.	Section 13].
⁵ [45.	Menial staff employed in stables for attending to the work of feeding, bathing and milking of animals, cleaning of stables and distribution of milk.	Sections 13 to 18 (Both inclusive) subject to the condition that an employee instead or being given a weekly holiday shall be given leave with pay of forty-five days for one year of service or such proportionate leave as the period of his service in a year bears, to the whole year in addition to leave admissible under section 35. Provided that where an employee is given any weekly holiday or holidays during the year and equal number of days may be deducted from the total leave for forty-five days or, as the case may be, proportionate leave admissible to him].
⁶ [46.	Dal Manufacturing establishments.	Sections 16 and 18].

1. This entry was added by G.N. Lab. and H.D. No. 8/48, dt. 7th November, 1949.
2. This entry was added by G.N.E. & L.D. No. KH-SH-2259-BSE-1470-71992-T, dt. 21st November, 1970.
3. This entry was added by G.N. Lab. and H.D. No. 8/48, dt. 23rd March 1950.
4. This entry was added by G.N. Lab., H.D. No. 8/48, dt. 11th April, 1950.
5. This entry was substituted by G.N.L. and S.W.D. 60, B.S.E. 1956 dt. 12th December, 1958.
6. This entry was added by G.N. Lab., and H.D., No. 8/48, dt. 2nd June, 1950.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
	¹ [* * * * *]	
² [48.	³ [Coffee Deposits run by the Coffee Board]	Sections 35, 36 and 37].
⁴ [49.	The Out-door staff of the motor transport services.	Sections 13 to 18].
⁵ [50.	Such establishments of suppliers of band parties as close not later than 11 p.m.	Section 18, section 17, subject to the condition that the spread over shall not exceed 14 hours in any day, and section 18 (1) subject to the condition that in lieu of the weekly holiday the employees are given substitute holiday during that week].
⁶ [51.	All shipping Companies.	section 15.]
⁷ [52.	Such restaurants or eating houses as are permitted under the rules for licensing and controlling places of public entertainment made under section 33 of the Bombay Police Act, 1951 to remain open upto 11.30 p.m. and such restaurants or eating houses as are granted special permission by the Commissioner of Police, Ahmedabad or the District Magistrates or Sub-Divisional Magistrates to conduct business after 11.00 p.m.	Provisions relating to the closing hours in section 19].

1. Entry 47 was deleted by G.N.E. and L.D. No. B.S.E-1062-I, dt. the 5th May, 1961.
2. This entry was added by G.N., Lab., and H.D., No. 8/48, dt. 9th August 1950.
3. These words were substituted for the word, "India Coffee House run by the Indian Coffee Board" by G.N.L. and S.W.D. No. RES 1457 (i.e., dt. 16th February, 1959.
4. This entry was added by G.N., Lab., and H.D., no. 8/48 dt. 28th, August, 1950.
5. This entry was substituted by G.N., Lab., and S.W.D., No. B.S.E. 1457 dt. 2nd September, 1950.
6. This entry was added by G.N. Lab., and H.D. No. 8/48, dt. 27th November, 1950.
7. This entry was substituted by G.N.E. & L.D. No. KH-SH/3305/BSE-1070/51, 100-T, dt. 31st August, 1971.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [53.	Tea stalls and Catering Hotels situated on the Railway premises.	Sections 25(d) and 32 and Chapter VIII],
² [54.	Establishments commonly known as general engineering works where in the manufacturing process is carried on with the aid of power.	Section 13 (i) so far as closing hours is concerned and section 18]
	³ [* * * * *]	
	³ [
57.	Water works establishments supplying water to the public.	Sections 13(1) and 18]
	³ [* * * * *]	
⁴ [59.	Handloom and power-loom establishment.	⁵ [Sections 13(1) and 18 subject to the condition that the employees concerned are granted one day holiday in a week without making any deductions from their wages on account thereof.]
	⁶ [* * * * *]	
⁷ [61.	Such theatres as are permitted under the Bombay Cinema Rules, 1954 to remain ⁸ [open upto 1-00 a.m.] and such other theatres and places of public amusement or en-	Section 26.

1. This entry was added by G.N., Lab., and H.D. No. 8-48 dt. 25th June, 1951.

2. This entry was added by G.N., Lab., and H.D. No. 8/48 dt. 10th March 1952.

3. Entries 55, 56, 58 and 60 were deleted by G.N.E. and L.D., No. B.S.E., 1061-I. dt. the 5th May, 1961.

4. This entry was added by G.N., D.D., No. S. 125, dated 4th June, 1963.

5. This Condition was amended by G.N., E. and L.D. No. KH-SH-1111-BSE 1-65-/55862-T, dated 13th September, 1965.

6. Entries 55, 56, 58 and 60 were deleted by G.N., E & L.D., No. BSE-1061-I, dated the 5th May, 1961.

7. This column No. 2 was substituted by G.N.E. & L.D. No. KH-SH-540/1068/BSE/19544/T, dated 10th July, 1968.

8. These words, figures and letters were substituted for words, figures and letters "open up to 8.30 a.m." by G.N. & E.L.D. No. KH-SH-2828/BSE/1171/29678/T, dated 30th, April, 1971.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
	tertainment as are granted special permission by the Commissioner of Police, Ahmedabad or the District Magistrate, to remain open after twelve midnight.]	
¹ [62.	Such commercial establishment of licence holders of the Agricultural Produce Markets Committees established under the Bombay Agricultural Produce Markets Act, 1949 (Bom. XXII of 1939) as open not earlier than 7.30 a.m. and close not later than 7.30 p.m.	Section 13(1).]
	² [* * * * *]	
³ [64.	Vyara Kanpura Electric Co-operative Supply Society Limited, Vyara.	Sections 13 and 18.]
⁴ [65.	Cycle stands	Section 11 and 18]
	² [* * * * *]	
	² [* * * * *]	
⁵ [68.	Poultry Farms.	Sections 13, 17 and 18 subject to the condition that the spread over shall not exceed 12 hours a day and the employees are granted one full day or two half day holidays in a week.]
	² [* * * * *]	
	⁶ [* * * * *]	
	⁶ [* * * * *]	
	⁶ [* * * * *]	
	⁶ [* * * * *]	

1. This entry was added by G.N., D.D., No. S. 125, dated 17th July, 1954.

2. Entries 63, 66, 67 and 69 were deleted by G.N.E. and L.D. No. BSE-1061-I, dated 5th May, 1961.

3. This entry was added by G.N., D.D. No. 2610/48, dated 29th December, 1954.

4. This entry was added by G.N., D.D. No. 1331/48, dated 9th February, 1955.

5. This entry was added by G.N.L. & S.W.D. No. BSE-1456, dated 7th January, 1957.

6. Entries 70, 71, 72 and 73 were deleted by G.N.E. and L.D. No. BSE-1061-I, dated the 5th May 1951.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
	¹ [* * * * *]	
² [75.	Bidi makers and wrappers in the establishment manufacturing bidies.	Section 18(3)]
³ [76.	Shops dealings in poultry.	Sections 10 and 18 subject to the condition that the employees are given one full or two half day holidays in a week without making any deduction from wages on account thereof.]
	³ [* * * * *]	
⁴ [78.	Establishments maintained in connection with the Petrol Service Stations & Petrol Pumps.	Section 10, section 11, section 16, subject to the condition that the spread over of the work of an employee employed therein shall not exceed fourteen hours in any day and Section 18.]
⁵ [78A.	Establishments engaged in battery charging or vulcanising work. and situated on a National or State High Way.	(a) Sections 10 and 16 subject to the condition that the spread-over of the work of an employee employed therein shall not exceed fourteen hours in any day; (b) Section 18 subject to the conditions that the employees are given one day in a week as a holiday without making any deduction from wages on account thereof or are paid overtime wages at the rate prescribed in section 63 for the work done on such weekly holiday.]

1. Entries 74 & 77 were deleted by G.N.E. & L.D. No. BSE-1061-I, dated the 5th May, 1961.
2. This entry was added by G.N.L. & S.W.D. No. BSE-1457, dated 16th May, 1958.
3. This entry was added by G.N.L. & S.W.D. No. BSE-1458, dated 16th February, 1959 and G.N.L. & S.W.D., No. BSE-1458, dated 12th March, 1959.
4. This entry was added by G.N.L. & S.W.D. No. BSE-1458-J, dated 18th March, 1959-9th June, 1959 and 10th August, 1959.
5. This entry was added by G.N., E. & L.D., No. KH-SH. 3035-BSE-1068-16128-T. dated 19th June, 1971.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [79.	Office of the Gujarat Housing Board and offices subordinates to it. Establishments of the Gujarat State Road Transport Corporation.	(a) In respect of all the employ- ees : sections 35, 36, 37 and 62.
² [* * * * *	(b) In respect of out door staff and watchmen : sections 13,14, 15, 17 and 18, Subject to the conditions that the employees concerned are granted wages for overtime work and one day holi- day in a week without making any deductions on account thereof from the wages.]
³ [79A.	Offices of the Gujarat Rajya Khadi and Gramodyog Board Office of the Life In- surance Corporation of India in the State of Gujarat.	(a) In respect of all the employ- ees, (sections 35 36, 37 and 62) Subject to the condition that the existing leaves rules of the Gujarat State Financial Corpora- tion, Ahmedabad applicable to its employees shall not be al- tered to their disadvantage.
		(b) In respect of out door staff and watchmen (sections 13, 14 15, 17 and 18) subject to the condition that the employees concerned are granted wages for over time work and one day holiday in a week without mak- ing any deduction on account there of from the wages.

1. This entry was added by G.N., & E.L.D. No. KH-SH. 1301/BSE-1461/84058-T, dated 5th December, 1967.
2. The words "Establishments of the Gujarat Electricity Board" were deleted by G.N.E. & L.D. No. KH-SH-586/BSE-1065-12240-T, dated 12th, July, 1968.
3. This entry was added by G.N.E. & L.D. No. SH-KH-715-BSE-1476-79144-T dated 21th July, 1971.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [79-B. Establishments of the Gujarat Electricity Board.		(a) In respect of all the employees : sections 35, 26, 37 and 62 subject to the facilities regarding leave with wages available to the employees under the Regulations of the Board shall in no case be less favourable than those provided under sections 35, 36 and 37 of this Act. (b) in respect of outdoor staff and watchmen; sections 13, 14, 15, 17, and 18, Subject to the condition that the employees concerned are granted wages for overtime work and one day holiday in a week without making any deduction on account thereof from the wages.]
² [79C. Establishment of Banking Industry.		In respect of drivers of the vehicles belonging to the establishments of the Banking Industry, sections 11 (1), 13, 14, 15, 16, 17 and 18 of the Act, subject to the conditions that the employees are granted wages for over time work and one day holiday in a week without making any deductions on account thereof, from the wages. In respect of Gardeners section 13 of the Act, subject to the condition that spread-over shall not exceed eleven hours in any day.]
³ [79D. Office of the Gujarat Industrial Investment Corporation Ltd., Ahmedabad.		(a) In respect of all the employees sections 35, 26, 27 and 62, subject to the condition that the existing leave rules of Gujarat Industrial Investment Corporation, Ahmedabad applicable to its employees shall not be altered to their disadvantage.

1. This entry was inserted by G.N.E. & L.D. No. KH-SH-586-BSE-1065/12240-T, dated 12th July, 1968.
2. This entry was added by G.N.,E. & L.D. No. KH-SH-715-BSE-1476-79/44-T, dated 29th July, 1976.
3. Entry 79D was inserted by G.N., L.S.W. and T.D.D. No. KH-L-50/BSE-1476-101522-T, dated the 10th January, 1979.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(b) In respect of out door staff and watchman, sections 13, 14, 15, 17 and 18, subject to the conditions that the employees concerned are granted wages for over-time work and one day holiday in a week without making any deduction on account thereof from the wages.]
¹ [79-E. Food Corporation of India, Ahmedabad and its office in the State of Gujarat.	(a) In respect of all employees.	Sections 35, 26, 27 and 62 subject to the condition that the existing Leave Rules of Food Corporation of India, shall not be lantered to their disadvantage.
	(b) In respect of outdoor staff and watchmen.	Sections 13, 14, 15, 17 and 18 subject to the conditions that the employees concerned are granted wages for over-time work in accordance with sub-section (1) of section 63 of the said Act and one day's holiday in a week without making any deduction on account thereof from the wages.]
² [79F. The National Dairy Development Board, Anand.		Sections 10, 11, 13, 17, 19, 37, 62 and 62A subject to the conditions that – (i) The spread over shall not exceed 14 hours in any day. (ii) The National Dairy Development Board, Shall display the registration certificate and shall keep adequate record of attendance, hours of work and leave in respect of all the employees.

1. Entry 79E was inserted by G. N., L.S.W. and T.D.D. No. KH-L-85/BSE-1078-4259-T, dated the 20th January, 1979 and deleted by Noti. dt. 23-9-1985, G.G. Gaz., Exty., Pt. IV-B, dt. 23-9-1985, P. 190.
2. Entry 79F was inserted by G.N., L.S.W. and T.D.D. No. KH-SH-57/BSE/479-UO-40-T, dated the 28th May, 1980.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(iii) If any employee is required to work for more than the working hours prescribed in section 14, he shall be entitled to overtime wages at the rate prescribed in section 63 (1). (iv) No female worker shall be detained after 7.00 p.m. without her consent.]
¹ [79G. Gujarat State Warehousing Corporation and its office in the State of Gujarat.		
(a) In respect of all employees.		Sections 35, 36, 37 and 62, Subject to the condition that the existing leave Rules of Gujarat State Warehousing Corporation shall not be altered to their disadvantage.
(b) In respect of outdoor staff and watchmen.		Sections 13, 14, 15, 17 and 18, subject to the condition that the employees concerned are granted wages for overtime work in accordance with sub-section (1) of section 63 of the said Act and one day's holiday in a week without making any deduction on account thereof from the wages.
² [11 * * * * *]		
² [11 * * * * *]		
² [11 * * * * *]		
² [11 * * * * *]		
³ [84. ⁴ [Establishments of the Gujarat State Road Transport Corporation.]		(a) In respect of outdoor staff and watchmen.

1. Entry 79G was added by G.N.L. and E.D. No. KHL-BSE-1077-44481-T, dated the 8th December 1981.
2. Entries 80, 81, 82 and 83 were deleted by G.N., E.L.D. No. BSE-1061-I, dated the 5th May, 1961.
3. This entry was added by G.N.L. & S.W.D., No. BSE, 1458-J, dated 1st December, 1959 was deleted by G.N.L & ED No GHU-89-23 BSE-1083 M(3) dated 30th January, 1989
4. These words were substituted for the words "Establishments of the Bombay State Road Transport Corporation" by G.N., E. & L.D., No. BSE-1061-I, dated the 5th May, 1961.
11. Added vide Noti. dt. 1-12-1959 and deleted by Noti. dt. 30-1-1989.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		Sections 13, 14, 15, 17, 18, 35, 36, 37, 62, and 66, subject to the condition that the employees concerned are granted wages for over-time work and one day's holiday in a week without making any deductions on account thereof from the wages.
		(b) In respect of employees other than those mentioned in clause (a),--
		(i) Section 12 only in respect of :-
		(x) Employees in the following establishments, namely :-
		Bus Stations, Reservation and Advance Booking Offices, Out agency, Parcel Booking and Delivery Offices, Workshops not covered under the Factories Act, 1948, Control points, and
		(y) Employees in the following establishments, namely :-
		State Transport Central Offices, 80-81 Annie Besant Road Worli Bombay 18, Office of the Controller of Stores, State Transport Central Stores, Bombay, Central Stand Bellasis Road, Bombay-8, Stores Unit, No. II Petit Mills Compound Tradeo, Bombay, Offices of the Divisional Controllers. State Transport Poona / Nasik / Thana / Kolhapur / Sholapur / Ahmedabad / Ratnagiri / Nadiad / Baroda / Surat / Dhulia / Palanput / Ahmednagar / Sabarkantha Administrative Block-Central Works Depot and Regional Workshop, Ahmedabad Office of the Executive Engineer, State Transport, Southern Division Shanker Sheth Road, Poona.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		Office of the Executive Engineer State Transport Northern Division, Bombay Central Bombay.
		Office of the Executive Engineer State Transport, Regional Workshop, Construction Division at Ahmedabad.
		State Transport Divisional Stores at Poona/Nasik/Thana/Kolhaput/ Sholapur/Ahmedabad/Ratnagiri/ Nadiad/Baroda/Surat/Dhulia/ Palanput/Ahmednagar/Sabarkantha.
		Subject to the condition that no estab- lishment shall open earlier than 7.30 a.m. and close later than 9.30 p.m.
		(ii) Section 14; subject to the condi- tion that the working hours of any employee shall not exceed 9 hors in any day and 54 hours in any week.
		(iii) Section 15; subject to the condi- tion that no employee shall be re- quired or allowed to work for more than Five hours before he has had an interval of rest of at least half an hour.
		(iv) Section 17; only in respect of bus stations, bus depots and stores-office subject to the condition that the spread-over of work of an employee shall not exceed 14 hours in any day.
		(v) Section 18; subject to the condi- tions that-
		(o) every employee other than daily- rated staff shall be given one day holiday in a week with out making any deduction from wages on account thereof.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(p) an employee on daily rated wages shall be granted one day holiday in a week payment for that day being made at the rate agreed to by the Corporation for that category, with the union of the workers.
		(q) the one day holiday referred to in paragraphs (o) and (p) if not granted in any week shall be granted within a period of not less than two months from the end of that week.
		(vi) Sections 35, 36, 37, 62 and 66.]
		Section 10, 11 and 16.]
¹ [85.	Shops dealing in pan-bidi-cigarettes, matches and other ancillary articles, at the State Transport Bus Stations.	
² [86.	The office of ³ [the Gujarat Electricity Board].	Sections 13, 14, 15, 17 and 18 subject to the condition that (i) no employee shall be required or allowed to work for more than five hours before he had an interval of rest of at least half an hour, (ii) the exemption will remain in operation for the period ending on 30th April, 1960.]
	⁴ [* * * * *]	
	⁴ [* * * * *]	

1. This entry was added by G.N.,L. & S.W.D. No. BSE-1458-J, dated 1st December, 1959.
2. This entry was substituted by G.N.L. & S.W.D. No. BS-1459-J, J dated 26th March, 1960.
3. These words were substituted for the words "the Bombay State Electricity Board" by G.N.E. and L.D., No. BS-1061-I, dated the 5th May, 1961.
4. Entries 87 and 88 were deleted by G.N.E. and L.D., No. BS-1061-I dated the 5th May, 1961.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3

*Note -- ¹[(1) The exemptions from the provisions of section 18 in entries Nos. 7 to 12, 14, 16A, 16B, 19, 23, 24, 25, 27, 29, 31, 36, 37, 40 ²[42-A], 43, 45, 46, 54, 57, 64, 78, and 86 shall be permissible in the case of such establishments referred to therein as given the employees concerned one day in a week as a holiday and make no deduction from wages on account thereof or pay over time wages at the rate prescribed in section 63 for the work done on such weekly holiday.

(2) The exemption from the provisions of section 24 in entries Nos. 8, 14, 15, 16A, and 16B, and from the provisions of section 31 in entries Nos. 14, 15, 16A and 16B shall be permissible in the case of such establishment referred to therein as pay overtime wages at the rate prescribed in section 63 for work done on such weekly holidays.]

³[89. Shops dealing wholly or principally in preparation and/or sale of sweets and farsan. ⁴[Sections 10, 11, 16 and 18 subject to the following conditions, namely :-

1. This note was substituted for the note at the end of the Schedule II by G.N.E. and L.D. No. BSE-1059/81920-T, dated 6th January, 1962.
2. These figures and letter were inserted by G.N.E. & L.D. No. KH-SH-2259-BSE-1470-71992-T, dated 21st November, 1970.
3. This entry was added by G.N., E. & L.D., No. BSG-1062/87308-J, dated the 24th December, 1962.
4. These words and figures were substituted for the words and figures "Sections 10, 11 and 16" by G.N.E. & L.D. No. KH-SH-1079/BSE/1068/81876-T, dated 16th December, 1969.

* This note was added by G.N., Lab. D., No. 8/48-I, dated 28th April, 1949 and was amended by the following notifications :-

- G.N., Lab., D., No. 8/48, dated 28th April, 1949.
- G.N., Lab. D., No. 8/48, dated 14th May, 1949.
- G.N., Lab., D., 8/48, dated 14th May, 1949.
- G.N., Lab., I No. 8/48, dated 19th May, 1949.
- G.N., Lab., I No. 8/48 dated 3rd, June 1949.
- G.N., Lab., and H.D. No. 4/48, dated 23rd March, 1950.
- G.N., Lab., and H.D., No. 8/49, dated 2nd June, 1950.
- G.N., Lab., and H.D., No. 8/48. dated 25th July, 1950.
- G.N., Lab., and H.D., No. 8/48 dated 28th August, 1950.
- G.N., Lab., and H.D., No. 8/48, dated 19th March, 1952.
- G.N., D.D., No. 8/48, dated 28th March, 1953.
- G.N., D.D., No. 8/48, dated 27th November, 1953.
- G.N., D.D., No. 2610/48, dated 29th December, 1954.
- G.N., D.D. No., No. 1331/48, dated 9th February, 1955.
- G.N., L. and S.W.D. No. BSE, 1556, dated 12th December, 1958.
- G.N., L. and S.W.D., No. BSE-1458, dated 16th February, 1959.
- G.N., L. and S.W.D. No. BSE-1458-J, dated 12th March, 1959.
- G.N., L. and S.W.D. No. BSE-1459-J, dated 23rd December, 1959.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(1) Opening and closing hours shall not be earlier than 5 A.M. and later than 11 P.M. respectively.
		(2) No employees shall be required or allowed to commence work earlier than 4.30 A.M. and to work later than 11.30 P.M.
		(3) The spread-over of an employee shall not exceed fourteen hours.]
		¹ [(4) The employees concerned are given one day in a week as a holiday and no deduction from wages is made on account thereof.
² [89A.	Shops dealing wholly or principally in preparation and/or sale of bread and/or biscuits in the State.	Clause (A) of sub-section (1) of section 11 subject to the condition that no shop or commercial establishment shall on any day be closed later than 11.00 p.m.]
³ [90.	All the Divisional and Branch Offices of the Life Insurance Corporation of India, State of Gujarat.	Section 14 and 18 subject to the following conditions,-
		(1) The employees shall on account of the loss of the prescribed holiday be granted either a holiday in exchange or wages for the work done on that day at the rate of wages prescribed for overtime work in section 63 (1) of the said Act.
		(2) the exemption shall remain in force for a period of one week, commencing on the midnight of 30th March, 1963.]

1. This condition was inserted, by G.N.E. & L.D. No. KH-SH-1079/BSE-1068-81876-T, dated 16th December, 1969.
2. This entry was inserted by G.N. E & L.D. No. KH-SH-28-BSE-1470/133522-T, dated 9th January, 1974.
3. This entry was substituted by G.N., E. & L.D. No. BSE-1063-23050-I, dated the 29th March, 1963.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [91.	Illac Services Divisions in the Head Office of the Ahmedabad Manufacturing and Calico Printing Co. Ltd., Ahmedabad.	(i) Section 13(1) subject to the condition that the exemptions will remain in operation for the period ending ² [31st March, 1979.] (ii) If any employee is required to work in excess of limit of hours of week specified in of the said Act, he should be required do so only after his written consent and in that case he shall be entitled in respect of over-time work, which shall be noted in the prescribe Register to wages at the rates prescribed in section 63 (1) of the said Act.]
³ [92.	Neera Depots or shops selling neera.	Sections 10 and 18 subject to the condition that the employees are given one day's holiday in a week, without making any deduction from wages on account thereof.]
⁴ [93.	Stalls in the Balwatika Kankaria, Ahmedabad.	Section 18, subject to the condition that the employees are given one day's holiday in a week without making any deduction from wages on account thereof.]
94.	Shri Jain Swetamber Murti Pujak Bhojanshala Panjra Pole, Relief Road, Ahmedabad. <i>vide</i> , G.N., E & L.D. No. KH-SH 126/BSE 1062/(ii) 76-I, dated the 9th March, 1964.	All provisions except sections 35, 36 and 37, subject to the conditions that if an employee is required to work in excess of nine hours in a day, he shall be paid in respect of the over-time work, wages at the rate specified in sub-section (1) of section 63 and that a register for overtime work is maintained by the trustees of the Bhojanshala.

1. This entry was substituted by G.N.E. & L.D. No. KH-SH-5-BSE-1672-129122-T, dated the 15th January, 1972.
2. These word, figures and letter were substituted for the word, figures and letters "15th January, 1964" by G.N.E. and L.D. No. KH-SH-d58-BSE-1672-38844-T dated the 30th March, 1976.
3. This entry was added by G.N.E. & L.D. No. BSE-1062-51192-I, dated 31st July, 1963.
4. This entry was added by G.N.E. & L.D. No. BSE-1063-67208-I, d. 8th November, 1963.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [95.	E.D.P. Section of the Ahmedabad Electricity Co., Ltd. Ahmedabad.	Section 13 (1) subject to the condition (i) that the I.C.T. section is closed not later than midnight, (ii) that no employee is made to work after midnight and (iii) that the exemption will remain in operation for the period ending ² [30th September, 1977]. If any employee is required to work in excess of limit of hours of work, specified in section 14 of the said Act, he should be required to do so only after his written consent and in that case he shall be entitled in respect of overtime work which shall be noted in the prescribed register to wages in section 63 (10 of the said Act etc.)
96.	Banks. <i>vide</i> , G.N., E. & L.D., No. KH-SH/1074/BSE-1065/54774-T, dated 31st August, 1965.	Provisions relating to closing hours in section 13, on the first working day of month and the working day proceeding and succeeding a Public holiday subject to the condition that the employees concerned are paid in respect of the overtime work, wages at the rate specified in sub-section (1) of section 63.
97.	Bookstalls at the Bus Station of the Gujarat State Road Transport Corporation. <i>vide</i> G.N., E. & L.D., No. KH/SH-1326/BSE-116/67456-T, dated 10th November 1965.	Sections 10, 11 and 18 subject to the condition that the employees concerned are given one day in a week as a holiday and no deduction from wages is made on account thereof.
98.	Bhavnagar Public Weigh Bridge, Bhavnagar. <i>vide</i> G.N., E & L.D., No. KH/SH/439/BSE-1066/29326-T, dated 9th May 1967.	Section 18 subject to the condition that the employees concerned are given one day in a week as a holiday and no deduction from wages is made on account thereof.

1. This entry was substituted by G.N.E. & L.D. No. KH-SH-395-BSE-1676-31702-T, dated 30th March, 1973.

2. These word, figures and letter were substituted for the word, figures and letter "31st October, 1968" by G.N.E. & L.D. No. BSE-1670-125344-T, dated 15th February, 1974.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
1[99.	Shops and commercial establishments dealing in stationery and exercise note books or selling and publishing books relating to studies in schools and colleges, in the whole State of Gujarat.	<p>Clause (a) of sub-section (1) of section 11 and clausd (1) of section 13 so far as they relate to closing hours and sections 14, 16, 17 and 18 subject to the following conditions, namely :-</p> <ol style="list-style-type: none"> 1. No Such shop or commercial establishments shall on any day be closed later than 10 p.m. 2. If any employee is required to work in excess of the limit of hours of work specified in section 14 of the said Act he shall be entitled in respect of over time work, which shall be noted in the prescribed register to wages at the rate prescribed in section 63 (1) of the said Act. 3. The spread-over shall not exceed fourteen hours on any day. 4. Every employee shall on Account of the loss of the prescribed weekly holidays be granted either (i) equal number of additional holiday in exchange for each weekly holiday after 15th July, 1975, or (ii) wages or the work done on each holiday at the rate of wages prescribed for overtime work in section 63 (1) of the said Act. 5. The exemption shall remain in force for the period from 15th June, 1975 to 15th July, 1975 (both days inclusive). <p>Sections 13 and 18 subject to the condition that the employees are given one day in a week as a holiday without making any deduction from wages on account thereof.</p>
100.	<p>The Amalgamated Electricity Co. Ltd., Dohad Branch, Dohad.</p> <p><i>vide</i> : G.N., E. & L.D. No. KH/SH-1031/ BSE-1067/598, dated 7th October 1967.</p>	

1. This entry was substituted by G.N.E. & L.D. No. KH-SH-258-BSE-1475-28093-T, dated 24th April, 1975.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		¹ [Sections 14 and 15 subject to the condition that the employees concerned are granted wages for over-time work as prescribed in section 63 (1) of the Act.]
101.	Bunder Road Weigh Bridge, Bhavnagar. vide G.N., E & L.D., No. KH/SH 120/BSE 1067/1028, dated 20th February, 1968.	Section 18 subject to the condition that the employees concerned are given one day in a week as a holiday and no deduction from wages is made on account thereof.
² [102.	All Shops and such Commercial establishments as sell goods to the public, in the <i>Dwarka Nagar</i> Panchayat area.	³ [(i) Section 11 and sub-section (1) of section 13 so far as they relate to closing hour subject to the conditions that no shop or commercial establishment shall on any day be closed later than 9-30 p.m.]
		⁴ [(ii) Section 18 subject to the conditions that :- (i) every employee shall on account of the loss of the prescribed weekly holiday in a week without making any deduction from wages on account thereof; and (2) a notice in form 'M' prescribed under sub-rule (2) of rule 23 of the Gujarat Shops and Establishments Rules, 1962 shall be exhibited in each establishments].
⁵ [103.	All Shops and such commercial establishments as sell goods to the Public in the <i>Dakor Nagar</i> Panchayat area.	Section 18, subject to the conditions that :-
1.	This condition was added by G.N.E. & L. D. No. KH-SH-12-BSE-1474-112594-T, dated 5th February, 1976.	
2.	This entry was added by G.N., E & L.D. No. KH-SH-570-BSC-1068-49250-T, dated 8th July, 1968.	
3.	This condition was numbered as Condition (i) by G.N.E. No. KH-SH & L.D. 2919-BSE-1470-20860-T, dated 25th May, 1971, Cl. (a).	
4.	This condition was added, <i>ibid</i> , Cl. (b).	
5.	This entry was added by G.N.E., & L.D., no. KH/SH/672/ABS-1066/41444(ii)-T, dated the 8th August, 1969.	

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(i) every employees shall on account of the loss of the prescribed weekly holiday be granted one day's holiday in a week without making any deduction from wages on account thereof; and
		(ii) a notice in Form 'n' prescribed under sub-rule (2) of rule 23 of the Gujarat Shops and Establishments Rules, 1962 shall be exhibited in each establishment.]
¹ [104.	Shops and Commercial Establishments dealing in stationery and exercise note books or selling and publishing books relating to studies in school and Colleges, in the <i>Nadiad Municipal area</i> .	Clause (a) of sub-section (1) of section 11, clause (1) of section 13 so far as it relates to closing hour and sections 14, 16, 17 and 18 subject to the following condition, namely :-
		(1) no shop or Commercial establishment shall on any day be closed later than 10 P.M.
		(2) If any employee is required to work in excess of the limit of hours of work specified in section 14 of the said Act, he shall be entitled in respect of over time work which shall be noted in the prescribed register to wages at the rate prescribed in section 63 (1) of the said Act. (3) the spread over shall not exceed fourteen hours any day. (4) every employee shall on account of the loss of the prescribed weekly holidays be granted either.-
		(i) equal number of holidays in exchange after 15th July, 1971, or.
		(ii) wages for the work done on such holiday at the rate of wages prescribed for over-time work in section 63 (1) of the said Act.

1. This entry was added by G.N.E. & L.D. No. KH-SH-3039-BSE-1471-35906-T, dated the 17th June 1971.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(5) the exemption shall remain in force for the period from 17th June, 1971 to 15th July, 1971 (both days, inclusive)].
¹ [105. Shops and Commercial Establishments dealing in stationery and exercise/note books or selling and publishing books relating to studies in schools and colleges in the <i>Limbdi Municipal area</i> .		Section 18 subject to the following conditions namely :- (1) every employee shall on account of the loss of the prescribed weekly holidays be granted either :- (i) equal number of holiday in exchange after 15th July, 1971, or (ii) wages for the work done on such holidays at the rate of wages prescribed for overtime, work in section 63 (1) of the said Act. (2) the exemption shall remain in force from 28th June, 1971, to 15th July, 1971 (both as inclusive)].
² [106. Shops and Commercial Establishments dealing in stationery and exercise note books or selling and publishing books relating to studies in schools and colleges in the whole State of Gujarat.		Section 18 subject to the following conditions, namely :- (1) every employee shall on account of the loss of the prescribed weekly holidays be granted either- (i) equal number of holidays in exchange after 15th July, 1972, or (ii) wages for the work done on such holidays at the rate of wages prescribed for overtime work in section 63 (1) of the said Act. (2) the exemption shall remain in force from 17th June, 1972 to 15th July 1972 (both days inclusive)].

1. This entry was added by G.N.E. & L.D. No. KH-SH-3086-BSE-1471-49147-T, d. 28-6-71.

2. This entry was added by G.N.E & L.D. No. KH-SH-3086-BSE-1471-37806-T, d. 15-5-72;

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [² [107]	Operation Research Groups, Baroda.	Sections 13, 14, 17 and 18 subject to condition that :- (1) the spread over shall not exceed 12 hours a day. (2) the employees are granted one day holiday in a week without making any deductions from wages on account thereof. (3) if any employee is required to work more than hours prescribed in section 14, he/she should be paid over-time wages as prescribed in section 63 (1) of the Act. (4) this exemption will remain in force for a period of one year from the date of this notification].
³ [⁴ [108]	(1) Dhanlaxmi Market Branch. (2) Manek Chowk Branch, and (3) Delhi Chakla Branch, Ahmedabad of the <i>Union Bank of India</i> .	Section 13 subject to the following conditions :- (1) adequate staff is engaged by the Banker for night service. (2) if any employee is required to work more than working hours prescribed in section 14 of the Act, he shall be paid overtime wages at the rate prescribed under section 63 (1). (3) no female worker is detained after 7-00 p.m. provided she gives her consent.

1. This entry was added by G.N.E. & L.D. No. KH-SH-80-BSE-1076-90232-T, dated 28th January, 1976.
2. These figures were substituted for figures "103" by G.C.E. & L.D. No. KH-SH-35-BSE-1076-311280-T, dated 2nd April, 1976.
3. This entry was added by G.N.E. and L.D. No. KH-SH-118-BSE-1475-114510-T, dated 6th February, 1976.
4. These figures were substituted for the figures "102" by G.C.E. & L.D. No. KH-SH-413-BSE-1075/114510-T, dated 26th April, 1976.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [109].	E.D.P. Section of Gujarat State Co. Op. Land Development Bank Ltd. Ahmedabad.	Sections 13 (1), 14 (1), 18 (1) and 33 subject to the conditions - (1) if any employee is required to work in excess of the limit of hours of work specified in section 14 of the said Act, he shall be entitled in re- spect of overtime work which shall be noted in the prescribed register, to wages at the rate prescribed in section 63 (1) of the said Act. (2) the spread-over shall not exceed fourteen hours on any day. (3) every employee shall on account of the loss of the prescribed weekly holidays be granted either (i) equal number of holidays in exchange or (ii) wages for the work done on such holiday at the rate of wages pre- scribed for over time work in section 63(10) of the said Act. (4) no female worker shall be de- tained after 7.0 p.m. without her con- sent. (5) This exemption shall remain in operation for a period of one year from the date of this notification.
² [³ [110].	Co-operative Bank of Ahmedabad Ltd., Ashram Road Branch, Ahmedabad.	Section 13 (1) subject to the follow- ing conditions :- (1) adequate staff is engaged by the Bank for night service. (2) if any. employee is required to

1. This entry was added by G.N., E. & L.D. 6. No. KH-SH 414/B5 C-14759186-T, dated 26th April, 1976.
2. This entry was added by G.N.E. & L.D. No. KH-SH/428/BSC-1476/43598-T, dated 30th April, 1976.
3. These figures were substituted for the figures "109" by G.C.E. & L.D. No. KH-SH-579/BSE-1476/69446-T, dated 18th June, 1976.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		work for more than working hours prescribed in section 14, he shall be entitled to overtime wages at the rate prescribed in section 63(1).
¹ [² 111].	State Bank of India, Bhadra, Ahmedabad Data Processing Centre, situated in the Local Head Office, at Bhadra, Ahmedabad.	Section 13 (1) subject to the condition :- (1) no employees is required to work more than prescribed hour. (2) no female worker is detained after 7.0 p.m. without her express written consent. (3) different employees will be working in different shifts/
³ [⁴ 112].	Union Bank of India Ashram Road, Branch, C.U. Chambers, Ashram Road, Navjivan P.O., Ahmedabad.	Section 18 subject to the condition that employees concerned are given one day weekly off on Wednesday for loss of prescribed weekly holiday with wages without any deduction on their account].
⁵ [113].	Rajkot Main Branch, Rajkot Union Bank of India.	Section 13 subject to the following conditions :- (1) Adequate staff is engaged by the Bank for evening service. (2) If any employee is required to work more than working hours prescribed in section 14 of the Act, he shall be paid overtime wages at the rate prescribed under section 63(y).

1. This entry was added by G.N., L.S.W. & T.D.D. No. KH/SH-823/BSE/1075/9186 (76)-T, dated 31st August, 1976.
2. These figures were substituted for figures "110" by G.N.L.S.W. & T.D.D. No. KH-SH-424-BSE-/1075/9568-T, dated 23rd May, 1977.
3. This entry was added by G.N., L.S.W. & T.D.D. No. KH-SH/79/BSE-1476-13266-T, dated the 30th October, 1976.
4. These figures were substituted for figures "111" by G.C.L.S.W. & T.D.D. No. SH-KH/10/BSE-1476/25102-T, dated the 10th January, 1977.
5. Entry 113 was added by G.N., L.S.W. and T.D.D. No. KHL-751/BSE-1077-63801-T, dated the 24th August, 1977.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(3) No female worker is detained after 7.00 p.m. provided she gives her consent.
¹ [114].	State Bank of India, Station Road, Surat (Evening Branch).	Section 13 subject to the following conditions :- (1) Adequate staff is engaged by the Bank for evening service. (2) If any employee is required to work more than working hours prescribed in section 14 of the Act he shall be paid over time wages at the rate prescribed under section 63 (1). (3) No female worker is detained after 7.00 p.m. provided she gives her consent.
² [115].	Union Bank of India, Raopura Branch Wakaskar Chamber, Baroda.	Section 13 (1) subject to conditions that - (1) adequate staff is engaged by the Bank for night service. (2) if any employee is required to work for more than working hour prescribed in section 14 of the Act, he shall be paid overtime wages at the rate prescribed under section 63 (1). (3) no female worker is detained after 7.00 p.m., provided she gives her consent in writing].
³ [116].	Seva Sadan, Mirjapur.	Sections 13 and 18 subject to the following conditions - (i) Establishment may open or close at any time but no employee should be allowed to work for more hours than, those prescribed under section 14 of the Act.

1. Entry 114 was added by G.N., L.S.W. and T.D.D. No. KHL-201/BSE-1077-96935-T, d. 22-2-1978.

2. Entry 115 was added by G.N., L.S.W. and T.D.D. No. KH-1-1026-BSE 1078-8564-T, d. 9-11-1978.

3. Entry 116 was added by G.N., L.S.W. and T.D.D., No. KH-L-171/BSE/1479-21252-T, d. 5-3-1980.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(ii) Weekly off should be fixed for each employee and notice should be kept on the Notice Board any copy thereof should be sent to the Shop Inspector concerned].
¹ [117.	Computer Cell of the Indian Dairy Corporation, at Baroda (A Government of India enterprise)	Sections 13, 14 and 18 subject to the conditions that-
		(i) If any employee is required to work in excess of the limit of hours of work specified in section 14 of the said Act, he shall be entitled in respect of overtime work which shall be noted in the prescribed register to wage the rate prescribed in section 63 (1) of the said Act.
		(ii) The spread over shall not exceed fourteen hours on any day.
		(iii) Every Employee shall on account of the loss of the prescribed weekly holiday be granted either (a) equal number of holidays in exchange or (b) wages for the work done on such holiday at the rate of wages prescribed for overtime work in section 63(1) of the said Act.]
² [118.	Shop and Commercial Establishments dealing in stationery and exercise note books and shop and Commercial Establishment, selling and publishing books relating to studies in school or colleges	Clause (a) of sub-section (1) of section 11, sub-section (1) of section 13 and sections 14, 17 and 18 subject to conditions that-

1. Entry 117 was added by G.N., L.&E.D., No. KH-R-224/BSE-1083-38850-M-3, dated the 14th February 1984.
2. Entry 118 was added by G.N., L.&E.D., No. KH-R-527/BSE-1084-M-3, dated the 15th June 1984.

Serial No.	Establishments, employees, or other persons	Provisions of the Act
1	2	3
	or both in the whole of the State of Gujarat.	<p>(1) No such shop or commercial establishment shall on any day remain open after 10-00 p.m</p> <p>(2) If any employee is required to work in excess of the limit of hours of work specified in section 14 of the said Act, he shall be entitled to overtime allowances at the rate prescribed under sub-section (1) of section 63 of the said Act which shall be noted in the prescribed register of wages.</p> <p>(3) The spread over shall not exceed fourteen hours on any day.</p> <p>(4) Every employee shall on account of the loss of the prescribed weekly holiday be granted either holiday be granted either—</p> <p>(i) equal number of additional holiday in exchange thereof after the 1st August every year, or</p> <p>(ii) wages for the work done on each holiday at the rate of wages prescribed under sub-section (1) of section 63 of the said Act, for overtime work.</p> <p>(5) This exemption shall remain in force from 15th June to 31st July, every Year.]</p> <p>Clause (a) of Sub-section (1) of section 11, subject to the condition that no such shop shall be closed later than 11.00 p.m.]</p>

¹[119. Shops selling flowers in the State of
Gujarat

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
¹ [120.	Ambalal Sarabhai Enterprises Limited Information Services, Administration Building Gorwa Road, Baroda. Gujarat.	Section 13 Subject to the conditions that :- (1) the employees shall be granted one day holiday in a week without making any deduction from wages on account there of :- (2) no employee shall be required to work more than prescribed hours. (3) no female employee shall be required or allowed to work after 7.00 p.m. without her express written consent. (4) this exemption shall remain in force for a period of three years from the date of publication of this notifi- cation in the <i>Official Gazette</i>].
+ [120	Information technology Software Companies and Information Technology Enabled Services as defied in government Resolution, General Administration Department (I. T. Division) No.INO-1099-252-ITD, dated 9th March, 1999	Sections 13,14,18 & 33 subject to the conditions that the management Shall (1) Provided adequate staff for night services. (2) Provided free of cost facilities for the transportation of workers from their residence to the establish- ment premises for work and back. (3) Make adequate arrangement for the security of the workers. (4) If any employee is required to work in excess of the limit of the hours of work specified in Sec 14, he shall be entitled in respect of overime work. (5) Every Employee shall on account of the Loss of the prescribed weekly holiday be granted , either-

1. Added by Noti. GH. 92-30-BSE-1089-3676-M(3) dt. 3-2-1992; Published in G.G.Gaz., Exty., Pt. IV-B, dt. 3-2-1992, P. 1].

+. GN.No. GHR/2003-78-FAC-1099-4412-M(3) dated 24th June, 2003

Serial No.	Establishments, employees or other persons	Provisions of the Act *
1	2	3
		(i) equal number of holiday in exchange, or
		(ii) wages for the work done on such holidays at the rate of wages prescribed for overtime work in section 63 (1).
		(6) No female workers is allowed to work before 6 a.m and after 7.00 P.m without her written consent and provide free of cost facilities for transportation between the residence and the work premises for such duties.
		(7) No Female worker is required to work more than prescribed hrs at night.
		(8) Different employees shall work in different shifts."
		Section 13,14, 18 & 33 subject to conditions that the Management shall
		(1) Provide adequate staff for night services.
		(2) Provide free of cost facilities for the transportation of workers from their residence to the establishment premises for work and back.
		(3) Make adequate arrangements for the security of the workers.
		(4) If any employee is required to work in excess of the limit of the hours of work specified in Sec.14, he shall be entitled in respect of over- time work, which shall be noted in the prescribed register of wages at the rate prescribed in sub-sec.(1) of sec.63

¹[121. Bio - Tech Industries

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
		(5) Every employee shall on account of the loss of the prescribed weekly holidays be granted, either- (i) equal number of holidays in exchange, or (ii) wages for the work done, on such holidays at the rate of wages prescribed for overtime work in sub-sec.(1) of Sec.63.
		(6) No Female worker is allowed to work before 6 a.m and after 7.00p.m without her written consent and provide free of cost facilities for transportation between the residence and the work premises for such duties.
		(7) No Female worker is required to work for more than prescribed hours at night.
		(8) Different employees shall work in different shifts".
*[122.	Dakshin Gujarat Vij Co. Ltd. Sardar Patel Vidut Bhavan, Race Course Baroda-390007.	Sec. 26, 35, 37 and 62 in respect of all employees and Sec. 13, 14, 15, 17, and 18 in respect of outdoor work men and watchman.
123.	Uttar Gujarat Vij Co. Ltd. Sardar Patel Vidut Bhavan, Race Course Baroda-390007.	Sec. 26, 35, 37 and 62 in respect of all employees and Sec. 13, 14, 15, 17, and 18 in respect of outdoor work men and watchman.
124.	Madhya Gujarat Vij Co. Ltd. Sardar Patel Vidut Bhavan, Race Course Baroda-390007.	Sec. 26, 35, 37 and 62 in respect of all employees and Sec. 13, 14, 15, 17, and 18 in respect of outdoor work men and watchman.
125.	Pakshim Gujarat Vij Co. Ltd. Sardar Patel Vidut Bhavan, Race Course Baroda-390007.	Sec. 26, 35, 37 and 62 in respect of all employees and Sec. 13, 14, 15, 17, and 18 in respect of outdoor work men and watchman.

Serial No.	Establishments, employees or other persons	Provisions of the Act
1	2	3
126.	Gujarat State Electricity Corporation Limited, Sardar Patel Vidyut Bhavan, Race Course Baroda-390007.	Sec. 26, 35, 37 and 62 in respect of all employees and Sec. 13, 14, 15, 17, and 18 in respect of outdoor work men and watchman.
127.	Gujarat Energy Transmission Corporation Limited, Sardar Patel Vidyut Bhavan, Race Course, Baroda-390007.	Sec. 26, 35, 37 and 62 in respect of all employees and Sec. 13, 14, 15, 17, and 18 in respect of outdoor work men and watchman.
¹ [128	Stock Holding Corporation of India Limited, 304, Sears Towers, Gulabi Tekra, Panchwati, AHMEDABAD-380006.	All provisions
² [129	Power Greed Corporation of India Ltd.	All provisions

-
1. Noti. No. GHR-2004-112-BSE-2003-2129-M(3), dt 27.8.2004 - Guj.Govt.Gaz, Pt.IV-B, dt 2.9.2004, p.114.] = 2004 GSCS / II/P.445 / H.279
 2. Noti. No. GHR-2004-164-BSE-2001-938-M(3), dt 24-12-2004 - Guj.Govt.Gaz, Pt.IV-B, dt 30-12-2004, p.156.] = 2005 GSCS / II /P.52 / H.48

THE GUJARAT SHOPS AND ESTABLISHMENTS RULES, 1962

No. BSA 1162/21776-I (9-4-1963, Guj. G.G. Pt. I-L 18-4-1963, p. 728). -- In exercise of the powers conferred by section 67 of the Bombay Shops and Establishments Act, 1948. (Bom. LXXIX of 1948), and in supersession of the Bombay Shops & Establishment Rules, 1949 and the Saurashtra Shops and Establishment Rules, 1955, the Government of Gujarat hereby makes the following rules to carry out the purposes of the Act, namely :-

1. Short title :

These rules may be called the Gujarat Shops and Establishments Rules, 1962.

2. Definitions :

In these rules unless the context otherwise requires :-

- (a) **"The Act"** means the Bombay Shops and Establishments Act, 1948.
- (b) **"Form"** means a form appended to these rule;
- (c) **"Government"** means the Government of Gujarat.
- (d) **"Schedule"** means a schedule appended to these Rules.
- (e) **"Section"** means a section of the Act;
- (f) Words and expressions used in the Act and not defined in these rules shall have the meaning assigned to them in the Act.

3. Appointment of prescribed authority :

In respect of the local area specified in the first column of the appexed table the authority specified against it in the second column of the said table shall be the prescribed authority, namely :-

Table

Area 1	Authority 2
(1) A Municipal Corporation Constituted under section-3 of the Bombay Provincial Municipal Corporation Act, 1949	The Municipal Commissioner,
(2) City of Ahmedabad as constituted under the Bombay Provincial Municipal Corporation Act, 1949.	The Municipal Commissioner, Ahmedabad Municipal Corpora- tion.
(3) A Municipal District or Borough.	The President of the Municipality.
(4) Any other local area.	The District Magistrate of the Sub-Divisional Magistrate, having jurisdiction over the local area.

4. Suspension of provisions of the Act :

Government may suspend the operation of the provisions of the Act under section 6 at the time of the following holidays and occasions namely :

Christmas holidays.

Diwali holidays.

Pateti holidays.

Jamshedi Navroz.

Ramzan and Ramzan Id.

Ganesh Chaturthi.

Any occasion in which a public emergency is declared in this behalf by Government.

Public fairs or exhibitions or religious festivals recognised in this behalf by Government.

Any other occasion deemed by Government in behalf.

5. Form of Statement, fees and other particulars under section 7 (1) :

The statement to be sent by an employer to the Inspector under sub-section (1) of the section 7 shall be in the **Form A** and shall be accompanied by a fee specified in Schedule I.

6. Manner of registering establishment and the form of registration certificate :

An establishment shall be registered by making entries in the appropriate Part of the register of establishments in **Form B** A registration certificate to be issued to an employer shall be in **Form C**.

[7. Form of application, fees and other particular under section 7 (6) :

Application for renewal of a registration certificate under sub-section (6) of section 7 shall be in **Form D** and where the application for renewal is for a period of one year, it shall be accompanied by the amount of fees specified in Schedule II. Where the application for renewal or registration certificate is for a period of two years, the fee payable shall be twice the amount of fee specified in schedule II and where the application for renewal of registration certificate is for a period of three years, the fee payable shall be three times the amount of the rate specified in schedule II]

8. Form of renewal of registration certificate :

A registration certificate shall be renewed by the inspector by making entries under his seal and signature with date in the appropriate Part of the register of establishments in **Form B** as well as in the original registration certificate which shall be produced by the holder thereof for that purpose.

9. Grant of "duplicate" of registration or renewal of certificate :

If a registration certificate issued under rule 6 or renewal under rule 8 is lost, destroyed or defaced the employer of the establishment shall forthwith report the matter to the Inspector by whom the certificate was issued and shall apply alongwith a fee of ¹[rupees five] for the issue of duplicate registration certificate or renewal registration certificate as the case may be. Upon the receipt of such application and the fee, the Inspector shall furnish the employer a duplicate copy of the registration certificate or renewal registration certificate, duly stamped "duplicate" in red.

10. Form of notifying a change and fee :

The employer of any establishment shall notify to the Inspector of the local area concerned in **Form E** any change in any of the particulars contained in the Statement sent by him under rule 5 or rule 7 within thirty days after the change has taken place : The notice in **Form E** shall be accompanied by fee specified in Schedule III.

Provided that any change as respect the total number of employees shall be notified within fifteen days after the expiry of the quarter to which the change relates.

Explanation : For the purposes of this rule 'quarter' means a quarter ending 31st March, 30th June, 30th September and 31st December of any year.

11. Fixing six days in a year for additional overtime :

(1) An employee may be required or allowed to work in a shop or commercial establishment under sub-section (3) of section 14 in excess of the period fixed under sub-section (1) of the said section on any of the following days in a year for purpose of the making of accounts, stock taking or settlements, provided such excess period does not exceed twenty four hours, namely :-

The 31st day of March.

The 30th day of June.

The three days preceding the Vikram samvat, New year day.

The 31st day of December :

Provided that, in lieu of any day or days mentioned above the employer may substitute any other day or days, as the case may be, which shall be intimated to the Inspector at the beginning of the year.

(2) On any of the days mentioned in sub-rule (1) the operation of the provisions relating to closing hours in sections 11 and 13 shall be deemed to be suspended.

12. Notice to be given to Inspector when additional overtime is to be worked :

Notice of the intention to require employees in a shop or commercial establishment to work under sub-section (3) of section 14 in excess of the period fixed under sub-section (1) of the said section on any day mentioned in rule shall be given by the employer either in Gujarati, Hindi or English to the Inspector within whose jurisdiction such establishments is situated at least 24 hours before such day :

Provided that if the employer for reasons beyond his control is unable to give the requisite notice at least 24 hours before such day, he shall give the notice on such day.

13. Form of Manner of Publication or order under section 18 (IB) :

An order fixing the day on which shops and commercial establishments are to be closed under sub-section (IB) of section 18 shall be published by Government in the *Official Gazette* and by the local authority in any newspaper circulating in the area within its jurisdiction in English, Hindi or Gujarati. A copy of the order so published shall be caused to be exhibited on the notice board in the office of the Inspector.

14. Form of register or entering refusal of leave :

The register for entering refusal of leave to be kept under sub-section (3) of section 35 shall be in Form F and shall be kept in five parts as follows, namely :-

Part I - Shops.

Part II - Commercial Establishments.

Part III - Residential Hotels.

Part IV - Restaurants and Eating Houses.

Part V - Theatres and other place of Public Amusement or Entertainment.

15. Fixing times and methods for cleaning the establishments :

In every establishment all the inside walls of the rooms and all the ceiling and tops of such rooms (whether such walls, ceiling and tops to be plastered or not) and all the passages and staircases shall be lime-washed or colour-washed at least once in every two years counted from the date when they were last lime-washed or colour washed. Where the walls, ceiling or tops are rendered, in the opinion of the local authority particularly, unclean, the local authority may require them to be lime-washed or colour washed earlier than the period specified above. All the beams, rafters, doors, windows, frames and other wood work with the exception of floor shall be either painted or varnished once in every seven years counted from the date when they were painted or varnished and shall be kept in a clean state. The dates on which lime-washing, colour-washing painting or varnishing is carried out shall be duly entered in a register maintained in **Form G** which shall be shown to the Inspector when required :

PROVIDED that the provision of this rule shall not apply to :-

- (i) rooms used only for the storage of articles;
- (ii) walls or tops of rooms which are made of galvanised iron, tiles, asbestos sheets or similar material or glazed bricks;
- (iii) any other establishment or parts thereof in which lime-washing or painting is, in the opinion of the local authority or Government, as the case may be, unnecessary to satisfy the requirement of section 39 about estar cleanliness.

16. Rubbish not to be allowed or accumulate :

No rubbish, filth or debr is shall be allowed to accumulate or to remain on any premises in an establishment in such position that effluvia therefore can arise within the establishment.

17. Precautions against fire :

No person shall smoke or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any establishment.

18. First Aid appliances :

A first aid box maintained under section 42-A shall contain the following equipment together with a book of instructions in first aid, namely;

- (i) 3 small sterilised dressings;
- (ii) 2 medium size sterilised dressings;
- (iii) 2 large size sterilised dressings;
- (iv) 2 large size sterilised burn dressings;
- (v) 2 (1/2 oz. or grams) packets sterilised cotton wool;
- (vi) 1 pair of dressing scissors;
- (vii) 1 (1 oz. or 25 grams) bottle containing solution of iodine or mercury chrome;
- (viii) 1 (1 oz. or 25 grams) bottle containing solution of solvation having dose and mode of administration indicated on the label;
- (ix) 1 (1 oz. or 25 grams) bottle containing potassium permanganate crystal.
- (x) any antidote for burns.

19. Supervisions of Government over local authority :

Government may exercise its supervision over the local authority through the Commissioner of Labour, Ahmedabad and such of the officers under his as may be authorised by him in that behalf and give such directions to the local authority as may appear to it to be necessary for the proper enforcement of the Act.

20. Inspectors :

(1) No person shall be appointed to be an Inspector under the Act,

- (a) in a local area with a population of twenty five thousand or more, unless he is a graduate of a recognised university and is able to speak, read and write Gujarati language; and
- (b) in any other local area, unless he has passed the secondary school certificate Examination or an equivalent Examination or a recognised institution and is able to speak, read and write Gujarati language.

(2) No person shall be appointed to be an Inspector under the Act, or having been so appointed, shall continue, to hold office, if he has or acquires directly or indirectly by himself; or by any partner, any share or interest in any establishment to which the Act, applies in the area which he is to or has been appointed :

PROVIDED that nothing in this sub-rule shall apply --

- (i) to any person who has been permitted by the authority competent to appoint him as Inspector to hold or acquire directly; or indirectly by himself or in the name of any member of his family living with him or dependent on him, any share, or interest in any registered co-operative Bank or co-operative society or; in any public limited company, or
- (ii) to any person who acquires by inheritance any share or interest in any firm or business but who is not a working partner therein.

21. Duties of Inspectors :

The Inspector shall make such examination of premises and prescribed registered, records and notices, as may appear to him to be necessary for the purpose of satisfying himself, that the provisions of the Act and of these rules and any orders passed by Government or the local authority under the Act are duly observed. In particular, he shall satisfy himself -

- (i) that the establishments are duly registered under the Act;
- (ii) that the registers, records and notices required to be maintained or displayed under the Act or these rules are properly maintained or displayed;
- (iii) that the intervals of rest and holidays required to be granted or observed under the Act are granted or observed and that the limit of hours of work and spread over laid down by or under the Act are not exceeded;
- (iv) that the provisions of the Act any order issued by Government or the local authority regarding the opening and closing hours are duly observed;
- (v) that the identity cards for employees in residential hostels, restaurants and eating houses are properly provided;
- (vi) that the provisions of the Act and these rules regarding leave are properly observed;
- (vii) that the provisions of the Act and these rules relating to cleanliness, lighting and precautions against fire are properly observed;
- (viii) that the provisions of the Act relating to the payment of over time work are duly observed; and
- (ix) that no child is allowed to work in any establishment.

22. Submission of diary by Inspector :

The Inspector shall keep a file of the records of his inspections arranged in monthly bundles & shall submit to the officer of local authority to whom he is subordinate on the 15th day of each month, a diary in **Form H**, showing the work done in the preceding month. A copy of the said diary shall be retained by the Inspector.

23. Maintenance of registers and records and display of notice :

(1) Every employer of a shop or commercial establishment shall maintain a register of employment in **Form I**, provided that where the opening and closing hours are ordinary uniform the employer may maintain such register in **Form J**. Every employer

of a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment shall maintain a register of employment in **Form K**, provided that where the opening and closing hours are ordinarily uniform the employer may maintain such register in **form L**.

(2) Every employer of a residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment shall exhibit in his establishment a notice in **form M**, specifying the day or days of the week on which his employees shall be given a holiday. The notice shall be exhibited before the employees to whom it relates cease work on the Saturday immediately preceding the first week during which it is to have effect.

(3) The provisions of sub-rule (2) shall apply *mutatis mutandis* to every employer or manager of an establishment which is entitled to exemptions specified in the Note 1 to Schedule II to the Act, subject to the conditions the employees concerned are given one day in a week as a holiday and no deductions are made from their wages on account thereof.

¹[3-A) Every employer shall maintain an extract from the register of births relating to the birth of any young person who is required or allowed to work, whether as an employee or otherwise, in the establishment or it is not reasonably practicable to maintain such extract, the certificate in **Form-P**, issued by a qualified medical practitioner in respect of such a person shall obtained by the employer”.

Explanation : For the purposes of this rule and rule 24(1) “register of births” shall have the same meaning as in the Registration of Births and Deaths Act, 1969.

(2) “**qualified medical practitioner**” shall have the same meaning as in the Factories Act, 1948.]

(4) Every employer shall maintain a register of leave in **Form N**.

(5) The employer shall provided each employee with a book called “**Leave Book**” in **Form O**, shall kept in upto-date by making entries therein from time to time. The book shall be the property of the employee and the employer or his manager or other agent shall not demand it except make entries therein and shall not kept it for more than a week at a time, provided that with the consent in writing of an employee whose wages are not less than Rs. 300 per month, the “**Leave Book**” may be kept in the custody of the employer.

(6) If any employee loses his “**Leave Book**” the employer shall provide him with another copy on payment of six naye paise complete it from his record.

(7) Every employer shall exhibition in his establishment a notice containing such extracts of the Act and these rules in Gujarati, Hindi or English, as the local authority or Government may direct.

1. Inserted by Noti. No. GHU-89-190-BSE-1088-1051-M (3), dated 14th June, 1989; Pub. in G. G. Gaz., Exty., Pt. IV-B, dt. 14-6-1989, P. 122.

(8) Any notice required to be exhibited under these rules shall be exhibited in such manner that it can be readily seen and read by any person whom it affects and shall be replaced whenever it become defaced or otherwise ceases to be clearly legible.

(9) In any register or record which an employer is required to maintain under these rules, the entries relating to any day shall be made on such day and shall be authenticated under the signature of the employer or the Manager, provided that the entries relating to overtime work shall be made immediately after completion of such overtime work.

(10) The registers, record and notices relating to any year shall be preserved until the end of the next year.

(11) If on an application made by an employer in writing, the local authority or Government as the case may be is satisfied that any muster roll, register or record maintained by such employer gives in respect of all or any of the employees in his establishment the particulars required to be shown in any register, record or notice prescribed under this rule the local authority or Government as the case may be, order in writing direct that such muster roll, register or record shall to the corresponding extent be maintained in place of such register, record or notice prescribed under this rule is the case may be.

(12) Save as provided in sub-rule (7), all registers, records, muster rolls and notices required to be maintained, exhibited or given under this rule shall be either in English or in Gujarati language.

(13) (a) Every employer shall maintain a visit book in which an Inspector visiting the establishment may, record his remarks regarding any defects that may come to light at the time of his visit or give directions regarding the production of any documents required to be maintained or produced under the provisions of the Act and the rules.

(b) Provided that within the limits of the Ahmedabad Municipal Corporation, Ahmedabad, the visit book shall be a bound book of size 15 cms x 18 cms containing at least 50 pages every fifth pages there of shall be consecutively numbered and the unnumbered pages between each two consecutively numbered pages shall have a vertical perforated straight line on the margin side at a margin of 3 cms. Every page shall contain the following heading at the top namely :-

- (1) Name of the establishment or Employer
 - (2) Registration number of the establishment, and
 - (3) date and time of the visit
- (c) In case the visit book containing the remarks passed by an Inspector is lost, the employer shall forthwith report in writing the lost of the visit book to the Inspector of the area and immediately maintain a new visit book.

(14) When an office, store-room, godown, warehouse or work place used in connection with the trade and business of a shop is situated at premises other than the premises of the shop, all registers, records, muster rolls, visit books and notice required to be maintained, exhibited, or given under the Act and these rules shall be separately so maintained, exhibited or given in respect of and at such office, store-room, godown, warehouse of work place.

¹[24. Evidence of age :

An Inspector may require the employer or manager of any establishment to produce an extract from the register of births relating to the birth of any person, not being a young person, who is required or allowed to work in the establishment within such reasonable period (being not less than five days) or, if it is not reasonably practicable to obtain such an extract, a certificate in Form-P issued by a qualified medical practitioner in respect of such person.]

²[25. Display of sign board on the Entrance of establishment :

Every employer shall conspicuously display on the main entrance of the establishment, a wooden or metal sign-board, painted in oil colours, of a size which shall not be less than 45 cms, in length and 30 cms, in breadth containing the name of the establishment and the full name of proprietor or ³[all partners] as also the registration number of the establishment written in Gujarati or English language]

FORM-A

(See rule 5)

Statement under section 7 (1)

1. Name of the establishment, if any....
2. Postal address and situation of the establishment.
3. Situation of office, store -room, godown, warehouse, or workplace, if any, attached to a shop but situated in premises different from those of the shop.
4. Name of the employer.
5. Residential address of the employer.
6. Name of the manager, if any, and his residential address.

1. Rule 24, substituted by Noti. dated 14th June, 1989; Published in G. G. Gaz., Exty., Pt. IV-B, dt. 14-6-1989, P. 122.

2. Ins. by G.N.L & E.D No. KH.L. 172-1 BSE-1077-105873-T dt 6-3-1980.

3. Sub. by G.N.L & E.D. No kh-R-66-BSE-10 dt 28-1-1983 for the words "one or more partners"

7. Category of the establishment, i.e whether a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.
8. Nature of business.
9. Date of commencement of business.
10. Name of members of employer's family employed in the establishment-

	Adults	Young Persons	Total
Males
Females
Total

11. Names of other persons occupying position of management or employees engaged in confidential capacity.

(indicate sex and age in case of young persons).

	Adults	Young Persons	Total
Males
Females
Total

(Signature of Employer)

Note : (1) This statement shall be sent to the Inspector of the local area concerned with the fees specified in schedule I

(2) Item 3 should be filled only when the office, storeroom, etc is not separately registered under the Act. In respect of such offices, store rooms, etc, particulars required under item 10, 11, and 12 should be given separately in this statement.

(3) If the number of employers is more than one the names & address of all employers shall be given in items 4 & 5 respectively.

FORM B

(See Rules 6 and 8)

Register of establishment

Part I - Shops

Part II - Commercial Establishments.

Part III - Residential Hotels.

Part IV - Restaurants and Eating Houses.

Part V - Theatres and other Places of Public Amusement or Entertainment.

Sr. No.	Registration Certificate No.	Date of commencement of business	Name of the employer	Name of the Manager, if any.	Postal address and of situation of establishment	Residential address of the employer	Situation of office, store-room, godown, warehouse on workplace, if any attached to a shop but situated in premises different from those of the shop.
1	2	3	4	5	6	7	8

Name of the establishment, if any.	Nature of business	Number of members of employer's family Adult males, women, young persons.	Number of other persons occupying position of management employees engaged in confidential capacity.	Total number of employees Audit males, women, young persons.	Date of inspection	Date of renewal	Date upto which renewed	Fees paid	Remarks
9	10	11	12	13	14	15	16	17	18

FORM 'C'

(See rules 6 and 8)

BOMBAY SHOPS AND ESTABLISHMENTS ACT 1948.**Registration certificate of establishment.**

1. Name of the establishment.
2. Name of the employer
3. Nature of business.
4. Postal address of the establishment.
5. Registration No.
6. Previous Registration Certificate No.

Office of the Inspector under the Bombay
shops and Establishment Act, 1948

It is here certified that thehas been registered as a*under
the Bombay shops and Establishments Act, 1948, thisday of 19

Seal

Inspector under the Bombay shops
and Establishments Act, 1948.

Renewal of Registration

Year	Date of renewal	Seal and signature of Inspector under the Bombay shops & Establishments Acts, 1948.
------	-----------------	---

* Here insert the category of the establishment.

FORM D

(see rule 7)

[Form of application for renewal of registration certificate]

1. Name of the establishment if any.
2. Postal address and situation of the establishment.
3. Situation of office, store-room, godown, warehouse, or work-place if any attached to a shop but situated in premises different from those of the shop.
4. Name of the employer.
5. Residential address of the employer.
6. Name of the Manager, if any, and his residential address.
7. Category of the establishment i.e. whether as shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.
8. Nature of business.
9. Date of commencement of business.
10. Names of members of employer's family employed in the establishment.

	Adults	Young Persons	Total
Males
Females
Total

11. Names of other persons occupying position of management or employees engaged in confidential capacity.

(Indicate sex and age in case of young persons)

12. Total number of employees

	Adults	Young Persons	Total
Males
Females
Total

1. sub. by G.N. L.S.W. T.D.D.No : KHL-756-BSF-1178-39478-T (A) dt 5th sept. 1979 for the word "Statement under section 7(6)"

13. Registration No. and date

14. Date of last renewal.

15. Period for which application for renewal of registration certificate is made.

one year

two years

three years.]

dated :

(signature of employer).

Note :- (1) This statement shall be sent to the Inspector of the local area concerned with such fees as are prescribed in Schedule II.

(2) Item 3 should be filled only when the office, store-room etc, is not separately registered under the Act. In respect of such office, store rooms, etc, particulars required under items 10, 11, and 12 should be given separately in this statement.

(3) The original certificate in Form 'C' shall be enclosed.

(4) If the number of employers is more than one the names and residential address of all employers shall be given in items 4 and 5 respectively.

FORM E

(see rule 10)

Notice of change

Name of the establishment already registered

or

Name of the employer.

Registration certificate No.

Address :-

Dated the

day of

19

To,

The Inspector under the Bombay shops and establishment Act, 1948.

Notice is hereby given that the following change has taken place in respect of particulars forwarded to you in Form A/D which please note.

Signature of the employer.

Note :- The notice of change in this form shall be sent together with such fees specified in Schedule III.

FORM F

(see rule 14)

Register for entering refusal of leave

Sr. No.	Name of the employer	Name of the establishment	Postal address of the establishment	Name of the employee	Amount of & date from which leave due	Amount of leave applied for and date of application	Date of refusal	Signature of employer or Manager	Remarks
1	2	3	4	5	6	7	8	9	10

FORM G

(See rule 15)

Register showing dates of lime washing etc.

Part of the establishment, i.e. names of rooms 1	Parts lime washed, colour washed, painted or varnished i.e. walls ceilings, wood work, etc 2	Treatment Whether lime washed, colour washed, painted or varnished 3	Date on which lime washing, colour washing, painting, or varnishing was carried out (according to the English calendar)			Signature of the employer or manager 7	Remarks 8
			Day 4	Month 5	Year 6		

FORM H

(see rule 22)

Diary of Inspector for the month ending 19

Date 1	Place 2	Establishment inspected 3	Purpose of Inspection 4	Remarks of defects found and directions and orders issued 5
-----------	------------	------------------------------	----------------------------	---

[See Rule 23 (1)]

[illegible]

Note :- The mark 'H' shall be made in the column relating to any day on which an establishment remains closed in accordance with the notice referred to in section 18 (1) or a holiday is given in accordance with the notice below schedule II to the Act as amended from time to time and 'A' if the employee is absent on any other day.

* The same sub-columns as for sunday.

The entries under the heading 'Rest intervals' shall be the actual hours at which intervals are to begin and end(e.g.1p.m to 2.p.m)

FORM J

[See Rule 23(10)]

Register of employment in a shop or commercial establishment where opening and closing hours are ordinarily uniform for the week ending.

Name of the Employee 1	Sex 2	Age 3	Time at which employment commences 4	Time at which employment ceases 5	Rest intervals 6	Hours		
						Sunday 7	Monday 8	Tuesday 9

worked on				Total hours worked during the week 14	Days on which overtime work is done and extent of such overtime occasions 15	Extent of over time worked during the week 16	Extent of overtime worked previously during the year in accordance with the provisions of Rule 11 17
Wednesday 10	Thursday 11	Friday 12	Saturday 13				

Note :- The mark 'H' shall be made in the column relating to any day on which an establishment remains closed in accordance with the notice referred to in section 18 (1) or a holiday given in accordance with Note 1 below schedule II to the Act, as amended from time to time and 'A' if employee is absent on any other day.

The entries under the heading "Rest intervals" shall be actual hours at which intervals are to begin and end (e.e. 1 pm to 2 p.m)

***[SCHEDULE-I**

(See rule 5)

The fee to be paid along with the Statement in Form "A"

Sr. No.	Category of Establishment	Registration Fees Rs. P.
1	2	3
1.	Commercial Establishment employing ten or more employees.	60.00
2.	Commercial Establishment employing less than ten employees.	60.00
3.	Shops employing ten or more employees.	60.00
4.	Shops employing less than then employees.	40.00
5.	Residential Hotels	60.00
6.	Restaurants and Eating Houses	60.00
7.	Theatres and other places of public amusement or entertainment.	60.00
8.	Establishment engaging no employee.	20.00

* Schedules I, II & III, Subs. by Noti. dated 7-12-1989; G.G. Gaz., Exty., Pt. IV-B, dt. 7-12-1989, P. 250.

SCHEDULE-II

(See rule 7)

The fee to be paid along with the Statement in Form "D"

Sr. No.	Category of Establishment	Renewal Fees Rs. P.
1	2	3
1.	Commercial Establishment employing ten or more employees.	30.00
2.	Commercial Establishment employing less than ten employees.	20.00
3.	Shops employing ten or more employees.	30.00
4.	Shops employing less than then employees.	20.00
5.	Residential Hotels.	30.00
6.	Restaurants and Eating Houses.	30.00
7.	Theatres and other places of Public amusement or entertainment.	30.00
8.	Establishments engaging no employee.	20.00

SCHEDULE-III

(See rule 10)

The fee to be paid alongwith the Statement in Form "E"

Sr. No.	Category of Establishment	Fees for notice of Change Rs. P.
1.	Commercial Establishment.	2.00
2.	Shops employing five or more employees	2.00
3.	Shops employing less than five employees.	2.00
4.	Residential Hotels.	2.00
5.	Restaurants and Eating Houses.	2.00
6.	Theatres and other places of public amusement or entertainment.	2.00]

* * *

NOTIFICATIONS Under -
BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948
[Arranged Section wise]

Section 1 (2) :-

In exercise of the power conferred by sub-section (2) of section 1 of the Bombay Shops and Establishments (Gujarat Amendment) Act, 1977 (Gujarat Act No. 26 of 1977) the Government of Gujarat hereby appoints the 15th September, 1977 as the date on which the said Act shall come into force.

[Noti. No. KHL 805 BSE 90328-T, dt. 7-9-1977 - Guj. Govt. Gaz., Exty. Pt. I L, dt. 7-9-1977, P. 350.]

* * *

Section 1 (4) :-

In exercise of the powers conferred by sub-section (4) of the section 1 of the Bombay Shops and Establishments Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in the Saijpur-bogha Nagar Panchayat area with effect from 1st August, 1974.

[Noti. No. KH-SH-382/BSE-1373-5146 (i) -T, dt. 27-3-1974-Guj. Govt. Gaz., Pt. I L, dt. 4-4-1974, P. 1086.]

* * *

Section 1 (4) and (5) :-

WHEREAS, under Government Notification, Urban Development and Urban Housing Department no. KB-54/86-WBA-1084-107(i)-P, dated the 5th February, 1986, which was published in the Gujarat Government Gazette, Extraordinary, Part-IA, dated the 5th February, 1986 (hereinafter referred to as "the said notification"), the limits of the City of Ahmedabad have, in accordance with the provisions of the Bombay Provincial Municipal Corporations Act, 1949, been so altered as to include with effect from the 23rd February, 1986, the areas specified in Schedule A to the said Notification (hereinafter referred to collectively as "the extended area");

AND, WHEREAS, the provisions of the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948) (hereinafter referred to as "the said Act") have earlier been brought into force in those local areas falling within the extended area which are specified in column (3) of the Schedule annexed hereto, in pursuance of the notification, and with effect from the date, specified respectively against each in columns (1) and (2) of the said Schedule;

AND WHEREAS, it is expedient that the provisions of the said Act be in force throughout the extended area;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (4) and (5) of section 1 of the said Act, the government of Gujarat hereby :-

- (a) directs that all the provisions of the said Act shall, on and with effect from the 1st January, 1987, come into force in all such local areas constituting the extended area as do not fall within the local areas specified in column (3) of the Schedule hereto;
- (b) declares, for the removal of doubt, that all the provisions of the said Act shall from the 1st January, 1987, be in force throughout the area of the City of Ahmedabad as defined in Schedule B to the said Notification.

SCHEDULE

Notification	Date with effect from which the provisions of the said Act have been brought into force.	Local area in which the provisions of the said Act have been brought into force.
1	2	3
Government Notification Education and Labour Department No. KH-SH- 383-BSE-1373-5146-T, dated the 27th March, 1974.	1st August, 1974.	Area falling within the limits of the Naroda Nagar Panchayat.
Government Notification Education and Labour Department No. KH-SH- 382-BSE-1373-5146 (i) -T, dated the 27th March, 1974.	1st August, 1974.	Area falling within the limits of the Saijpur- bogha Nagar Panchayat.
Government Notification Labour, Social Welfare and Tribal Development Department No. KH-SH- 65-BSE-1375-23963-T, dated the 29th January, 1977.	1st April, 1977.	Area falling within the limits of the Odhav Nagar Panchayat.

1	2	3
Government Notification, Labour, Social Welfare, and Tribal Development Department No. KH-L- 1087/BSE-1975-641711 (77)- T, dated the 7th December, 1977.	1st April, 1978	Area falling within the limits of the Thakkar Bapa-Nagar Gram Panchayat.
Government Notification Education and Labour Department No. KH-L- 3-BSE-1079/49843-T, dated the 2nd August, 1980.	1st November, 1980.	Area falling within the limits of the Sardarnagar Nagar Palika.

[Noti. No. GHU-86-803-BSE-1086-7128/M-(3) dt. 10-12-1986-Guj. Govt. Gaz.,
Exty., Pt. IV-B, dt. 10-12-1986, P. 234.]

* * *

Whereas, under Government Notification, Urban Development and Urban Housing, Department, No. KV-81-86-SMC-6681-4224-P dated the 15th March, 1986, which was published in the Gujarat Government Gazette, Extraordinary, Part I-A, dated the 15th March, 1986 (hereinafter referred to as "the said notification"), the limits of the City of Surat have, in accordance with the provisions of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), been so altered as to include with effect on and from the 1st April, 1986, the areas specified in Schedule "A" annexed to the said notification (hereinafter referred to collectively as "the extended area");

AND WHEREAS the area falling within the limits of the erstwhile Urban Gram Panchayat, Udhna, forms part of the extended area;

AND WHEREAS the provisions of the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948) (hereinafter referred to as "the said Act"), have been brought into force with effect from the 1st August, 1972, in the area falling within the limits of the erstwhile Udhna Gram Panchayat, Udhna, under Government Notification, Education and Labour Department, No. KH-SH-4560-BSE-1372-31880-T, dated the 9th June, 1972;

AND WHEREAS it is expedient that the provisions of the said Act be in force throughout the extended area;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (4) and

(5) of section 1 of the said Act, the Government of Gujarat hereby :-

- (a) directs that all the provisions of the said Act shall, on and with effect from the 1st April, 1989 come into force in all the local areas constituting the extended areas excluding the local area falling within the limits of the erst-while Udhna Gram Panchayat, Udhna.
- (b) declares, for the removal of doubt, that all the provisions of the said Act shall from the 1st April, 1989 be in force throughout the area of the City of Surat as defined in Schedule B to the said Notification.

[Noti. No., GHU-89-28-BSE-1086-12145-M (3) dt. 6-2-1989, Guj. Govt. Gaz., Exty. Pt. IV-B, dt. 6-9-1989, P. 27.]

* * *

Section 1 (5) :-

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishments Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in the Naroda Nagar Panchayat area with effect from 1st August, 1974.

[Noti. No. KH-SH-383/BSE-1373-5146-T, dt. 27-3-1974, Guj. Govt. Gaz., Pt. I L, dt. 4-4-1974, P. 1087.]

* * *

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishment Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall, come into force in "Thangadh Nagar Panchayat area" with effect from 1st April, 1976.

[Noti. No. KH-SH-18/BSE-1075-9118-T, dt. 17-1-1976, Guj. Govt. Gaz., Pt. I-L, dt. 29-1-1976, P. 330.]

* * *

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishments Act, 1948 (Bombay LXXIX of 1948) and of all other powers enabling it in this behalf, the Government of Gujarat hereby directs that on the expiry of one month from the date of publication of this notification in the *Official Gazette*, all the provisions of the said Act shall come in to force in the local areas included within the limits of the Municipal Corporation of the City of Ahmedabad by virtue of Government Notification Panchayats and Health Department No. KP-75-68 PMC-1273-1912-P, dt. the 17th March, 1975.

[Noti. No KH-SH-589/BSE-1575-61008-T, dt. 21-6-1976, Guj. Govt. Gaz. Pt. I.L., dt. 1-7-1976, P. 2256.]

* * *

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishment Act, 1948 (LXXIX of 1948), and all other powers enabling it in this behalf, the Government of Gujarat hereby directs that on expiry of one month from the date of publication of this notification in the *official gazette* all the provisions of the said Act, shall come into force in the areas of the villages Tunki, Singapore, Dabholi, Ved, Katardu, Phulpada and Kapadra which are included within the limits of the Municipal Corporation, Surat by virtue of the Government Notification Panchayat and Health Department, No. KP/75-70/SMC-1273/1704-P, dt. 18th March, 1975.

[Noti. No. KH-SH-686/BSE-1376-51848-T, dt. 21-7-1976, Guj. Govt. Gaz., Pt. I-L, dt. 29-7-1976, P. 2613.]

* * *

In exercise of the powers conferred by sub-section (5) of the Section 1 of the Bombay Shops and Establishments Act, 1948 (LXXIX of 1948) the Government of Gujarat hereby directs that all the Provisions of said Act shall come into force in "Gadhda nagar Panchayat area" with effect from 1st September 1976.

[Noti. No. KH-SH-825/BSE-1375-89240-T, dt. 31-8-1976-Guj. Govt. Gaz., Pt. I-L, dt. 9-9-1976, P. 3704.]

* * *

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishment Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in Khedbrama Gram Panchayat area with effect from 1st March, 1977.

[Noti. No. KH-SH-239/BSE-1375-104414-T, dt. 17-12-1976-Guj. Govt. Gaz., Pt. I-L, dt. 20-1-1977, P. 161.]

* * *

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shop and Establishments Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby amends the Government Notification, Labour, Social Welfare and Tribal Development Department no. KH-SH-68/BSE-1376-27446-T, dated the 31st January 1977 as follows, namely :-

In the said Notification for the words.

"Mithapur area", the words

"Mithapur village, Taluka Okha Mandal"

shall be substituted.

[Noti. No. KH-L-685/BSE/376-40623-T, dt. 6-8-1977-Guj. Govt. Gaz., Exty., Pt. I-L, dt. 6-8-1977, P. 298.]

* * *

In exercise of the powers conferred by sub-section (5) of the section 1 of the Bombay Shops and Establishment Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in Salaya Nagar Panchayat area with effect from 1st December, 1977.

[Noti. No. KH-L-730-BSE-1077/52369-T, dt. 19-8-1977-Guj. Govt. Gaz, Pt. I-L. dt. 1-9-1977, P. 3627.]

* * *

In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishments Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in "Thakkar Bapa Nagar Gram Panchayat area" with effect from 1st April, 1978.

[Noti. No. KH-L-1087/BSE-1975-64171/(77) T. dt. 7-12-1977-Guj. Govt. Gaz., Pt. I-L, dt. 15-12-1977, P. 5034.]

* * *

No. GHU-89-53-BSE-1087-2372-M (3) :- In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948) (hereinafter referred to as "the said Act"), the Government of Gujarat hereby directs that all the provisions of this Act shall, come into force in "Sayla Nagar Panchayat Area" Distt. Surendranagar, with effect from the date of its publication in the *Official Gazette*.

[Noti. dt. 23-2-1989; Published in G.G. Gaz. Pt. IV-B, dt. 9-3-1989, P. 93.]

* * *

No. GHU-90-36-BSE-1088-M-650-M (3) :- In exercise of the powers conferred by sub-section (5) section 1 of the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948) (hereinafter referred to as "the said Act"), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in "Jalalpor and Vijalpor Nagar Panchayat Area" in Navsari Taluka of Valsad District with effect on and from the date of publication of this notification in the *Official Gazette*.

[Noti. dt. 1-2-1990; Pub. in Guj. G. Gaz. Pt. IV-B, Exty., dt. 1-2-1990, P. 24]

* * *

No. GHU-9183-BSE-1090-868-M(3) :- In exercise of the powers conferred by sub-section (5) of section 1 of the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948) (hereinafter referred to as "the said Act"), the Government of Gujarat hereby directs that all the provisions of the said Act, shall come into force in Chorwad Nagar Panchayat Area in Malia Taluka of Junagadh District with effect on and from the date of publication of this notification in the *Official Gazette*.

[Noti. dt. 15-4-1991; Pub. in G. G. Gaz., Pt. IV-B, Exty. dt. 15-4-1991, P. 106.]

* * *

The Bombay Shops and Establishments Act, 1948 Section 1(5) - Enforced in the Gariyadhar Nagarpalika Area, Distt Bhavnagar w.e.f 2-10-2003

In exercise of the power conferred by sub-section (5) of section 1 of the Bombay shops and Establishments Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in the Gariyashar Nagarpalika Area (Dist. Bhavnagar), with effect from the date of Publication of this notification in the Government Gazette.

[Noti. No. GHR-2003 - 129 BSE-2003 - 929 - M(3), dt 16-9-2003 - G.G.g Pt.I.L dt 2-10-2003 P. 10759]

* * *

The Bombay Shops and Establishments Act, 1948 Section 1(5) - Enforced in the Sarkhej-Okaf Muncipal Borough, Ta City Dist. Ahmedabad w.e.f 25-12-2003

In exercise of the power conferred by sub-section (5) of section 1 of the Bombay shops and Establishments Act, 1948 (LXXIX of 1948), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in the Sarkhej-Okaf Muncipal Borough, Ta city, District Ahmedabad, with effect from the date of Publication in this notification in the Government Gazette..

[Noti. No. GHR-2003 - 179 BSE-2003 - 2484 - M(3), dt 12-12-2003 - G.G.G Pt.I.L dt 25-12-2003 P. 12641]

* * *

The Bombay Shops and Establishments Act, 1948 Section 1(5) - The said Act enforced in the Shree Rahpar Muncipal Borough, Rahpar, Distt Kutch w.e.f 1-7-2004

In exercise of the power conferred by sub-section (5) of section 1 of the Bombay shops and Establishments Act, 1948 (LXXIX of 1948), (hereinafter referred to as "the said Act"), the Government of Gujarat hereby directs that all the provisions of the said Act shall come into force in the Shree Rahpar Muncipal Borough, Rahpar, Dist. Kutch, with effect from the date of Publication in this Notification in the Government Gazette..

[Noti. No. GHR-2004 - 72 BSE-2004 - 576 - M(3), dt 25-6-2004 - G.G.G Pt. IV-B, dt. 1.7.2004, P. 93] = 2004 GSCS / II / P. 413 / H.237

* * *

Section - 4 :- In exercise of the power conferred by Section 4 of the Bombay Shops and Establishments Act, 1948 (The Bombay Act LXXIX of 1948) the Government of Gujarat hereby exempts the provision of the said Act as specified in column 2 of the said Schedule in relation to Somnath Trust in the State of Gujarat.

SCHEDULE

Establishment	Provision of the said Act	Condition
1	2	3
Somnath	Sec. 14	<p>(A) If any employee is required to work in excess of the limit of hours of work specified in sec. 14 of the said Act, that he shall be entitled in respect of over time work, which shall be noted in the prescribed Register to wages at the rate prescribed in sec. 63 (1) of the said Act.</p> <p>(B) When the Employee is required to work Beyond the limit of the working hours in a week, which is prescribed in the Act, the trust must get prior written permission from Employee.</p> <p>(C) The spread over shall not Exceed twelve hours on any day</p> <p>(D) Every Employee shall, on account of the prescribed weekly holidays be granted either (i) on equal number of holiday in exchange of (ii) wages for the work done on such holidays at the rate of wages prescribed of over time work in sec. 63 (1) of the said Act.</p> <p>(E) No woman shall be required or allowed to work after 7.00 p.m.</p>

[Noti. No G.H.R-97/296/BSE/1097/10173/M (3)- dt 17.12.97 Guj. Govt. Gaz. Exty Purk. IV. B No. 300 dt-23-12-97, p. 300-I]

* * *

No. GHR - 2005 - 118 - BSE - 2005 - 889 - M(3) :- In exercise of the powers conferred by the Section 4 of the Bombay Shops and Establishments Act, 1948, (herein after referred to as "the said Act") (LXXIX of 1948), The Government of Gujarat hereby exempts the "*New A.V.Sons, Parle Point, Surat*", from the operation of provisions of Section 18 of the said Act, subject to the condition that the Management shall make such suitable arrangements that every employee gets turn by turn a weekly holiday without

making any deduction from wages on account thereof and concerned Government Labour Officer shall inspect the employees' leave.

* * *

No. GHR - 2005 - 119 - BSE - 2005 -1164 - M(3) :- In exercise of the powers conferred by the Section 4 of the Bombay Shops and Establishments Act, 1948, (herein after referred to as "the said Act") (LXXIX of 1948), The Government of Gujarat hereby exempts the "**Picnic Food Bazar, Surat**", from the operation of provisions of Section 18 of the said Act, subject to the condition that the Management shall make such suitable arrangements that every employee gets turn a weekly holiday without making any deduction from wages on account thereof and concerned Government Labour Officer shall inspect the employees' Leave.

* * *

Section -6 : Noti No. GHR -92 -241 -BSE - 1090 - 3136 (M) -3 dt 6-11-92- Published in Gujarat Gazatte Exty .Pt.IV -B dt 6.11.92 P.248 -I :- In exercise of the powers conferred by section 6 of BSE Act, 1948 the Govt. of Gujarat hereby suspend, on the occasion of the Kartaki punam fair (a cultural fair) the operation of such provisions of the said Act and are specified in column (1) of the schedule appended here to during the period from 8th Nov. 1992 to 11th Nov. 1992 (Both days inclusive) subject to the conditions specified against each in column (2) of the said schedule in relation to Shops, residential, hotels, restaurants and eating houses, within the limits of the Siddhpur Municipality, District, Mehsana, Constituted under the Gujarat Municipalities Act, 1963 (Act No.XXXIV of 1964)

SCHEDULE

Provision whose operation is temporarily suspended (1)	Conditions subject to which the operation of the provision is suspended (2)
1. Section 11	No. Shop shall, on any day be kept open later than midnight.
2. Section.12	The hawking of good shall be permitted up to midnight.
3. Section. 14	(A) The operation of this provision is suspended in relation only to shops. (B) If any employee is reduced to work in excess of the limits of hours of work specified, he shall be entitled to wages at the rate specified in sub Section(1) of section 63 of the Act.
4. Section.16	The spreadover shall not exceed fourteen hours.

-
- | | |
|----------------|--|
| 5. Section. 18 | <p>(A) The operation of this provision is suspended in relation only to shops.</p> <p>(B) To Compensate loss of the prescribed closed day, each employee shall be entitled to;</p> <p style="padding-left: 40px;">(i) a holiday in Exchange after the 11th Nov.. 1992 or else.</p> <p style="padding-left: 40px;">(ii) Wages for work done on the closed day at the rate specified for overtime work in sub. Section (1) of section 63 of the Act.</p> |
| 6. Section. 19 | No restaurant or eating house shall, on any day, be kept open later than midnight |
| 7. Section. 20 | |
| 8. Section. 21 | <p>It any Employee is required to work in Excess of the time limit of hours of work specified.</p> <p>he shall be Entitled to wages at the rate specified in sub-section (2) of section 63 of the Act</p> |
| 9. Section. 25 | <p>To. Compensate loss of the prescribed weekly holiday, each Employee shall be entitled to :</p> <p style="padding-left: 40px;">(i) a holiday in Exchange after the 11th Nov. 1992 or else.</p> <p style="padding-left: 40px;">(ii) Wages for work done on the closed day at the rate specified for overtime work in sub-section (2) of section 63 of the Act.</p> |
-

* * *

Noti No. GU: 2003-52 - BSE - 2003- 1544 - M(3) :- In exercise of the powers conferred by the Section 6 of the Bombay Shops and Establishments Act, 1948, the Government of Gujarat hereby suspends the operation of provisions of Section 18 of the Bombay Shops and Establishments Act, 1948 in respect of the shops of Bata India Limited in the State of Gujarat from dated 28-05-2003 to 31-07-2003 subject to the condition that "Management shall make such suitable arrangement that every employee gets turn by turn a weekly holiday and the employees concerned are granted wages for overtime work as per rules".

* * *

Noti No. GHR/2003-96-BSE-2001-1162-M (3) :- The Government of Gujarat, Labour and Employment Department has issued the Notification No. GHR/2002-41-

BSE-2001-1162 - M (3) dt.6-4-2002, in this Notification for the words "*Dhiraj Sons the Mega Store*" Should be substituted by the words "*Dhiraj Sons Mega Stores Private Limited*".

* * *

Noti No. GHR/2005-109-BSE-2003-2762-M (3) :- In exercise of the powers conferred by the section 6 of the Bombay Shops and Establishment ACT, 1948, (herein after referred to as "the said Act") (Bombay Act No. LXXIX of 1948) read with Rule -4 of the Gujarat Shops and Establishments Rules, 1962, the Government of Gujarat hereby suspends the operations of provisions of Section 11(1) (A), 12, 14, 16, 18, 19(1), 21 and 24 of the said Act, in relation to all establishments for the period from 13-11-2005 to 18-11-2005 (both days inclusive), on account of "Kartiki Purnima Fair" at Siddhpur, District , Patan

This Notification is issued with the concurrence of Home Department's Note dated 26-10-2005, on this departments file of even number.

* * *

Section 48 :

No. GHU-88-288-BSE-1986-20852-M(3) :- In exercise of the powers conferred by sub-section (1) of section 48 of the Bombay Shops and Establishment Act, 1948 (Bom. LXXIX of 1948), the Government of Gujarat appoints, the Government Labour Officer, Vapi, as an Inspector for the purpose of the said Act in Vapi Industrial area.

[Noti. dt. 3-11-1988; Pub. in Guj. Govt. Gaz., Pt. IV-B, dt. 1-12-1988, P. 595]

THE GUJARAT SHOPS AND ESTABLISHMENTS (EMPLOYEES LIFE INSURANCE) ACT, 1980

CONTENTS

Preamble

Sections

1.	Short title, extent, commencement and application	102
2.	Definitions	102
3.	Group insurance scheme	104
4.	Limitation on the schemes	104
5.	Qualifications of employees for benefit of life insurance	104
6.	Contributions	105
7.	Employers to furnish return and maintain registers	106
8.	Powers and duties of local authorities	106
9.	Power of State Government to enforce provisions of Act within areas of local authorities.	106
10.	Power to make bye-laws	107
11.	Power of State Government to provide for performance of duties on default by local authority	107
12.	Expenses of local authority to be paid out of its fund	107
13.	Appointment of Inspectors	107
14.	Powers and duties of Inspectors	108
15.	Inspectors to be public servants	108
16.	Employer and manager to produce register, records etc. for inspection.	108
17.	Offences	108
18.	Determinations of employer for the purposes of this Act.	109
19.	Exemption of employer or manager from liability in certain cases	109
20.	Cognizance of offence	110
21.	Recovery of contribution	110
22.	Protection of action taken in good faith	110
23.	Exemption	110
24.	Power to make rules	111
	SCHEDULE	111

THE GUJARAT SHOPS AND ESTABLISHMENTS (EMPLOYEES LIFE INSURANCE) ACT, 1980

GUJARAT ACT, No. 32 of 1980^{1*}

[26th November, 1980]

An Act to provide for life insurance benefits to employees engaged in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith.

It is hereby enacted in the Thirty-first Year of the Republic of India, as follows

1. Short title, extent, commencement and application :

(1) This Act may be called the Gujarat Shops and Establishments (Employees Life Insurance) Act, 1980.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date, as the State Government may, by notification in the *Official Gazette*, appoint.

(4) It shall apply in the first instance to all the establishments mentioned in the Schedule.

(5) The State Government may, after giving by a notification in the *Official Gazette*, not less than three month's notice of its intention so to do may by a like notification, add to the Schedule any establishment or a class or establishments in respect of which it is of opinion that this Act should apply and thereupon the Schedule shall be deemed to be amended accordingly.

2. Definitions :

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

(1) "**apprentice**" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

(2) "**continuous service**" means uninterrupted service rendered by an employee before or after the application of this Act to the establishment in which the employee is employed.

1. For Statement of Objects and Reasons see Gujarat Government Gazette, Part V, Extraordinary, dated the 18th September, 1980, P 27-20 to 27-21.

* This Act was assented to by the President on the 21st November, 1980.

Explanation : For the purpose of determination of continuous service, the period of absence of the employee on account of sickness, accident, leave, lay off, strike or a lock out or cessation of work not due to any fault of the employee concerned, shall be included;

(3) **“contribution”** means the sum of money payable as contribution in accordance with the provisions of section 6;

(4) **“employee”** means a person wholly or principally employed, whether directly or through any agency and whether for wages or other consideration in or in connection with any establishment; and includes an apprentice but does not include a member of the employer’s family;

(5) **“employer”** means a person owning or having ultimate control over the affairs of an establishment;

(6) **“establishment”** means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment which is registered under the Bombay Shops and Establishments Act, 1948, (Bom. LXXIX of 1948) or which is required by the provisions of that Act to be registered but is not so registered;

(7) **“Inspector”** means an Inspector appointed under section 13;

(8) **“Local authority”** means :-

(i) a municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949);

(ii) a municipality constituted under the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964);

(iii) a district panchayat constituted under the Gujarat Panchayats Act, 1961 (Guj. VI of 1962);

and includes any other body which the State Government may, by notification in the *Official Gazette*, declare to be a local authority for the purposes of this Act;

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

(10) **“Prescribed”** means prescribed by rules made under this Act;

(11) **“qualified employee”** means an employee qualified under section 5;

(12) **“scheme”** means a scheme made under section 3;

(13) **“wages”** means wages as defined in the Payment of Wages Act, 1936 (4 of 1936);

(14) other words and expressions used, but not defined in this Act, shall have the meanings respectively assigned to them in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948).

3. Group insurance scheme :

(1) Subject to the other provisions of this Act, the State Government may, by notification in the *Official Gazette*, make a group insurance scheme for providing insurance on the lives of all qualified employees in the establishments to which this Act applies.

(2) A scheme under sub-section (1) may provide for all or any of the following matters, namely :-

- (a) the plan of assurance;
- (b) the sum assured,
- (c) the rates of contribution.
- (d) the proof of age of the qualified employee,
- (e) nomination by a qualified employee or a person to whom the sum assured is payable and the manner of making such nomination.
- (f) such other matters relating or incidental to the scheme as may be prescribed.

4. Limitation of the schemes :

(1) No scheme shall provide for, -

- (a) insurance of a qualified employee for a sum exceeding two thousand and five hundred rupees;
- (b) a rate of contribution from each employer exceeding six rupees per employee per annum and a rate of contribution from each qualified employee exceeding six rupees per annum.

5. Qualifications of employees for benefit of life insurance :

No employee shall be qualified for the benefit of the life insurance under the scheme unless on a qualifying date,-

- (a) he is a full time employee;
- (b) he has attained the age of 18 years but has not attained the age of 60 years;
- (c) he is in continuous service for a period of six months immediately before the said date.

Explanation I : For the purposes of this section "a full time employee" means an employee who is engaged to work for such time as is not less than a normal working day within the meaning of the Minimum Wages Act 1948. (11 of 1948.)

Explanation II : For the purposes of this section an employee who has not rendered uninterrupted service for six months, shall be deemed to be in continuous service. if he has been actually employed for not less than 120 days by an employer during the six months immediately preceding.

Explanation III : For the purposes of this section a "qualifying date" means the first day of January of a year.

6. Contributions :

- (1) (a) The contribution payable under this Act in respect of a qualified employee shall comprise of-
- (i) contribution payable by the employer (hereinafter referred to as "the employer's contribution"), and
 - (ii) contribution payable by the qualified employee (hereinafter referred to as "the employee's contribution").
- (b) The contribution shall be paid to such insurer and at such rates as specified in the scheme.

(2) A year shall be the unit in respect of which all contributions shall be payable.

(3) The contribution payable in respect of each year shall fall due on the 1st January of the year to which it relates.

(4) Every employer shall be liable to pay to the insurer specified in the scheme both the employer's and employee's contribution and such contribution shall be paid before the 15th January of the year to which the contribution relates.

(5) Notwithstanding anything contained in any enactment but subject to the provisions of this Act and the rules made thereunder the employer shall be entitled, to recover from the qualified employee, the employee's contribution by deduction from his wages in twelve equal monthly instalments but not otherwise, and such deduction shall be deemed to be the deducting authorised by or under the Payment of Wages Act, 1936 (4 of 1936) :

PROVIDED that no such deduction shall be made from any wages other than such as relate to the period in respect of which the contribution is payable or in excess of the sum representing the employee's contribution for the period.

(6) Notwithstanding any contract to the contrary no employer shall be entitled to deduct the employer's contribution from any wages payable to an employee or otherwise recover it from the employee.

(7) Any sum duly deducted by an employer from the wages of the employee under this Act shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.

(8) The employer shall remit the employee's contribution to the insurer by cheque, money order or in cash and shall bear the expenses of such remittance.

(9) Where a qualified employee in respect of whom the employer has paid contribution under sub-section (4) ceases at any time during the year to which the contribution relates, to be an employee of an establishment, he may at any time before the amounts due to him is paid by the employer as a result of such cesser, or within one month, of such cesser, whichever is less be called upon by the employer to exercise at any time before such cesser the option of continuing to have the benefit of the insurance scheme till the end of the year in which he ceases to be such employee.

(10) Where a qualified employee exercises under sub-section (9) the option to

continue to have the benefit of the insurance scheme, the employer shall be entitled to deduct from the amounts due from the employer to the employee, the aggregate of the employee's contributions which would have become deductible from his wages till the end of the year if the employee had not ceased to be such employee.

(11) Where a qualified employee does not exercises the option within the time specified in sub-section (9) or exercises the option of not continuing the benefit, the employer shall be entitled to the refund of the amount of the contribution paid by him under sub-section (4) in so far as it relates to the period from the date of the cesser upto the end of the year.

7. Employers to furnish return and maintain registers :

(1) Every employer shall submit to such authority a return in such form and containing such particulars relating to the persons employed by him or to an establishment in respect of which he is an employer, as may be prescribed.

(2) Where in respect of any establishment, the authority prescribed under sub-section, (1), (hereinafter referred to as "the prescribed authority") has reason to believe that a return required to be submitted under sub-section (1) has not been so submitted, the prescribed authority may require any person in charge of the establishment to furnish such particulars as it may consider necessary for the purpose of enabling it to decide whether the establishment is an establishment to which this Act applies.

(3) Every employer shall maintain such registers or records in respect of his establishment as may be prescribed.

8. Powers and duties of local authorities :

Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the State Government as may be prescribed :

PROVIDED that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by is Chief Executive Officer or any other Officer subordinate to it :

PROVIDED further that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the State Government to enforce the said provisions.

9. Power of State Government to enforce provisions of Act within areas of local authorities :

Notwithstanding anything contained in section 8, the State Government may, by a notification in the *Official Gazette*, direct that in the areas subject to the jurisdiction of such local authority as may be specified in the notification the provisions of this Act shall be enforced by the State Government from such date and for such period as may be specified in the notification and there upon such local authority and officers of such local authority shall be discharged from the duty of enforcing the provisions of this Act within such area from the date and for the period as so specified :

PROVIDED that the bye-laws, if any, made by the local authority under section 10 and in force in such areas before the date so specified shall continue to be in force with amendments, if any, made therein, until such bye-laws are amended or superseded by the Government.

10. Power to make bye-laws :

A local authority on which a duty is imposed under section 8 to enforce the provisions of this Act may, with the previous sanction of the State Government, make bye-laws not inconsistent with the provisions of the Act or the rules or orders made by the State Government thereunder, for the purpose of carrying out the provisions of this Act.

11. Power of State Government to provide for performance of duties on default by local authority :

(1) If any local authority makes default in the performance of any duty imposed by or under this Act, the State Government may appoint some person to perform it and may direct that the expenses of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid, the State Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such Bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

12. Expenses of local authority to be paid out of its fund :

Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or any other local authority under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

13. Appointment of Inspectors :

(1) For an area within the jurisdiction of a local authority whose duty it is to enforce the provisions of this Act the local authority and for other areas the State Government shall, subject to the provisions of sub-section (3) appoint as many inspectors as the local authority or the State Government, as the case may be, may deem necessary for the purpose of carrying out the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1) in the areas within the jurisdiction of a local authority, the State Government may appoint Inspectors for such supervision as the State Government may prescribe.

(3) A person possessing the prescribed qualifications shall be qualified for being appointed as an Inspector.

(4) A local authority, or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any), as may be specified in the direction, be exercised --

- (a) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, and
- (b) in the case of the State Government, by any officer subordinate to it.

14. Powers and duties of Inspectors :

Subject to any rules, made by the State Government, in this behalf, an Inspector may, within the local limits for which he is appointed --

- (a) enter at all reasonable times, accompanied with such persons in the service of the Government or of any local authority as he thinks fit, any place which he has reason to believe is an establishment;
- (b) make such examination of any prescribed registers, records and notices, and taken the spot or otherwise evidence of any person as he may deem necessary, for carrying out the purpose of this Act; and
- (c) exercise such other powers as may be prescribed, for carrying out the purposes of this Act :

PROVIDED that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

15. Inspectors to be public servants :

Every Inspector appointed under section 13 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 1860, (45 of 1860)

16. Employer and Manager to produce register, records etc. for Inspection :

Every employer and in his absence the manager shall on demand produce for inspection by an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

17. Offences : If any person, -

- (a) fails to pay any contribution which he is liable to pay under section 6; or
- (b) deduct or attempts to deduct from the wages of an employee the whole or any part of the employer's contribution; or
- (c) fails or refuses to submit any return or to maintain any register or records required under section 7; or
- (d) makes a false return; or
- (e) obstructs any Inspector or any other officer of the State Government or the insurer in the discharge of his duties; or

- (f) is guilty of contravention of or non-compliance with any of the requirements of this Act or the rules made thereunder in respect of which no penalty is provided.

he shall be punishable with imprisonment, which may extend to three months or with fine which may extend to five hundred rupees or with both.

18. Determinations of employer for the purposes of this Act :

(1) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act :

PROVIDED that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the State to be the employer for the purpose of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the employer is punishable :

PROVIDED that the company may give notice to the Inspector that it has nominated a director or, in case of a private Company, a share holder who is resident in the State to be the employer in the establishment for the purposes of this Act, and such director or share holder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or share holder.

19. Exemption of employer or manager from liability in certain cases :

(1) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court -

- (a) that he has used due diligence to enforce the execution of this Act, and
- (b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager and the employer or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior the institution of the proceedings -

- (a) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,
- (b) that the offence has been committed by a person other than the employer or manager, and
- (c) that it has been committed without the knowledge, consent or connivance of the employer or manager and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like sentence as if he were the employer or manager.

20. Cognizance of offence :

No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of an officer or officers notified by the State Government in this behalf or the local authority, as the case may be :

PROVIDED that any local authority may direct that the powers conferred on it by this section shall, in such circumstances and subject to such conditions, if any, as may be specified in the direction, be exercised by its standing committee or by any committee appointed by it in this behalf or if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, or by any other officer as may be specified in the direction.

21. Recovery of contributions :

Any contribution payable under this Act shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

22. Protection of actin taken in good faith :

No suit or other proceeding shall lie against the State Government or a local authority or any officer or employee of the State Government or of the local authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

23. Exemption :

(1) nothing in this Act shall apply to -

- (i) establishments to which the Employees' Provident Funds and Family Pension Act, 1952 (19 of 1952) applies.
- (ii) establishments of the Central Government, the State Government, a local authority or a scheduled bank.

Explanation : For the purposes of this section "Scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, (2 of 1934).

- (iii) an establishment exempted under section 4 of the Bombay Shops and Establishments Act, 1948, (Bom. LXXIX of 1948) from all the provisions of that Act.

(2) The State Government may, by notification in the *Official Gazette*, exempt any class of establishments from all or any of the provisions of this Act, subject to such conditions and for such period as may be specified in the notification.

24. Power to make rules :

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :-

- (a) the other matters relating or incidental to the scheme under clause (f) of sub-section (2) of section 3;
- (b) the returns to be submitted under sub-section (1) of section 7, the authority to which, and the form in which such returns shall be submitted and particulars relating to the persons employed by an employer or to an establishment in respect of which he is an employer to be specified in such form;
- (c) the registers or records to be maintained by an employer under sub-section (3) of section 7;
- (d) the other powers to be exercised by an Inspector under clause (b) of sub-section (2) of section 8;
- (e) any other matter which is to be, or may be prescribed.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

* * *

SCHEDULE

(See sub-section (4) of section 1)

Establishments

Establishments in the Cities of Ahmedabad, Vadodara, Rajkot and Surat as constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).

* * *

APPENDIX - I

NOTIFICATION DECLARING LOCAL AUTHORITY UNDER SECTION 2 (15)

Name of City/Town	Date of implementing of the Shop Act.
-------------------	---------------------------------------

AHMEDABAD DISTRICT

1. Ahmedabad Municipal Corporation, Ahmedabad.	11.1.1949
2. Cantonment area. Ahmedabad	11.1.1949
3. Dhandhuka Nāgar Panchayat, Dhandhuka	1.11.1956
4. Sanand Nagar Panchayat, Sanand	1.3.57
5. Dholka Municipality, Dholka	1.12.57
6. Viramgam Municipality, Viramgam	1.4.49
7. Dahegam Nagar Panchayat, Dahegam	1.11.65
8. Mandal Gram Panchayat, Mandal	1.12.67
9. Naroda Nagar panchayat, Naroda	1.8.74
10. Saijpur Bogha Nagar Panchayat, Saijpur Bogha	1.8.74
11. Odhav Nagar Panchayat, Odhav	1.4.77
12. Thakkar Bapa Nagar Gram Panchayat	1.4.78
13. Bavla Nagar Panchayat, Bavla	1.10.80
14. Sardarnagar Nagar Palika, Sardarnagar	1.11.80
14A. Sarkhej - Okaf Muncipal Borough	25.12.2003
14B. Memnagar Muncipal, Borough	29-1-2004

KAIRA DISTRICT :-

15. Nadiad Nagar Palika, Nadiad	11.1.49
16. Kapadwanj Municipality, Kapadwanj	11.1.49
17. Anand Municipality, Anand	1.10.49
18. Borsad Municipality, Borsad	1.4.58
19. Petlad Municipality, Petlad	1.6.52
20. Cambay Municipality, Cambay	1.4.50
21. Umreth Municipality, Umreth	15.1.53
22. Balasinor Nagar panchayat, Balasinor	1.12.65
23. Mehmedabad Nagar Panchayat, Mehmedabad	1.1.67
24. Mahudha Nagar Panchayat, Mahudha	1.1.69
25. Kaira Nagar Panchayat, Kaira	1.4.69
26. Sojitra Nagar Panchayar, Sojitra	1.11.69
27. Dakor Nagar panchayat, Dakor	1.1.70
28. Kathalal Nagar Panchayat, Kathalal	1.8.78

Name of City/Town	Date of implementing of the shop Act
-------------------	--------------------------------------

MEHSANA DISTRICT :-

29. Patan Municipality, Patan	1.3.50
30. Unza Municipality, Unza	15.1.57
31. Mehsana Municipality, Mehsana	1.1.54
32. Sidhpur Municipality, Sidhpur	15.9.50
33. Kalol Municipality, Kalol	1.5.55
34. Vadnagar Nagar Panchayat, Vadnagar	1.5.53
35. Visnagar Municipality, Visnagar	1.3.51
36. Kadi Municipality, Kadi	15.11.52
37. Kheralu Nagar Panchayat, Kheralu	1.10.61
38. Chanasma Nagar Panchayat, Chanasma	1.3.61
39. Harij Gram Panchayat, Harij	1.10.65
40. Vijapur Nagar Panchayat, Vijapur	1.3.67
41. Mansa Nagar Panchayat, Mansa	1.12.67
42. Dhinoj Gram Panchayat, Dhinoj	1.7.68

SABARKANTHA DISTRICT :-

43. Himatnagar Nagar Panchayat, Himatnagar	1..159
44. Modasa Nagar Panchayat, Modasa	15.9.69
45. Idar Nagar Panchayat, Idar	1.1.61
46. Dhansura Gram Panchayat, Dhansura	1.7.64
47. Vadali Gram Panchayat, Vadali	1.8.64
48. Prantij Nagar Panchayat, Prantij	1.9.64
49. Talod Gram Panchayat, Talod	1.7.65
50. Khedbrama Gram Panchayat, Khedbrama	1.3.77
51. Malpur Gram Panchayat, Malpur	1.3.79
52. Gabat Gram Panchayat, Gabat	1.7.80

BANASKANTHA DISTRICT :-

53. Palanpur Municipality, Palanpur	16.10.50
54. Deesa Nagar Panchayat, Deesa	15.10.54
55. Radhanpur Nagar Panchayat, Radhanpur	1.4.65

Name of City/Town	Date of implementing of the shop Act
-------------------	--------------------------------------

SURAT DISTRICT :-

56. Surat Municipal Corporation, Surat	11.1.49
57. Vyara Nagar Panchayat, Vyara	1.6.54
58. Bardoli Nagar Panchayat, Bardoli	1.6.68
59. Udhana Gram Panchayat, Udhana	1.8.71
60. Mandvi Nagar Panchayat, Mandvi	1.4.78

BULSAR DISTRICT :-

61. Bulsar Municipality, Bulsar	11.1.49
62. Navsari Municipality, Navsari	1.3.50
63. Bilimora Municipality, Bilimora	1.6.50
64. Dharampur Nagar Panchayat, Dharampur	1.4.65
65. Vapi Nagarpanchayat, Dharampur	1.3.66
66. Gandevi Nagarpanchayat, Gandevi	1.6.66
67. Pardi Nagarpanchayat, Paradi	1.11.66
68. Chikhli Nagarpanchayat, Chikhali	9.6.72
69. Vapi Industrial Area.	1.11.80

PANCHMAHAL DISTRICT :-

70. Godhra Municipality, Godhra	11.1.49
71. Dahod Municipality, Dahod	11.1.49
72. Lunawada Nagarpanchayat, Lunawada	11.11.58
73. Devgagh baria, Nagarpanchayat, Devgagh baria.	1.10.64
74. Santarampur Gram Panchayat, Santarampur	1.8.65
75. Jhaold Nagarpanchayat, Zalod	1.8.66
76. Sahera Nagarpanchayat, Sahera	1.4.78
77. Halol Nagar Panchayat, Halol	1.6.78

BARODA DISTRICT :-

78. Baroda Municipal Corporation, Baroda	4.10.49
79. Dabhoi Municipality, Dabhoi	1.6.52
80. Padra Nagarpanchayat, Padra	1.8.60
81. Karjan gram Panchayat, Karjan	1.2.62
82. Chhota Udepur Nagar Panchayat	1.10.80

Name of City/Town	Date of implementing of the shop Act
-------------------	--------------------------------------

BROACH DISTRICT :-

83. Broach Municipality, Broach	11.1.49
84. Ankleshwar Municipality, Ankleshwar	11.1.49
85. Jambusar Nagar Panchayat, Jambusar	1.5.50
86. Rajpipla Municipality, Rajpipla	1.12.50
87. Amod Nagar Panchayat, Amod	1.4.78

JAMNAGAR DISTRICT :-

88. Jamnagar Municipal, Jamnagar	4.2.55
89. Khambhalia Nagarpanchayat, Khambhalia	1.2.59
90. Bhanwad nagarpanchayat, Bhanwad	1.3.61
91. Kalwad Gram Panchayat, Kalwad	1.6.66
92. Dwarka Nagar Panchayat, Dwarka	1.4.68
93. Mithapur	1.4.77
94. Jamjodhpur NagarPanchayat, Jamjodhpur	1.4.77
95. Salaya Nagar Panchayat, Salaya	1.12.77
96. Sikka Gram Panchayat, Sikka	1.12.79
97. Dhrol Nagar Panchayat.	1.8.80

RAJKOT DISTRICT :-

98. Rajkot Municipal, Rajkot	4.2.55
99. Morbi Municipality, Morbi.	4.2.55
100. Gondal Municipality, Gondal	4.2.55
101. Jetpur Mincipality, Jetpur	4.2.55
102. Dhoraji Municipality, Dhoraji	4.2.55
103. Upleta Municipality, Upleta	4.2.55
104. Bhayavadar, Nagar Panchayat, Bhayavadar	1.8.61
105. Wankaner Municipality, Wankaner	1.6.66

SURENDRANAGAR DISTRICT :-

106. Surendranagar mincipality, Surendranagar	4.2.55
107. Dhangadhra Municipality, Dhangadhra	4.2.55
108. Wadhwan Municipality, Wadhwan	4.2.55
109. Limbadi Municipality, Limbdi	1.6.56
110. Patadi Nagarpanchayat, Patadi	1.7.72
111. Thanghadh Nagarpanchayat, Thangadh	1.11.76

Name of City/Town	Date of implementing of the shop Act
-------------------	--------------------------------------

BHAVNAGAR DISTRICT :-

112. Bhavnagar Municipal Corporation, Bhavnagar	4.2.55
113. Mahvwa Municipality, Mahuva	4.2.55
114. Saverkundla Municipality, Savarkundla	1.9.55
115. Botad Municipality, Botad	1.10.55
116. Palitana Municipality, Palitana	16.12.55
117. Sihor Nagar Panchayat, Sihor	1.1.65
118. Taloya nagar Panchayat, Talaya	1.10.71
119. Gadhada NagarPanchayat, Gadhda	1.4.76
119A.Gariyadhar Nagarpalika Area	2.10.2003

JUNAGADH DISTRICT :-

120. Junagadh Municipality, Junagadh	4.2.55
121. Porbandar Municipality, Porbandar	4.2.55
122. Veraval Municipality, Veraval	4.2.55
123. Mangrol Municipality, Mangrol	1.6.56
124. Una Nagarpanchayat, Una	1.4.58
125. Vanthali Nagarpanchayat, Vanthali	1.12.59
126. Keshod Nagarpanchayat, keshod	1.12.58
127. Bontva Nagarpanchayat, Bontva	1.3.61
128. Manavader Nagarpanchayat, Manavader	1.5.61
129. Visavadar Gram panchayat, Visavadar	1.6.62
130. Mehdarada Gram Panchayat, Mehdrada	1.4.67
131. Kutiyana Nagar Panchayat, Kutiyana	1.3.70

AMRELI DISTRICT :-

132. Amreli Municipality, Amreli	1.3.58
133. Kodinar Nagar Panchayat, Kodinar	1.12.60
134. Bagasara NagarPanchayat, Bagasara	1.11.60
135. Jafrabad Gram Panchayat, Jafrabad	1.5.61
136. Rajula Nagar Panchayat, Rajual	1.10.56

KUTCH DISTRICT :-

137. Bhuj Borough Municipality, Bhuj	1.5.68
138. Gandhidham Municipality, Gandhidham	1.10.63
139. Anjar Municipality, Anjar	1.1.64
140. Mandvi Municipality, Mandvi	1.1.64
141. Bhachau Gram Panchayat, Bhachau	1.4.77
142. Shree Raphar Muncipal Borough Rapar	1.7. 2004

APPENDIX - II**SHOPS OR COMMERCIAL ESTABLISHMENT - NEW MINIMUM WAGES RATE**

Labour and Employment Department

Notification, Sachivalaya, Gandhinagar.

Dated: 21st March, 1994

Minimum Wages Act, 1948

No.KHR / 48 / MWA / 1089 / 344 / M (2) :- WHEREAS by Government Notification, labour and employment Department No. KHR - 330 - MWA -1089-344-M-2, dated the 20th October, 1989, which was published at pages 33/1 to 33/5 in the Gujarat Government Gazette, Extraordinary No.33 PartI-L dated the 20th October, 1989, the Government of Gujarat gave not less than two months notice of its intention to revise the minimum rates of wages in respect of the employees employed in any shop or commercial establishment (herein after referred to as "the said Scheduled Employment"), in the whole of the State of Gujarat;

AND WHEREAS, the objections and suggestions received from the public in respect of the said notification have been considered by the Govt.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 3 read with sub section (20 of section 5 and clause (1) of subsection (1) of section 4 of the Minimum wages Act, 1948 (XI of 1948) and after consulting the Minimum wages Advisory Board, the government of Gujarat hereby with effect on and from the 21st March, 1994 revises the minimum rates of wages fixed under Government Notification, Labour and Employment Department No. KHR-770-MWA -3281-40084 (1) -M-2, dated the 7th December, 1983, in respect of the employees employed in the said scheduled employment in the whole of the State of Gujarat and in supersession of the rates revised under the aforesaid Government Notification refixes them so as to consist of,

- (a) The basic rates of wages set out in column(3), (4) (5) and (6) (7) (8) of the schedule appended hereto in respect of zones specified in these columns as the basic rates payable by the day by day and by the month respectively in such zones to the classes of the employees mentioned against them in column (2) thereof, and
- (b) a special allowances, and directs that so long as the notification is in force, the rates of such special allowances shall be adjusted by the competent authority at the interval of every six months commencing from the 1st October, and the 1st April on the basis of the average cost of living index number for the preceeding period of six months ending on the 30th June, and 31th June, and 31st December respectively in such manner that;
 - (i) for the rise of every five points over the cost of living index number 1040 or over any such number which is greater than 1040 applicable to the employees in the said schedule employment, special allowance payable in addition to the basic rates of wages shall be Rs.0.20 per day and Rs.5.20 per month;

- (ii) for the fall of every five points below any cost of living index number which is not less than 1040 the special allowances shall be reduced at the rate of Rs. 0.20 per day or Rs.5.20 per month.

PROVIDED that the rates of special allowance shall be first adjusted at the interval of the period of six months commencing from the 1st April, 1994.

SCHEDULE

sr. No.	Class of employees	Rates payable by the day for Different zones			Rates payable by the month for different zones		
		Zone1	Zone2	Zone3	Zone1	Zone2	Zone3
1	2	3	4	5	6	7	8
I.	Class I-A	46.00	43.90	40.90	1196.00	1141.40	1063.40
1.	Manager						
2.	Head Munim						
3.	Secretary						
4.	Head Cashier						
5.	Stenographer						
6.	Head clerk						
7.	Office Superintendent						
8.	Head Salesman						
9.	Employee who works efficiently by exercising considerable independent Judgement discharges his duties with responsibility and possesses thorough and comprehensive knowledge of trade, craft or industry in which he is employed.						
10.	Employees by whatever name called doing work of the nature done by persons falling under any of the foregoing enteries.						
II.	Class I-B	43.90	40.90	39.70	1141.40	1063.40	1032.20
1.	Junior Clerk						
2.	Bill Clerk						
3.	Ughrani clerk						
4.	Delivery Clerk						
5.	Typist.						
6.	Munim.						

1	2	3	4	5	6	7	8
7.	Cashier						
8.	Accountant						
9.	Salesman						
10.	Sales clerk.						
11.	Compounder						
12.	Driver						
13.	Employee who does the work of a well defined routine nature and discharges the duties assigned to him independently and with responsibility.						
14.	Employees by whatever name called doing work of the nature done by persons falling under any of the foregoing enteries.						
III.	Class-II	41.80	39.70	39.20	1086.80	1032.20	1019.20
1.	Packer						
2.	Builers.						
3.	Tolats.						
4.	Shops Assistants						
5.	Employee who performs duties assigned to him of a relatively narrow job involving routine operations.						
6.	Employees by whatever name called doing work of the nature done by persons falling under any of the foregoing enteries.						
.IV.	Class-III	39.70	39.20	38.80	1032.20	1019.20	1008.80
1.	Peon						
2.	Messenger						
3.	Watchmen						
4.	Mazdoor						
5.	Employee who performs duties of simple nature and physical exertion						
6.	Employees by whatever name called doing work of the nature done by persons falling under any of the foregoing enteries.						

Explanation :- For the purpose of this notification.

- I. (a) Zone -I shall comprise the areas within the limits of the Municipal Corporation Constituted under the Bombay Provisional Municipal Corporations Act, 1949, and the area falling within a peripheral distance of 10 kilometers from the aforeaid limits.
- (b) Zone -II shall comprise all the areas in the State of Gujarat (other than those included in Zone -I) within the limits of the towns and cities having population of 1 lakhs and above according to the figures of latest census and the areas falling within peripheral distance of 5 kilometers form the aforesaid limits.
- (c) Zone -III shall compris all the areas in the State of Gujarat other than those included in zone I and II.
- II. No. employee shall get less wages (including special allowance) than that would have been payable under the Government Notification, Labour and Employment Department No.KHR-770 -MWA -3281-40084 (i) -M-(i), dated the 7th December, 1983.

SPECIAL ALLOWANCE:- PER DAY

1-10-97 to 31-3-98,	Rs 25-80 per day
1-4-98 to 31-9-98,	Rs. 27-49 per day
1-10-98 to 31-3-99,	Rs. 30-60 per day
1-4-99 to 31-9-99,	Rs. 38-80 per day
1-10-99 to 31-3-2000,	Rs. 37-00 per day
1-4-2000 to 30-9-2000,	Rs. 41-00 per day
1-10-2000 to 31-3-2001,	Rs. 41-80 per day
1-4-2001 to 30-9-2001,	Rs. 43-40 per day
1-10-2001 to 31-3-2002,	Rs. 44-80 per day
1-4-2002 to 30-9-2002	Rs. 47-80 per day
1-10-2002 to 31-3-2003	Rs. 48.20 per day
1-4-2003 to 30-9-2003	Rs. 50.60 per day
1-10-2003 to 31-3-2004	Rs. 51.40 per day
1-4-2004 to 30-9-2004	Rs. 52.20 per day
1-10-2004 to 31-3-2005	Rs. 53.40 per day
1-4-2005 to 30-9-2005	Rs. 57.00 per day
1-10-2005 to 31-3-2006	Rs. 55.80 per day
1-4-2006 to 3--9-2006	Rs.
1-10-2006 to 31-3-2006	Rs.

APPENDIX-III**Employment in any Residential Hotel, Restaurant or Eating Houses
as Defined in the Bombay Shops and Establishments Act, 1948****LABOUR AND EMPLOYMENT DEPARTMENT****Notification**

Sachivalaya, Gandhinagar, dated 25th April, 1997

MINIMUM WAGES ACT, 1948.

No. KHR/127/MWA/1097/1619(37)/M(2) : Whereas by Government Notification, Labour and Employment department No. KHR-172-MWA-1089-933-M (2), dated the 6th August, 1992, which was published in the Gujarat Government Gazette, Extraordinary No. 33 Part I-L. the Government of Gujarat gave not less than two months notice of its intention to revise the minimum rates of wages in respect of the employment in any Residential Hotel, Restaurant or Eating House as defined in the Bombay Shops and Establishment Act, 1948, an employment covered under the Schedule to the said Act (hereinafter referred to as "the said Scheduled Employment"); in the whole of the State of Gujarat :

AND WHEREAS, the objections and suggestions received from the public in respect of the said notification have been considered by the Government :-

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 3 read with sub-section (2) of section 5 and clause (i) of sub-section (1) of Section 5 of the Minimum Wages Act, 1948 (XI of 1948) and after consulting the Minimum Wages Advisory Board, the Government of Gujarat hereby with effect on and from the date the 1st May, 1997 refixes the minimum rates of wages as revised under Government notification No. KH/SH/5109/MWA/2970/C-3671 (i) T, dated the 27th October, 1972, in Social Welfare and Tribal Development Department, appended to schedule to this notification in respect of employees employed in the Said Scheduled employment in the whole of the State of Gujarat and in supersession of the rates revised under the aforesaid Government Notification, refixes them so as to consist of ;

- (a) The basic rates of wages as set out in different column of the Schedule appended hereto in respect of Zones specified in these columns as the basic rates payable by the day respectively in such zones to the classes of the employees mentioned against them in different column thereof; and
- (b) A special allowance, and directs that so long as the notification is in force, the rates of such special allowance shall be adjusted by the competent authority at the interval of every six months commencing from the 1st October, and the 1st April on the basis of the average cost of living index number for the proceeding period for six months ending on the 30th June, and 31st December respectively in such manner that :

- (i) For the rise of every five points over the cost of living index number 1645 or over any such number which is greater than 1645 applicable to the employess in the said Schedule employment, special allowance payable in addition to the basic rates of wages shall be Rs. 0.20 paise per day.
- (ii) For the fall of every five points below any cost living index number which is not less than 1645, the special allowance shall be reduced at the rate of Rs. 0.20 paise per day.

Provided that the rates for special allowance shall be first adjusted at the interval of the period of six months commencing from the 1st October, 1997.

SCHEDULE

No. 37

Employment in any Residential Hotel, Restaurant or Eating House as Defined in the Bombay Shops and Establishment Act, 1948.

Sr. No.	Classes of Employees	Rates payable per day (Rs.)		
		Zone-I	Zone-II	Zone-III
1	2	3	4	5
I. Skilled		60.50	60.00	59.50
	Samosawala, Faloodawala, Omletwala, Chef-Tea-Maker, Dosawala, Tandur Rotiwala, Bhajiwala, Ice-Cream Maker, Sweet Meat or Farsan Maker (Malwala), Wimuman, Head Cook or Cook, Maharaj, Aachari, Ustad, Babarchi, Chanasama, Manager, Accountant, Clerk Store Keeper (Who keeps the account of the store), Mistry, Cashier, Supervisor, Receptionist, House keeper, Head Waiter, Butler, Steward, head Pantryman, Telephone Operator, Electrician, Carpenter, tailor, gardener who is doing tree work of planting.			
II. Semi Skilled		59.70	59.20	58.90
	Assistant Manager, Assistant Malwala, Rotiwala, Chapatiwala, puriwala, Pantryman who prepares Sandwiches, Toast etc. Tea and Coffee Maker (Ordinary), Assistant Cook, Marketman,			

1	2	3	4	5
	Pumpman, Gas-filer, Syrup and Lassi-wala and Salesman, Vendor (Keeping Account), Orderwala (shouting Bills or writing Bills), Kababwala, Bhelpuriwala.			
III. Unskilled		58.70	58.20	57.90
	Gate Boy, Game Boy, Bell Boy, Room Boy, Tea Boy, Glass Boy, Dish Boy, Water Boy, Order Boy, Pantry Boy, Kitchen Boy, Office Boy, message Boy, Soda-Fountain Boy, Billiard Boy, Cleaner, Sweeper, Hamal, Jamadar, Coolie, Majdoor Chhokara, Platewala, Pani-Kachumerwala, Paniwala, Cupwala, Chowkiwala, Room Boy not doing the work of Waiter, Dishwala, Moriwala, Kholiwala, Vasanwala, Dish-Filler, grain Cleaner man or Female, Miscellaneous Worker e.g. Doing all or some of the jobs of an unskilled nature, Vendors (Ferias) or Babarwalas not working on commission basis and not entrusted with the responsibilities of accounts.			

Explanation for the purpose of this notification :

- (1) (a) Zone I shall comprise the areas within the limits of the Municipal Corporation as constituted under the Bombay Provincial Municipal Corporation Act, 1949 and the areas falling within a peripheral distance of ten kilometers from the aforesaid limits.
- (b) Zone II shall comprise the areas within the limits of towns and cities having a population of one lakh and above according to the figures of latest census available and the areas falling within a peripheral distance of five kilometers from the above said limits.
- (c) Zone III shall comprise all the areas in the State of Gujarat other than those not included in Zone I and Zone II.
- (2) In case of an employed employed on piece rate basis, the minimum rate of wages shall be so fixed that the minimum rates of wages plus special allowance payable to him for the number of hours of work which constituted normal working day

shall not be less than the daily wages fixed for the class of employees to which he belong.

- (3) The University Campus, The Agricultural University Campus and The Cantonment Area shall pay the Minimum rates of wages of the Schedule employment of the nearest Zone.
- (4) The worker employed on part time basis shall be paid 50 per cent of the minimum rates of wages plus special allowance if he works upto four hours and if he works more than four hours, he shall be paid full minimum rates of wages plus special allowance.
- (5) The employees employed by contractor or other agencies in the scheduled employment shall not be paid less than wages plus special allowance payable to the category of the employees to which they belong.
- (6) The perquisites or, facilities given to an employee shall not be withdrawn and no deduction shall be made in respect of such perquisites or facilities given to an employee after fixation of minimum rates of wages plus special allowance.
- (7) Male and femal employees should be given equal wages for equal work.
- (8) The minimum rates of wages payable to an apprentice employed on skilled or semi-skilled work shall be 75 per cent of the minimum rates of wages fixed for the class of employees to which he belongs plus special allowance for the first three months. After three months they shall be paid in full.

By order and in the name of the Governor of Gujarat.

J. M. PARMAR

Deputy Secretary to Government of Gujarat,

Labour and Employment Department.

SPECIAL ALLOWANCE : PER DAY

1-10-97	to 31-3-98	Rs. 1-60	1-10-2002	to 31-3-2003	Rs. 24.00
1-04-98	to 31-9-98	Rs. 3-20	1-4-2003	to 30-9-2003	Rs. 26.40
1-10-98	to 31-3-99	Rs. 6-40	1-10-2003	to 31.3.2004	Rs. 27.20
1-04-99	to 31-9-99	Rs. 14-60	1-4-2003	to 30.9.2004	Rs. 28.00
1-10-99	to 31-3-2000	Rs. 12.80	1-10-2004	to 31. 3.2005	Rs. 29.20
1-04-2000	to 31-9-2000	Rs. 16.80	1-4-2005	to 30.9.2005	Rs. 32.80
1-10-2000	to 31-3-2001	Rs. 17.60	1-10-2005	to 31.3.2006	Rs. 31.60
1-04-2001	to 31-9-2001	Rs. 19.20	1-4-2006	to 30.9.2006	Rs.
1-10-2001	to 31-3-2002	Rs. 20.60	1-10-2006	to 30.9.2006	Rs.
1-4-2002	to 30-9-2002	Rs.23.60	1-4-2007	to 30.9.2007	Rs.

APPENDIX - III -A**THE GUJATAT HOTEL WORKERS WAGES IN KIND (COMPUTATION OF CASH VALUE) RULES, 1999**

WHEREAS draft rules for the Gujarat Hotel worker's wages in kind (Computation of cash value) Rules, 1999 were Published as required by section 30 of the minimum wages Act, 1948 in its application to the State of Gujarat at page No.14/ 1 to 14/6, Part I-L, dated May, 27,1999 under Government notification Labour and Employment Department no. KHR-83-MWA-1097-833-M92), dated 25th May, 1999 inviting objections and suggestions from all persons likely to be affected thereby, till 24th . 1999

AND WHEREAS the objections and suggestions received from the public on the said draft have been considered by the Government and obtained advice on these objections and suggestions from Minimum Wages Advisory Board by Government.

Now, therefore in exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (XI of 1948) in its application to the State of Gujarat, the Government of Gujarat hereby with effect on and from the dated 1st February-2001 make the following rules namely-

(1) **Short Title** : These rules may be called the Gujarat Hotel Worker's wages in king (computation of cash value) Rules, 1999

(2) **Definitions** : In these rules unless the context otherwise requires :

- (a) **"Hotel worker"** means a person employed in any residential Hotel, Restaurant, or eating house in any of the areas specified in column 1 of the schedule, in respect of whom minimum rates of wages are fixed under Government Notification, Labour and Employment Department No. KHR-127-MWA-1097-1619 (37) - M (2), dated the 25th April, 1997;
- (b) **"Meal"** means a full and wholesome meal consisting of items of good such as rice and dal, chapatis, bhakhari or bread, vegetable or mutton or fish or curry;
- (c) **"Schedule"** means the schedule appended to these rules;
- (d) **"Basic rates of wages"** means the amount payable to employees as per the clause (a) of the Government Notification, Labour and Employment Department No. KHR-127-MWA-1097-1619 (37) M (2), dated 25th April, 1997;
- (e) **"Shops Act"** means the Bombay shops and Establishment Act, 1948;
- (f) **"Special allowance"** means the amount declared by competent authority as per the provision specified under clause (b) of the Government Notification Labour and Employment Department No. KHR-127-MWA-1097-1619-M (2) dated 25th April 1997;
- (g) the expression **"Residential Hotel", "Restaurant" and "Eating House"** Shall here the meaning assigned to them in the shops Act.

- (3) **Computation of cash value :** The cash value of the minimum rates of wages to be paid to hotel workers partly in kind per month (that in the +[***] meal, nasta or a tea) under Government Notification, Labour and Employment Department No. KHR-127-MWA-1097-1619 (37) - M (2), at 25th April, 1997 shall be as shown, in column No. (2) for the area as shown in column. (1) of the Schedule to this notification.

(4) **Repal and savings :** The Gujarat Hotel worker's wages in kind (Computation of cash value) Rules, 1973 are hereby repealed :

PROVIDED the anything done or any action taken under any of the rules so repeated shall be deemed to have been done or taken under the correrpodng provisions of these rules.

SCHEDULE

Areas as describe in the Explanation to Government Notification, Labour and Employment Department No. KHR-127-MWA-1097-1619- (37)-M (2) dated 25-4-97	Cash value of +[***] meal nasta or tea served during a month
1	2
1 Zone-I	*[(i) (19 percent) of total wages (basic rates of wages plus special allowance when one meals is served daily.
2 Zone-2 & Zone-3	(ii) 6.65 percent of total wages (basic rates of wages plus special allowance) when one meal is served daily. (iii) 2.85 percent of total wages (basic rates of wages puls special allowance) when one nasta is served daily. (iv) 1.42 percent of total wages (basic rates of wages plus special allowances) when one tea is served daily.

[Noti. No. KHR-30-MWA-1097-833-m (2), dt. 23-1-2001.

G.G.G. Exty, pt. I.L.No. 13 dt 30-1-2001, P. 13-1] and amended by Noti. No KHR-2001-65-MWA-1097-833-M (2), dt 9-3-2001-G.G.G, Exty, part I.L. No. 15, dt 13-3-2001, P. 15-I]

+ The Words "Free residential accomodation" deleted.

* In the Column 2 item No.(1),(2) & (3) of the Schedule of the notification substituted by Noti.No KHR/217/2001-MWA - 1097-833-M(2) dt 15-12-01

APPENDIX-IV**Service Rules for the Employees Working at a Shop/Establishment Where Industrial Employment (Standing Orders) Act is Not Applicable.****1. Applicability**

These Service Rules shall be called the Hemdip Agencies Employment Employees' Service Rules and shall be applicable to all the Employees of the Hemdip Agencies at Baroda.

2. Classification of Employees

Employees shall be classified as (i) Permanent (ii) Probationers (iii) Temporary (iv) Casual and (v) Fixed Period Employee.

- (i) A **"Permanent"** Employee is an Employee who has been engaged on permanent basis and includes the person or persons who has been confirmed as permanent workman in writing after satisfactory completion of minimum probationary period of six months.
- (ii) A **"Probationer"** is an employee who is provisionally employed to fill a permanent vacancy in a post and has not been confirmed as permanent by the Management. Ordinarily, the period of probation shall be six months and if the Management considers that further probationary period is necessary to judge the merit of the employee, the period of probation can be extended upto one year, No probationer shall be classified as permanent unless he has been so confirmed in writing by a letter of the Management.
- (iii) A **"Temporary"** employee is an employee who has been engaged for a specific period or for a specific job of a temporary nature.
- (iv) A **"Causal"** employee is an employee whose employment is that of a casual nature.
- (v) A **"Fixed Period"** employee is one who is engaged either by agreement or by an appointment letter for a fixed period and whose service will come to an automatic and without notice or compensation.

3. Appointment

All appointments shall be made in the name of the Shop/Establishment under the order of the Director/Manager/General Manager/Partner/Proprietor and all such appointments shall be signed by him or by any officer or official of the concern/firm/company. No other letter of appointment except as issued according to these rules shall be held as valid and binding on the management.

4. Termination of Employment

- (a) The service of a **permanent** employee may be terminated by one month's notice or pay in lieu of notice.

- (b) The service of a **probationer** may be terminated at any time without notice and without assigning any reasons.
- (c) No temporary employee, whether monthly rated, weekly rated or piece rated, shall be entitled to any notice or pay in lieu thereof, if his services are terminated. The services of a **temporary** employee shall automatically terminate on the completion of the work or the specified period for which he is engaged.
- (d) The services of a **casual** employee may be terminated at any time without notice and without assigning any reason.
- (e) The services of a '**Fixed Period Employee**' unless terminated earlier will come to an automatic end on the expiry of the fixed period and he will not be entitled to either notice or pay in lieu of notice or retrenchment compensation.

Where the employment of any person is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day his employment is terminated.

5. Hours of Work

So far as the period and hours of work and holidays are concerned, they will be governed by the Bombay Shops & Establishments Act, 1948 applicable to the State of Gujarat.

6. Advance of Pay

Normally advances of pay are not authorised but in emergency cases such as marriage, funerals, serious illness of the employee or his family members, advance upon the extent of his 3 month's pay may be granted once a year which shall be deducted from the salary of the employee. However, deduction of advance shall not be more the 1/4 of the monthly salary of an employee.

7. Punctuality

Every employee will observe punctuality and if any employee is late in attending or in leaving the office 15 minutes after or before the opening and closing hours fixed as the case may be, he shall be treated on leave for half a day and if during one month such number of contingencies have been more than three or being repeated, the employee shall be liable for habitual late coming or leaving earlier. If an employee is late in attending the establishment or leaving before time, disciplinary action can be taken against him.

8. Casual Or Sickness Leave

- (a) Every employee shall be entitled in every calendar year to casual or sickness leave with wages for a total period of... days but not exceeding four days at a time.

and not exceeding four days in a month. In special cases, the management may allow more than 4 days leave in any month.

- (b) Leave admissible under clause (a) shall not be accumulated.
- (c) The employee must always obtain previous permission for casual leave but when it is not possible to do so he shall apply in writing as soon as practicable for the grant of such leave and management may condone his absence from duty without previous permission where it appears that absence was caused by some unavoidable circumstances beyond the control of the employee.
- (d) The management may refuse to sanction casual leave of an employee on grounds of exceptional pressure of work or on some other grounds in the interest of work or that the reason for taking leave does not appear to be satisfactory.
- (e) When the application for leave is on account of sickness of the employee, his wife, or child and the management is not satisfied about the correctness of assertion set out therein it may either (a) require the employee to submit a medical certificate in support thereof from a registered medical practitioner or (b) get the employee or the wife of or the child as the case may be examined at the Management's own expenses by a registered medical practitioner (lady doctor in case of a female employee) for the purpose of verifying the facts mentioned in the application and may grant or reject the application on the basis of the certificate of such medical practitioner.

9. Privilege/Earned Leave

- (a) Every employee shall be entitled after....months of continuous employment to privilege leave with full wages for a total period of fifteen days.
 - (i) Provided that where an employee has completed a continuous period of four months, he shall be entitled to five days leave for every such completed period.
 - (ii) Provided further that a watchman or caretaker who has been in continuous employment for a period of one year shall be entitled to thirty days of privilege leave.
- (b) Privilege leave as admissible under clause (a) may be accumulated upto maximum period of fortyfive days.
- (c) An application for privilege leave should ordinarily be made in writing fifteen days in advance.
- (d) Privilege leave cannot be claimed by the employee as a matter of right, and can be reused due to exigencies of work.

Note: The quantum of leave and qualifying period is in accordance with Bombay Shops & Establishments Act hence necessary modifications can be made in view of the provisions of the particular statute of a State or a Union Territory.

10. Norms of Discipline

- (a) Every employee shall, in accordance with the policy laid down by the management perform the duties entrusted to him from time to time.
- (b) Except to his direct superior authorities, no employee shall divulge any secret and shall be bound to keep in secret all matters pertaining to the affairs of the Management.
- (c) All books, records, goods and articles belonging to the management shall remain in the office premises of the Management and the employee shall see that these are safely kept and maintained at the appropriate places and godown.
- (d) No employee shall remove even temporarily any of the books, records, goods, papers etc. from the premises of the establishment to any other place without the previous permission of the Proprietor/Manager/Director/Partner in writing.
- (e) Every employee shall during the tenure of his service devote his whole time and attention to the business affairs of the establishment in all respects, conform to directions and regulations made by the superior authorities and obey their orders and shall faithfully serve and use his utmost endeavour to promote the interest thereof and serve at such places and in such capacity as the Management may from time to time decide or direct.
- (f) No employee shall unless previously authorised by the management or the competent authority in this behalf in writing receive, collect or place any cash, property and assets of the management or sign on behalf of the management or pay management or pay other corporate or non-corporate business managed by the management.
- (g) Any employee found disregarding any of the above provisions relating to receipt, collection or realisation of cash, property or other assets of the management or signing on behalf of the management, any receipt of cash shall render himself liable to immediate disciplinary action in addition to such other legal action as the management may be advised to take against him.

11. Obligations

- (a) Every employee shall observe courtesy and politeness.
- (b) No employee shall enter into monetary dealings with his colleagues, subordinates, clients or customers nor shall he accept any present from them.
- (c) No employee shall use the Establishment's name or properties for his own purpose and benefits, except when permitted to do so by the management in writing.
- (d) Every employee shall present himself in his seat/duty point at the prescribed time.

12. Absence and Abandonment of Service

If an employee is found absent during working hours from his place of work, he shall be liable to be treated as absent from duty. If an employee is absent from work for 8 consecutive days and remains absent after the expiry of leave originally granted or subsequently extended, it will be open to the management to draw a presumption that he has abandoned his employment and has lost lien on the job and his/her name will be struck off from the master rolls.

13. Transfer

Every employee shall be liable to be transferred from one place to another and from one department to another or from one concern to another sister concern whether located in the same place or else where and whether existing or coming into existence provided that such transfer does not entail reduction in total wages. The Management may depute any employee for outstation duty in connection with the work or business of the management.

14. Increments and Promotions

- (a) Promotion, increment etc. of an employee will entirely depend upon the performance of his work ability and satisfaction he gives to the management in discharge of his duties. The Proprietor/Partner/Director/Manager on the recommendation of the head of the departments will be the final authority to judge the ability of an employee or the satisfaction given by him to the management in discharge of his duties or his being otherwise useful to the management.
- (b) Unless otherwise agreed upon in the letter of appointment increment will be granted with effect from the date from which it is due at least after one year of confirmed service at the sole discretion of the management and also depending upon the prosperity of the Company/Firm/Concern.

15. Misconducts

Without prejudice to the general meaning of the form, amongst other the following acts and omission shall be treated as misconduct;

- (a) Theft, fraud and dishonesty in connection with the establishment property.
- (b) Demanding, accepting or offering bribe or any illegal gratification whatsoever.
- (c) Drunkenness, fighting, riotous or disorderly or indecent behaviour within the premises of the establishment.
- (d) Wilful insubordination or disobedience, whether alone or in combination with others to any lawful and reasonable order of a superior.
- (e) Sleeping on duty.

- (f) Material mis-statements made on employment in the application for employment.
- (g) Anywhere within the establishment, causing or threatening to cause mental and/or physical pain or injury to other employee or workman, either alone or in collusion with others.
- (h) Committing any act likely to harm or endanger the Establishments property or likely to interfere with his own work and/or earning capacity or that of any other employee.
- (i) Sabotage.
- (j) Conviction for any criminal offence involving moral turpitude.
- (k) Refusal to accept any communication or charge-sheet form the firm/establishment.
- (l) Habitual negligence or neglect of work or production or rejection in excess of permissible percentage.
- (m) Smoking while on duty.
- (n) Habitual indiscipline or loitering.
- (o) Refusal to work on another job, from one shift to another, from one establishment to another, and from one station to another.
- (p) Habitual irregularity for any reason whatsoever.
- (q) Gambling within the premises of the establishment.
- (r) Theft, fraud, or dishonesty in connection with the employer's business or property.
- (s) Leaving the Establishment without permission.
- (t) Engaging or abetting in abuse and physical violence or another workman or employee at any time or at any place.
- (u) Habitual absence without leave or overstaying leave.
- (v) Wilful damage or loss to employer's goods or property.
- (w) Holding of unauthorised meetings within the premises of the establishment.
- (x) Discourteous behaviour towards any body.

Note : (a) The above list is illustrative and not exhaustive.

- (b) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct after holding an enquiry into the matter and is given an opportunity to explain the circumstance alleged against him.

16. Suspension

- (i) The Management may place an employee under suspension :-
 - (a) Where a disciplinary proceeding against the employee is contemplated or in pending, or
 - (b) Where a case against the employee in respect of any criminal offence is under investigation, inquiry or trial :

Provided that an employee who is arrested for any criminal offence and is detained in custody or is held in detention under any law for the time being in force governing the preventive detention of persons suspected of involvement in activities prejudicial to the interest of the security of the State shall forthwith be placed under suspension and shall remain in suspension so long as he remains in detention.
- (ii) An order of suspension shall be in writing and shall take effect from the date of the order or such other date as may be specified therein.
- (iii) An order of suspension made under this rule shall remain in force until it is modified or reversed by the authority which made the order or by any authority to which that authority is subordinate.

17. Subsistence allowance

- (i) An employee under suspension shall be entitled to draw subsistence allowance equal to 50% of the monthly gross emoluments (comprising basic salary, dearness allowance, house rent allowance) drawn on the date immediately prior to the date on which the employee is suspended.
- (ii) Where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows :
- (iii) The amount of subsistence allowance may be increased to 75% of the emoluments referred to in sub-rule (1), if in the opinion of the said authority period of suspension has been prolonged due to the reasons to be recorded in writing, not directly attributable to the employee under suspension.
- (iv) The amount of subsistence allowance may be reduced to 25% of such emoluments if in the opinion of the said authority, the period suspension has been prolonged under suspension.
- (v) No subsistence allowance is payable to the employee unless the management is satisfied that the employee was not engaged in any other employment, business, profession or vocation during the period of suspension.

18. Treatment of period of suspension

- (i) When the suspension of an employee is held to be unjustified or not wholly justified, or when such an employee who has been dismissed, removed or suspended is reinstated, the Management whose decision shall be final, may grant to him for the period of his absence from duty.
- (ii) If the concerned employee is honourably acquitted and reinstated, the full pay and allowances which he would have been entitled to if he had not been dismissed, removed or suspended as reduced by the subsistence allowance already allowed to him.
- (iii) If otherwise, such proportion of pay and allowances as the authority may be an order in writing direct.
- (iv) In a case falling under clauses (i) and (ii) the period of absence from duty shall be treated as period spent on duty and in a case falling under clause (iii) the period of absence shall not be treated as period spent on duty, but the Management may in its discretion, grant leave for the period to the extent admissible to the employee under the rules and any period of absence which has not been treated as period spent on duty or on leave shall not count as service for any purpose and shall constitute a break in the service.
- (v) No order passed under this rule shall have the effect of requiring the employee to refund any part of the subsistence allowance paid to him.

19. Penalties

- (i) The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an employee :-
 - (a) Censure.
 - (b) Withholding of increments of pay
 - (c) Withholding of promotion.
 - (d) Recovery of the whole or part of any pecuniary loss caused by him to or the Management by his misconduct or negligences.
 - (e) Reduction to a lower grade or post or to a lower stage in a time scale :
 - (f) removal from service which shall not be a disqualification for future employment.
 - (g) Dismissal from service.
- (ii) The following shall not amount to a penalty within the meaning of this rule, namely :
 - (a) Stoppage of an employee at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar.

- (b) Non-promotion of an employee, whether in a substantive or officiating capacity, after consideration of his case, to a grade or post for promotion to which he is eligible;
- (c) Reversion of an employee officiating in a higher grade, or post to a lower grade or post, on the ground that he is considered to be unsuitable for such higher grade or post or on any administrative ground unconnected with his conduct;
- (d) Reversion of an employee on deputation to his parent organisation or department ;
- (e) Termination of service;
 - (i) of a temporary employee at any time before his confirmation;
 - (ii) of an employee appointed under a contract or agreement or a contract for a fixed period in accordance with the terms of such contract or agreement.

20. Procedure for imposition of penalties

- (i) No order imposing any penalty shall be made except after an enquiry held in accordance with these rules.
- (ii) Where it is proposed to hold an inquiry against an employee, the disciplinary authority shall frame charges against such employee and communicate them to him together with other material as may be necessary or relevant for the purpose of the enquiry and also inform him of the appointment of an enquiring authority for conducting the inquiries.
- (iii) At the enquiry the employee shall have the right to appear in person before the enquiry officer or to be represented by another employee.
- (iv) The proceedings of the enquiry may be recorded either in Gujarati or in English, as may be convenient to the enquiry officer or employee.
- (v) On the conclusion of the inquiry, if the disciplinary authority is satisfied after considering the report of the inquiring officer and the records of the proceedings that all or any of the charges against the employee have been proved, will award the appropriate furnished.
- (vi) In awarding any penalty to an employee under this rule, the authority imposing the penalty shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other extenuating or aggravating circumstances that may exist.
- (vii) The order imposing penalty shall be communicated to the employee.
- (viii) An employee who is dismissed or removed from service in accordance with the rules shall not be entitled to any notice or pay in lieu of such notice.

21. Common Proceedings

- (i) Where two or more employees are concerned in a case, the Management may direct that common proceedings shall be taken against all or some of them and, for this purpose, a common enquiry officer may be appointed to conduct the proceedings.
- (ii) Where different charges are framed against the same employee at different times, all or any of such charges may be enquired into by the same enquiry officer in common proceedings.

22. Consequence to Termination/Dismissal

An employee on termination of service with the management will hand over charge of all money, files, registers and other properties of the establishment in his possession on control and hand over possession of the flat/accommodation or quarters if any of the management or the employees/co-operative society allotted to him, the said flat/accommodation or quarters being deemed to have been occupied by him under league and licence of the management for convenience, performance of his duties and not as a tenant, in the event of failure on the part of the employee to hand over charge and possession of the management's properties and premises as aforesaid, the management shall be at liberty to forfeit the salary, security deposit and other dues if any, of such employee payable by the company/establishment, without any prejudice to its right of action which the management may have in law against such employees.

23. Retirement

- (a) An employee shall be liable to retirement on attaining the age of superannuation i.e. on attaining the age of 58/60 years at any time at the discretion of the management.
- (b) An employee shall be liable to be retired even earlier on medical grounds if he becomes physically or mentally unfit or otherwise unfit to discharge his duties efficiently to the entire satisfaction of the management.

The above service rules can be amended, altered or modified at any time.

DECLARATION BY THE EMPLOYEE

I have read/understood the above rules and undertake to abide by the same.

Date :

.....

Signature

.....

Signature : Manager/Competent Authority / Person

.....

For Hemdip Agency

Signature of the Surety

C.C. to : Account Department.

C.C. to : Production Manager for information.

APPENDIX-V**REGISTERS TO BE MAINTAINED UNDER ACT & RULE 23**

This rule lays down the registers are to be maintained by employers or manager of shops and commercial establishments residential Hotels, eating Houses, Theatres etc.

Shops and commercial establishments.

- (1) Register of employment in Form 'I' when the opening and closing hours and hours of interval are not uniform.
- (2) Register of employment in Form 'J' when the opening and closing hours and period of interval uniform.
- (3) Register of leave in Form 'N'.
- (4) Register of refusal of leave in Form 'F'
- (5) Register of lime-washing in Form 'G'
- (6) Leave Book in Form 'O'
- (7) Visit Book of inspector[as per rule 23-13(b)]

Residential Hotel, Restaurant, Eating House, Theatre of other place of public amusement or entertainment.

- (1) Register of employment in Form 'k', when the opening and closing hours and hours of rest are not uniform.
- (2) Register of employment in Form 'L' when the opening and closing hours and period of rest uniform.
- (3) Register of leave in Form 'N'.
- (4) Register of refusal of leave in Form 'F'.
- (5) Register of lime-washing in Form 'G'
- (6) Leave Book in Form 'O'.
- (7) Visit book of Inspector [As per rule 23-13(b)]

The following documents are to exhibited in the premises of establishment of various categories listed below.

Shops and Commercial Establishments.

- (1) Registration Certificate or Renewed Registration Certificate in Form 'C'.
- (2) a notice in Form 'M' specifying the day or days of the week on which the employee are to be given a holiday (This rules applies only to those shops and commercial establishments which are entitled the exemption under sec.18(1).
- (3) A notice containing the extracts of the act and rules in the language of the Majority of employees.

Residential Hotel etc.

- (1) Registration or Renewal registration Certificate in Form 'C'.
- (2) A notice in Form 'M' Specifying the day or days of the week on which the employees are to be given a holiday.
- (3) A notice containing the extracts of the act and rules in the language of the Majority of employees.

All employees are to be provided with a book called "Leave Book".

The Register and records and notice relating to any year shall be preseved until the end of the next year.

APPENDIX -VI**REGISTRATION AND RENEWAL UNDER ACT AND RULE - 5**

This rule prescribes the producure for registration and renewal of registration of establishment.

Procedure for registration.

(1) The Application for registration of an establishment is to be submitted by the employer in Form 'A'.

(2) The Application accompanied by the prescribed fees (as per schedule-I) shall sent within 30 days from the date mentioned in colomn 2 against each category of establishments in the schedule given below:-

Establishments	Time Limit
(A) Establishments existing in local areas mentioned in Schedule I on the date of which the Act comes to force.	30 days from the date on which the Act comes into force.
(B) Establishments existing in local areas on the date on which sec.7 comes into force in the local areas.	30 days from the date on which sec.7 comes into force in the local areas.
(c) New establishments	30 days from the date on which the establishment commences work.

(3) An establishment can registered for a period of one year or at the position of the employer for a period not exceeding three years, on payment of prescribed fees.

(4) An application for registration should accompany all relevant documents which will enable the Inspector to satisfy himself about the correctness of the statement furnished by the employer.

Renewal of Registration Certificate.

(1) An application for renewal of Registration Certificate accompanied by prescribed fees in to be submitted by the employer in form 'D'.

(2) The renewal application is to be submitted before a period not less than 15 days of the date of expiry of the Registration certificate or the renewal registration certificate.

(3) The Registration certificate can be renewed or renewed for a period of one year or at the option of the employer, for a period not exceeding three years, the fee payable shall be three times the amount of the rate specified in schedule -II

The fee to be paid along with the statement in Form 'A' (Schedule -I See rule -5)

(1) Commercial establishments employing ten or more employees	Rs.15=00
(2) Commercial establishments employing less than ten employees	Rs.10=00
(3) Shops employing ten or more employees	Rs.15=00
(4) Shops employing less than ten employees	Rs.10=00
(5) Residential hotels	Rs.15=00
(6) Restaurants and eating houses	Rs.15=00
(7) Theatres and other places of public amusements or entertainment	Rs.15=00
(8) Establishments engaging no employees	Rs.5=00

The fee for renewal of registration is prescribed in schedule II in Form D.

APPENDIX -VII
MODEL LEAVE RULES*
General

The following Leave Rules will be applicable to all employees with effect from:.....

1. The following general principles shall govern the grant of leave to the employees:

- (a) Leave is earned by duty or services and it cannot be claimed as a matter of right.
- (b) An employees who desire to obtain leave of absence other than casual leave shall apply in the prescribed form to the competent person of the Company/ establishment appointed for the purpose not less than 15 days before the leave is to commence except in urgent cases or unforeseen circumstances when it is not possible to do so. The competent person in this behalf shall issue orders on such application as soon as practicable. If the leave is granted

+. refer Provisions of leave and holidays brief under Bombay shops & establishment Act, 1948.
Appendix -VIII

an order showing the date on which the employee will have to resume duty shall be issued to him. Application which do not satisfy this requirement may be refused without assigning any reason.

- (c) Leave shall be availed of only after it is sanctioned by Competent person, but one day's casual leave may be availed of without prior sanction in case of unforeseen circumstances. Provided the Competent person to sanction leave is promptly informed by phone or otherwise the circumstances under which prior sanction could not be obtained.
- (d) In case of exigencies of work, it will be open to competent person, to refuse, postpone, revoke or reduce leave of any description.
- (e) During the period of leave, an employee shall not take up or accept any employment or work either on remuneration or without remuneration.
- (f) During the period of suspension, an employee shall not be granted any leave. However, during the pendency of disciplinary proceedings the competent authority may grant leave.
- (g) Sundays and /or holidays as may be declared by the company may be prefixed and / or suffixed to any kind of leave, but intervening Sundays and Holidays, will be counted as part of leave.
- (h) **Combination of leaves :** Casual leave cannot be availed of in conjunction with any other kind of leave. Subject to this condition any kind of leave under these regulations may be granted in combination with or in continuation of any other kind of leave.
- (i) The leave earned by an employee is the period which he has earned according to company's rules and he will be entitled to leave only after it has been earned.
- (j) Before proceeding on leave, an employee shall intimate to the competent person his address including telegraphic address while he is on leave and shall keep the said person informed of the changes in address, if any.
- (k) Before leaving headquarters, every employee will have to obtain from the Competent person permission to leave the headquarters.
- (l) If an employee, after proceeding on leave, desire an extension thereof, he shall make an application in writing to the competent person with reasons. Such application shall contain full postal and telegraphic address and shall be made in sufficient time to enable the office to process the application and communicate the decision to him.
- (m) No leave or extension of leave shall be deemed to have been granted unless an order to that effect is posted and communicated to the employee concerned.
- (n) Over stayed beyond the sanctioned leave shall be treated as leave on loss

of pay unless the concerned employee has got the extension of leave sanctioned (by the Competent person) before treating such unauthorised absence as leave on loss of pay, the competent person shall satisfy itself that there were no entenuating circumstances which prevente the employee from obtaining proir sanction for over-stayal.

- (o) An employee is expected to avail of leave granted fully before resuming duty unless he is recalled for office exigencies. An employee on leave cannot return to duty before the expiry of such leave with the express permission of the person granting leave.
- (p) An employee on leave, shall unless and otherwise instructed to the contrary, return for duty to the place at which he was last stationed,
- (q) Except when an employee is on leave on loss of pay, or absents from duty the increment falling due during the period of leave may be granted from the due date.
- (r) An employee on leave on medical certificate may not return to duty without a medical certificate of fitness. The competent person require an employee who availed of leave, of any kind, for reasons of health to produce a medical certificate of fitness, even though such leave was nto granted on medical certificate.
- (s) The Competent person may, at his discretion, secure a second medical opinion either for grant of leave or for satisfying that the employee is fit to resume duty, from a medical examiner of its choice, if considered necessary, the cost of such second medical examination will be borne by the Company. An employee not submitting him/ her for medical examination will be liable for appropriate disciplinary action.

Casual leave

- (i) An employee may be granted casual leave for a miximum of days during the calendar year, i.e 1st January to 31st December. Employees who are appointed during the course of the year shall be entitled to it on pro-rata basis.
- (ii) Balance casual leave remaining utilised as on 31st December each year shall laspe.
- (iii) Sace in exceptional circumstances, Casual leave will not be granted for more then three days at a time. In following exceptional cases it may be granted upto six days at a time;
 - (a) Accident to or illness of death of a member of the emplooyee's family;
 - (b) To attend to any legal matter which could not be foreseen in advance. Such leave may only be taken with the previous sanction of the Competent person upon production of satisfactory evidence;

- (c) illness of the employee. He will however, have to produce medical certificate for casual leave of more than 3 days.
- (iv) Any absence of more than the number of days allowed for casual leave shall, when not due to sickness, be treated as unauthorised absence from duty.
- (v) When leave is not taken with the prior sanction of the competent person, absence shall be notified to the Company in writing on the same day.

Privilege Leave.

- (i) After 12 months of continuous service employee of the Company shall be entitled to Earned Leave (P.L.) at the rate of 15 days for each year of service put in by him/her.

The following conditions shall govern calculation of Earned Leave (P.L.)

Note : The eligible of leave varies in different status applicable to shops and establishments. Considering the nature of shops or establishments, necessary modifications/deletions can be made.

- (a) For the purpose of calculating leave earned by an employee, the period on loss of pay availed by the concerned employee during a particular year shall not be counted as period of service during the said year;
 - (b) Sick/Casual Leave and Earned Leave (P.L.) availed by the employee during a particular year of service shall, however be treated as period of service for calculating privilege leave.
- (ii) Leave may be accumulated upto -days. Leave upto maximum of - days may be sanctioned at any one time. Provided, however, the employee may be granted the full leave to his credit subject to a maximum of days preparatory to retirement.
 - (iii) Privilege Leave will be credited to the employee's account at the end of the calendar year for which the said leave pertains and leave can be availed only after it is credited.
 - (iv) Privilege Leave normally cannot be availed of more than 3 times in calendar year.
 - (v) in case of an employee whose casual leave is exhausted and there are extenuating circumstances which require the employee to remain away from duty for a short period, the competent person may at his discretion grant privilege leave for a period less than four days.
 - (iv) Ordinarily, privilege leave shall not be granted for half a day. However, circumstances may arise where grant of such leave may become necessary. For instance, if an employee has taken half a day's Casual leave in the afternoon on any particular day and immediately proceeds or is compelled

to proceed on Privilege Leave, the entire period including the half a day, for which Casual leave was granted shall be treated as Privilege Leave. Similarly, if an employee due to resume duty after the expiry of Privilege Leave on any particular day in the forenoon resumes duty only in the afternoon, his absence in the forenoon on that shall be treated as half-a-days Privilege Leave. The Half-a-day's Privilege leave shall be sanctioned only in exceptional and unavoidable circumstances.

- (vii) Notwithstanding anything contained in the sub-regulation (2) above, where an employee has earned leave to his credit but has not availed of the same as on the date of his retirement and provided that he had applied for such leave sufficiently in advance before the date of retirement and the leave was refused by the competent person, he may be permitted to avail of the refused privilege leave from any date of retirement, and in that case, the employee will be deemed to retire from service on the expiry of the leave so granted.
- (viii) In the event of the death of an employee in service of the Company, the cash value of the balance of Earned Leave (Privilege Leave) remaining to the credit of the deceased employee shall be paid to the person to whom the deceased employee's Provident Fund dues are payable.
- (ix) Privilege leave, if not availed, is not permissible for encashment except when the service of an employee will come to an end.

Extraordinary Leave (Leave on loss of Pay)

- (i) Extraordinary Leave (Leave on Loss of pay) may be granted at the discretion of the competent person when no other leave is due to an employee for such period as may be specified by the competent person. If the employee does not join service on expiry of this period, he shall be deemed to have abandoned the employment of the Company / Establishment of his own accord. The duration of extraordinary leave shall not exceed 3 months from the date of its commencement on any occasion and 12 months during the entire of an employee's service.
- (ii) No employee shall be granted leave without pay when casual leave or earned leave is due and admissible except when the question of leave once duly sanctioned, is reopened on account of the same having been taken under false pretext for increments.
- (iii) No pay and allowances are admissible during the period of extraordinary leave and period spent on such leave shall not count for increments.

Provided that in case where the sanctioning person is satisfied that the leave was taken on account of illness, or for another cause beyond the employee's control it may direct that the period of extraordinary leave may count for increments.

APPENDIX-VIII

LEAVE AND HOLIDAYS IN BRIEF

Particulars	Under Bombay Shops and Establishments Act, 1948
-------------	---

1. Quantum of Leave per Year

- | | |
|---------------|--|
| (a) Privilege | 21 days to every employee who has worked not less than 240 days during a year. |
| (b) Casual | 7 days during the year. |
| (c) Sick | 7 days during the year. |

2. Entitlement of Leave

- | | |
|---------------|--|
| (a) Privilege | Entitlement to 5 days P/L after 3 months employment on completion of 60 days working in that period. |
| (b) Casual | During the year. |
| (c) Sick | During the year. |

3. Annexation of Leave

- | | |
|---------------|---|
| (a) Privilege | Holidays preceding and succeeding the period of leave shall be allowed to be annexed with the period of leave. Holidays and Sundays falling in between the period of leave shall be treated as leave. |
|---------------|---|

4. Accumulation of Leave

- | | |
|---------------|---|
| (a) Privilege | 63 days i.e. 3 years. Employee who has accumulated leave to his credit & goes on leave not less than 21 days is entitled to surrender balance of leave remaining to his credit not exceeding 21 days and shall be paid wages for the leave surrendered. |
| (b) Sick | No accumulation allowed. |
| (c) Casual | -do- |
- (Ref. Sec. 35)

5. Maternity Benefit

No provision in the Act but the provisions of Maternity Benefit Act, 1961 are applicable.

APPENDIX IX - FORMS AND PRECEDENTS

1. Specimen of Leave Application (I)
2. Specimen of Leave Application (II)
3. Leave Pass
4. Proforma suggested for notice to an employee absenting without leave and calling upon to send an explanation and affording an opportunity for personal hearing.
5. Proforma suggested for notice to an employee absenting for a specific period of 8 days continuously without sanction of leave.
6. Proforma suggested for warning letter for over staying leave.
7. Proforma suggested for charge sheet for habitual absence when the sanction of leave has been refused.
8. Proforma suggested for charge sheet for habitual absence from duty.
9. Proforma suggested for charge sheet for overstaying leave.
10. Proforma suggested for charge sheet for absence/overstaying of leave for more than eight consecutive days and also availing of leave on false ground.
11. Proforma suggested for charge sheet for obtaining leave on false grounds.
12. Specimen charge-sheet
13. Specimen order of appointment of Enquiry officer.
14. Specimen statement of reply of the workmen charged respect of the charges in the charge sheet.
15. Specimen report of the Enquiry officer.
16. Second show cause notice on punishment.
17. Specimen notice of order of dismissal discharge.
18. Specimen letter of warning.
19. Specimen notice of suspension.
20. Specimen notice of suspension (Before issue of charge-sheet)
21. Specimen notice of enquiry.
22. Specimen notice of enquiry when the workmen/employee fails to submit his explanation.
23. Specimen charge-sheet [For non-performance of work during working hours]
24. Specimen show caus notice
[For unauthorised absence beyond the period of leave]
25. Specimen charge-sheet [For negligence in work]
26. Specimen charge-sheet [For insubordination]

1. Specimen of Leave Application (I)

To

.....

.....

Dear Sir,

I hereby apply for grant of leave for.....day/days from.....to.....(both days inclusive). The reason for availing leave are as under.

(HEREIN STATE REASONS)

My address during the leave period will be same address as given alongwith my signatures. Any communication addressed by you on the given address will be deemed to have been received by me.

I undertake that if I will overstay for 8 consecutive days without sanctioned leave, my service will automatically come to an end I will lose lien on the job. I declare that if I have to extend the leave on ground of sickness, I shall send medical certificate from the Civil Surgeon/-Medical Officer of the Company/Establishment. (In case the employee is covered under ESI Scheme, then ESI certificate will be submitted) and will bring with me a fitness certificate.

Yours faithfully,

Dated....

Signature of the applicant.

Address.....

Recommended/Allowed by

Name of the Deptt.....

Designation.....

For Employer's use

- | | |
|--------------------------|--------------|
| 1. Casual leave due..... | availed..... |
| 2. Earned leave due..... | availed..... |

2. Specimen of leave Application (II)

To

.....

.....

Dear Sir,

Kindly grant me....day/days privilege/casual/sick leave with effect from.....
.....to.....(both days inclusive).

I stand in need of leave on account of....

Please find enclosed a medical certificate (applicable in case of sick leave).

My address during the leave period will be as under.

.....

Any communication addressed to me on the above address will be deemed to have been received by me.

Dated.....

Yours faithfully,

Signature/L.T.I.

For Employer's use

- (a) Privilege/Casual/Sick leave of.....days is granted from..... to.....both days inclusive, or
- (b) Leave as applied for is being refused because of...
- (c) Privilege leave applied for is deferred and will be considered on...

Employer's signature

3. Leave Pass

(Name and Address of the Establishment/Factory/Organisation)

No.

Dated

Mr/Ms.....

Ref: Your application dated.....for grant of Privilege/Sick/Casual leave for.....

1. You are granted.....leave for.....day from.....to.....(both days inclusive).
2. In case extension of leave will be sought, you will apply sufficiently in advance so that the management's reply may reach you. In case of refusal to extend leave, you will have to report for duty on the expiry of leave originally granted to you. In case of sickness, your application for extension of leave will have to be supported by a medical certificate from a registered Medical Practitioner/Civil Surgeon.
3. Your address during leave as given by you in the leave application is....
 In case of any change in the address, you should intimate the same within.....days of the said notice.

In case you overstay your leave unauthorisedly, you are liable to be proceeded for unauthorised absence and the Management will be within its right to draw a presumption that you are not interested in the employment and have abandoned the employment of your own accord.

4. Proforma suggested for notice to an employee absenting without leave by giving an opportunity for personal hearing.

REGISTERED. A.D

To,

Dated.....

Shri.....

Dear Sir,

We note with concern that despite previous warnings issued to you on.....you were again absent without leave on.....and.....No more such unauthorised absence can be viewed leniently. Now, therefore, explain why you should not be dismissed from service, or punished otherwise for such habitual absence from work.

You are further directed to explain your absence in writing by.....at the latest. I shall give you a personal hearing on.....at.....at my office, should you so desire. If you fail to submit your written explanation by.....or do not appear before at the pointed date and time, action as deemed fit will be taken against you in your absence.

Yours faithfully,

Manager/Competent person

Note : While terminating the services of an employee even for absence for a continuous period an enquiry is necessary to comply with the principles of natural justice. However, a notice can be sent in order to ascertain the intentions of the employee.

5. Proforma suggested for notice to an employee absenting for a specific period of 8 days continuously without sanction of leave

To,

REGISTERED ACKNOWLEDGEMENT DUE

dated....

Shri.....

Sub :- Unauthorised absence

You have been absent without leave with effect from.....till this day. Since you are absent without permission, you are hereby given this notice to report for duty positively.....along with your explanation for unauthorised absence, falling which you will be deemed to have abandoned your employment.

Yours faithfully,

for M/s.....

(Manager/Competent person)

Note :- Certified Standing Orders, service Rules or appointment letters provide that if an employee will remain absent for eight consecutive days, it will be presumed that he has abandoned the employment on his own accord. Notwithstanding such a provision, it is desirable that a notice on the above lines be sent to such an employee.

6. Proforma suggested for warning letter for overstaying leave

To,

.....

Dated.....

It is reported that you have overstayed by.....days of the leave without any application, intimation or getting the leave sanctioned., This is not the only instance but previously also you have overstayed without prior sanction of leave and you have been warned orally, as well as in writing.

The above omission on your part is of grave and serious nature and makes you liable for severe disciplinary action not excluding the possibility of dismissal from service. However, considering your explanation, regretting for your mistakes and your sincere assurance that will not absent or overstay your leave in future it is decided to give you another opportunity to improve your attendance.

You are hereby warned that in the future, you will absent yourself or overstay your leave in the aforesaid manner, the management will be constrained to dispense with your services.

Yours faithfully,

Manager/competent person

7. Proforma suggested for chargesheet for habitual absence when the sanction of leave has been refused.

To,

Shri.....

On.....you applied for grnat of leave from.....to.....The said leave was refused on account of exigencies of work and you were also intimated to this effect. In spite of that, you absented yourself from duty in defiance of the instructions knowing fully well that the production/work will suffer due to your wilful absence. Your attendance record also reveals that you are in the habit of remianing absent without getting prior sanction of leave or even without applying for the same.

On.....you remained absent without leave being granted to you. Earlier also you have remained absent without taking leave on numerous occasions, the details of which are given below :-

(Herein give the details of absence)

You are hereby warned that if, in future, you will absent yourself or overstay your leave in the aforesaid manner, the management will be constrained to dispense with your services.

Manager/General Manager/

Mg. Director/Competent person.

8. Proforma suggested for charge sheet for habitual absence from duty

To

.....

Dated :.....

.....

It is reported against you as under :-

You are absenting yourself from duty w.e.f.....without prior permission/application or even intimation. In the past also you have remained absent without obtaining prior sanction of leave details of which are given below :-

(Here in give the details of absence)

Sudden absence dislocated the normal work of the establishment/factory, while such repeated absences, on your part, notwithstanding oral and written warnings. issued more particularly on.....have adverse effect both on output as well as on discipline.

(Herein give details of warnings)

Habitual absence from duty is a serious misconduct under Service Rules/Standing Order No.

In view of the above, you are called upon to explain in writing within 72 hours as to why an appropriate disciplinary action should not be taken against you.

If you fail to submit your explanation within the specified time, it shall be presumed that you accept the charges to be correct and have no explanation to offer in that event the Management will be at liberty to take an appropriate action without further reference to you.

General Manage/Mg. Director/

Prop./Competent person by the Management.

+9. Proforma suggested for charge sheet for overstaying leave

To

.....

Dated :.....

.....

Whereas you proceeded on leave duly granted to youfrom..... to AND WHEREEAS you have failed to report for duty on the expiry of the

+ refer the following case-laws.

1. *Mafatlal Narandas Barot v. I.D. Rathod, Divisional Controller, State Transport Mehsana & Ans. AIR 1964 SC 1364.*
2. *Calcutta Homeopathic Medical College & Hospital v. Their Workmen, 1961 (9) FLR 520, (Cal. IT).*
3. *Moti Ram v. M.C.D. 1968 DLT 95 (Delhi HC)*
4. *Rabindra Nath Sen and Ors. v. First I.T. West Bengal & Ors AIR 1963 Cal 310 at pp. 321-22.*

said leave and have thus overstayed and remained absent from.....to.....without obtaining prior sanction of leave or without even an application or intimation for grant of leave.

NOW, THEREFORE, YOU ARE HEREBY CALLED upon to show cause as to why you should not be proceeded against under the Service Rules/Standing Orders.

The above act/omission on your part is of grave and serious nature and makes you liable for disciplinary action. You are hereby directed to submit your explanation within.....hours from the receipt thereof. Should you fail to submit your explanation within the stipulated time, it will be deemed that you admit the charge and have no explanation to offer.

Manager/Competent person

***10. Proforma suggested for charge sheet for absence/overstaying of leave for more than eight consecutive days and also availing of leave on false ground.**

To,

Dated :.....

Shri.....

It is reported against you as under;

That on.....you obtained leave for.....on the pretext that your father was seriously ill and your presence was necessary to attend to your ailing father (herein state if there is any other ground). Even though your leave expired on.....you continued to remain absent from.....without obtaining prior permission or intimation for overstaying after the expiry of leave period. Furthermore, on investigation it has been revealed that your father was not sick and that you obtained the original leave on a false ground. These acts of commission and omission on your part when proved, would constitute a gross and serious misconduct.

Now Therefore you are, charged for committing breach of Standing Orders Nos..... by absenting yourself without leave for more than 8 consecutive days without any sanction and of Standing Order No.....by obtaining leave on a false ground.

Accordingly, you are called upon to explain in writing within 72 hours as to why an appropriate disciplinary action should not be taken against you.

If you fail so submit your explanation within the specified time, it will be presumed that you accept the charges and have no explanation to offer. In that event, the management will be at liberty to take an appropriate action without making a further reference to you.

General Manager/Manager/Managing Director/.

Prop. Competent Person with designation

+ refer

Ramabhuwal Thakar Prasad, v. Phoenix Mills; 1976-i-LLJ 93 (Bom. HC-DB),

***11. Proforma suggested for charge sheet for obtaining leave on false grounds**

To,

Shri.....

Whereas on.....you applied for grant of leave from.....to.....
on the grounds that.....

(Herein specify the grounds for which the leave was granted).

And whereas considering the justification of your going on leave on the basis of the grounds/reasons mentioned in your application the leave as applied for was granted to you. But later on, it was found that the grounds on which the leave was applied for and obtained were false.

Now, therefore, you are hereby called upon to show cause as to why disciplinary action should not be taken against you. You are required to submit your explanation in writing within.....days of the receipt of this charge sheet, failing which appropriate disciplinary action will be taken against you without making any further reference to you in this behalf.

Manager/Competent person.

12. Specimen Charge-sheet

From

Name of Appointing Officer

Designation

Address of the Office

To

Name of employee

Category and other particulars

Charge-sheet

Memo No.....Date.....

It has been reported,

(1) That on.....at about.....a.m./p.m. you Shri.....
(category etc.).....along with Shri.....(category etc.)
mounted the roof of the Labour Officer and hoisted two flags atop the said Building and shouted slogans saying that workmen must unite under the flag to raid office of the manager and kick the said manager until death you are therefore *prima facie* guilty of acts subversive of discipline.

(2) That on the same day at about the same time, when the Asstt. Manager Shri.....who was on duty and was present at the spot, requested you not to behave in that manner and provoke other workmen to resort to violence and further to remove

+ refer : (1) *Bank of Madura Ltd. V Bank of Madura Employee's union & otr*, 1966-67(31) FJR 249 (Mad. H.C.)

(2) *Binny Ltd. V Their workmen*, 1973 (43) FJR 437(SC)

(3) *Gorden woodroffe Leather mfg. Co. V Union*, 1949 LLJ. 45(IT)

the said flags from the roof of the aforesaid building, you and the aforesaid Shri.....abused him in filthy terms such as "impostor", "pet dog of the Management", "blacksheep" etc. and threatened to murder him on the spot if the flags hoisted on the roof were removed. You are therefore *prima facie* guilty of insubordination and acts subversive of discipline. The acts alleged to have been committed by you constitute acts of misconduct under clauses.....of the Standing Orders and would warrant either your dismissal from the service or any other major punishment.

You are, therefore, required to submit, within three days from the date of receipt of this charge-sheet, a written statement of reply to me stating whether you desire to be heard in person.

If you fail to submit your explanations within the prescribed time limit it will be presumed that you have no explanation to offer and as such the matter may be disposed of *ex parte* without further reference to you.

In you desire to inspect any document or documents for pre-paration of your written reply to the charges, you will contact Shri (mention name and designation of the officer) immediately on receipt of the charge-sheet. He is being instructed to arrange for your inspection of documents without least delay.

(3) Since the charges against you are of grave and serious nature you are hereby placed under suspension with immediate effect pending enquiry and final decision in the matter. During the priod of suspension you will be entitled to subsistence allowance as per provisions of law (or Standing Orders).

Signature (Manager or employer)

Designation

Date

- N.B.** (i) Separate charge-sheet has to be served on each delinquent. There should be separate domestic enquiry in respect of each delinquent.
- (ii) Delete if there is no Standing Order.
- (iii) Delete if suspension is not necessary or if the workman has already been suspended.

13. Specimen order of appointment of Enquiry Officer

From	Name of the Appointing Officer
	Designation
	Address
To	Name of the Officer/lawyer/ outsider
	Designation etc.
	Address
Memo No.	Date

Sub : Appointment of Enquiry Officer.

Sir,

You are hereby appointed the Enquiry Officer to hold domestic enquiry in respect of charges of misconduct against Shri.....who is.....of this factory/establishment. A copy of the charge-sheet and copy of the written reply of the person charged in respect of the charges against him are forwarded to you for necessary action. Shri.....Asst. Labour Officer will place the case of the management against the person charged before you as the Presenting Officer. The enquiry will be held at.....(place of enquiry) and start on.....(date) at 10 A.M. You will complete the enquiry within a week/fortnight/month and submit your report to me immediately thereafter. In case, extension of time is unavoidably necessary, you will please write to me accordingly for the purpose in time.

If, in course of the enquiry, the person charged desires to call for any document/ or documents for use in his defence, you will please ask the Presenting Officer to produce the documents before you.

Copies of this order are being sent to the person charged and the Presenting Officer respectively with a direction to appear, before you on the date of the enquiry.

Copy forwarded to Shri.....(Person charged) for information and for appearance before the Enquiry Officer on.....at.....A.M.at (Place of enquiry) Shri.....Copy forwarded to Asstt. Labour Officer (Presenting Officer) for information and necessary action.

Yours faithfully,

Name

Designation

Date

14. Specimen statement of reply of the workman charged in respect of the charges in the charge-sheet

To

The Enquiry Officer

.....(Place of enquiry)

Sir,

Sub : Reply to the charges levelled in the charge-sheet.

Your petitioner has received the charge-sheet and perused the charges brought against him by the management. His replies in connection with the aforesaid charges are submitted herewith categorically as follows :-

Charge No. 1

Your petitioner categorically denies the charge that on.....at about.....P.M., he along with Shri.....mounted the roof of the Labour office and hoisted two flages atop the said buildding assisted by Shri..... and shouted slogans saying that workmen must unite under the flag to raid the office of the manager and kick the said manager until death.

Charge No. 2

Your petitioner further denies that on the same day at about the same time, 'the Asstt. Manager Shri.....requested him not to behave in that manner and provoke others to resort to violence and further remove the flag from the roof of the said building. He denies that he had abused the said Asstt. Manager in filthy terms such as "impostor", "pet dog of the management", "a black sheep" etc. He denies that he had threatened the Asstt. Manager to kill him on the spot, if would remove the flag.

Your petitioner begs to submit that the charges besides being vague and baseless, are far from the truth and that the allegations are nothing but a got-up story ingenuously worked up just to dispense with the service of your petitioner, because the management is very much ill disposed toward him for his trade union activities. Your petitioner further submits that the Labour Officer and the Asstt. Manager were particularly hostile towards him for his trade union activities. Your petitioner craves leave to adduce evidence during the enquiry to substantiate these imputations. It is particularly significant to note that a fake preliminary enquiry was held inasmuch as no workman was examined in that preliminary enquiry.

In conclusion, your petitioner has to reiterate that the charges are false and motivated and baseless and that the charges have been levelled against him in pursuance of a policy of unfair labour practice with an ulterior motive to victimise your petitioner.

Your petitioner begs to state that he desires to be heard in person and to cite witness and tender documents during the enquiry in self defence. He has inspected the relevant documents which he would llike to exhibit to establish his case. He will request the Enquiry Officer for production of those papers and documents in due course during the enquiry.

Yours faithfully,

Signature of delinquent

Dated.....

15. Specimen report of the Enquiry Officer

Domestic enquiry in respect of the charge-sheet dated.....served on Shri.....a workman of..... (Name of the Establishment with address).

Findings

The allegations in the charge-sheet are in short as follows :

1. That on.....at about....., the workman Shri....., went to the roof of the Labour Office and hoisted two flags atop the said building assisted by the workman Shri.....and shouted slogans and invited workmen to unite under the flag to raid the office of the Manager and kick the said Manager until death.

2. That on the same day at about the same time when the Asstt. Manager Shri....., who was present at the spot requested the abovenamed workmen not to behave in that manner and provoke others and remove the flags from the roof of the aforesaid building, the workman Shri..... abused the said Asstt. Manager in filthy terms such as "impostor", "a pet dog of the management", "a black-sheep" etc. and threatened to kill him on the spot if he would remove the flags.

On receipt of the allegations of the Asstt. Manager against the workman the Manager who is the appointing authority of the workman concerned, ordered a preliminary enquiry. The enquiry was held by the Labour Office Shri.....who found the allegations to be *prima facie* true and submitted a report to the Manager to that effect. Thereafter the Manager served the aforesaid charge-sheet on the said workman on..... In the said charge-sheet the Manager passed an order placing the workman under suspension till disposal of the disciplinary proceedings. On receipt of reply of the charge-sheeted workman, the Manager issued an order appointing me as the Enquiry Officer to hold a domestic enquiry in respect of the charges against the workman, informing me therein that the Asstt. Labour Officer Shri.....will place the case of the management before me during the enquiry as the Presenting Officer.

On the date the enquiry was started, the workman appeared before me accompanied by Shri.....Assistant Secretary of the Trade Union of which he is the member. He submitted a petition requesting me to allow the said union official to act as his representative in the enquiry. The prayer was allowed. The workman was defended in the enquiry by the said union official. With consent of both sides, the proceedings of the enquiry were recorded in English.

The worker had earlier filed a written reply to the charges, denying the charges categorically. In the written statement of defence, the case of the workman is that the charges are false, fictitious and motivated and that since the Labour Officer, Assistant Manager and other Officers were very much ill-disposed towards him for his trade union activities, the charges were ingeniously fabricated against him to turn him out of the factory by way of dismissal for misconduct.

During the enquiry, the workman was afforded all reasonable opportunities to cross-examine the witnesses cited by the management and lead his own evidence, in strict adherence to the principles of natural justice and fair play. In course of the enquiry, he made prayer for production of a few documents for use by him in the enquiry in self-defence. The documents were accordingly made available to him.

Shri.....(designation).....the Presenting Officer appointed by the management, examined in all, five witnesses.

Witness No. 1 is Shri.....the Labour Officer. He exhibits the report of the preliminary enquiry (Ex. 1). He states that under the written order of the Manager, he held the preliminary enquiry and examined the Asstt. Manager, Shri....., the senior chargeman Shri.....and the Supervisor Shri..... He produces the relevant order of the Manager (Ex. 1/1) directing him to hold the preliminary enquiry. He further states that a number of workmen who witnessed the incident refused to make statements before him during the preliminary enquiry. The Labour Officer did not however record the statements of witnesses in the preliminary enquiry.

The witness No. 2 for the management is the Manager Shri..... He proves the office copy of charge-sheet (Ex. 2) and his signature therein (Ex. 2/1). He states that on persusal of the report of the preliminary enquiry he was satisfied that the allegations were *prima facie* true and so he served the chargesheet on the workman. He also produces workman's written reply to charges Ex. 2 (2) and the standing order of the factory (Ex. 4).

The witness No. 3 is the Asstt. Manager Shri.....He states that he was an eye witness to the incident. He states that on the relevant day, at the relevant time the workman charged mounted the roof of the Labour Office and hoisted two flags there shouting that workmen must unite and assemble under the flags to raid the office of the Manager and kick him until death. As the witness, who was at the spot, requested him not to break the discipline in that way and provoke others to do the same and further requested him to remove the said flags, the charge-sheeted workman Shri..... abused him in filthy languages such as "a pet dog of the management", "an impostor" etc. and threatened to kill him on the spot if he would remove the flags. The witness submitted a report to the Manager giving him full particulars of the incident (Ex. 3).

The witness No. 4 is the Supervisor Shri..... He corroborates the evidence of the witness No. 3 (Asstt. Manager) in all material particulars.

The witness No. 5 is Shri....., the senior chargeman. He too corroborates the allegations made in the charge-sheet.

All the witnesses cited by the management were cross-examined by the representative of the workman charged.

The workman charged Shri.....was examined. In his evidence he denies the charges and reaffirms the contentions made in his statement of reply to the charges. He was cross examined.

During his cross-examination the Labour Officer (witness No. 1) was confronted with two petitions of the charge-sheeted workman for leave; viz. leave petitions dated.....and.....respectively. The Labour Officer admitted to have received those petitions. (Ex. A and Ex. B). The Assistant Manager too (witness No. 3) was confronted with his report dated.....regarding trade union activities of the charge-sheeted workman during his cross-examination. He admitted to have sent the report to the Manager (Ex. C). The Assistant Manager also produced the relevant Attendance Register of the Time Office to prove that the charge-sheeted workman was on duty in the factory on the relevant date (Ex. 5). It will be pertinent to mention that the aforesaid documents, viz. Ex. A, B and C were produced by the management before me upon requisition for the same by the workman. The said documents were however produced by the management in pursuance of my direction.

I have carefully considered the statements of witnesses of both sides in the light of facts elicited in course of the cross-examination and the documents tendered as exhibits.

The points for consideration are whether the allegations made in the charge-sheet have been proved against the workman.

The report of the preliminary enquiry submitted by managements' witness No. 1 Shri.....the Labour Officer has been proved (Ex. 1). The Labour Officer however admits that he had refused leave to the applicant on two occasions by rejecting his petitions for leave (Ex. A and Ex. B). Needless to mention, the report of the preliminary enquiry is not the conclusive evidence of guilt. So the report is not very material in determining the truth of the charges set out in the charge-sheet. The Manager proved the office copy of the charge-sheet (Ex. 2) in his presence, in which the workman charged signed on receipt of the original charge-sheet. Workman's signature is marked Ex. 2/3. However it is not the case of the workman charged that he did not receive the charge-sheet. The Manager produced Company's Standing Order (Ex. 4) alleging that the workman charged had committed misconduct as per clauses.....of the Standing Orders stating further that the workman was charge-sheeted for contravening the said clauses. The Attendance Register (Ex. 5) shows that on the material date the delinquent attended work in the factory. The delinquent too does not deny this fact. Management's witness No. 3, the Asstt. Manager Shri.....stated that on...the charge-sheeted workman mounted the roof of the Labour Office building and hoisted two flags there shouting that workmen must unite and assemble under the flags to raid the office of the Manager and kick him to death. The witness said that as he objected, the charge-sheeted workman abused him by saying he was an impostor and a pet dog of the Management and a black sheep. He adds that he had submitted to the Manager the report (Ex. C) against the workmen alleging neglect of duties and wastage of time over trade union activities.

Now the question is whether exhibits A, B and C can alone establish that the witnesses No. 1 and No. 3 are unworthy of credence. In my opinion, it will be travesty of justice if the statement of the Asstt. Manager relating to the incident which is sup-

ported by the Senior Chargeman and the Supervisor in all material particulars, is disbelieved. The charge-sheeted workman has himself stated in his written statement of defence that he did trade union activities and that there was a report alleging neglect of duties against him on that account. He has not furnished any dependable evidence to show that Asstt. Manager's allegations in the report (Ex. C) was a false and motivated one. I am of the view that Ex. C is not sufficient evidence to establish that a false story was cooked up to oust the workman from service. There is no evidence on record to show that the senior chargeman and the supervisor were tutored witnesses who gave false evidence or that they were otherwise unworthy of reliance. Nothing has been suggested during their cross-examination which may tend to taint their veracity. The fact that the Asstt. Manager is the superior officer of other witnesses does not justify a conclusion that other witnesses gave false evidence just to please the Asstt. Manager. I further held that the fact that the Labour Officer had rejected the petitions of the delinquent workman for leave on two occasions cannot warrant a conclusion that the Labour Officer did so because he was inimically disposed towards him from before. The workman has contended that since according to the management, the incident occurred in presence of many workers, the failure of the Management to produce independent witness from the workers renders the allegations unworthy of credence. I have considered this contention of the workman carefully and my conclusion is that the contention has hardly any substance in it. The question is whether the evidence produced by the management in support of its case can be believed. I have made it clear earlier that I have not found anything which may lead me to hold that the witnesses have presented before me a false story and that they are otherwise unworthy of reliance. The workman was at liberty to produce witnesses from workers to rebut the charges but he did not produce any witness to do so. As such, I find no escape from a conclusion that the evidence of the witnesses for the management are worthy of credit. On the basis of the material on record, any reasonable person cannot but arrive at the said finding. In other words, the materials on record in this enquiry proceedings would lead any person of ordinary prudence to think that the incidents alleged had occurred. It is a settled law that in a domestic enquiry the high standard of proof which the criminal courts demand, is not necessary. In the domestic enquiry what is necessary is the preponderance of the probability of guilt.

So considering the materials on record I hold that the allegations set out in..... the charge-sheet have been satisfactorily proved. As such I hold the workman charged, Shri....., guilty of acts, subversive of discipline and insubordination and therefore guilty of grave misconduct as per clauses.....and of the Standing Order. (Ex. 4).

I however refrain from recommending any punishment for the delinquent workman since such matter is within the competence of the Manager who being the appointing authority is by implication the punishing authority. The report is forwarded to the Manager for favour of his perusal and orders.

Enquiry Officer
Dt.

- Note :** (i) Where an industrial concern has no certified Standing Orders, provisions of the Model Standing Orders of the Industrial Employment (Standing Orders) Central Rules, 1946 framed under the Industrial Standing Orders Act, 1946 may be followed.
- (ii) If the punishing authority decides to punish the employee, the employee concerned may be given an opportunity of making representation on the penalty proposed. Such an opportunity is obligatory when the standing orders provide for it.

16. (Second show cause notice on punishment)

Shri.....

(Category),

Name of the Shop / Establishment.....

Sub : Show cause notice on the proposed punishment.

We have to refer to the charge-sheet dated.....served on you for the purpose of a domestic enquiry and the written statement of defence submitted by you. Shri.....who held the domestic enquiry to enquire into the charges against you has since submitted his report finding you guilty of the charges.

We have carefully gone through the proceedings of the enquiry and considered the report of the Enquiry-Officer and we find noting to disagree with the said findings of the Enquiry Officer.

Under the circumstances it has been decided to award you the punishment of dismissal or discharge from service.

You are therefore required to show cause as to why you will not be dismissed/discharged from service. You may submit a written petition in the matter and further, see undersigned if you so desire, on any day not later than (date) during the working hours.

If you fail to respond, it will be presumed that you have no explanation to give in the matter and in that case the order of punishment will be passed without further reference to you.

Manager/Employer

17. Specimen notice of order of dismissal/discharge

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

I have to refer to the charge-sheet dated.....served on you for the purpose of a domestic enquiry and your written reply to the charges dated. A domestic enquiry was held by Shri.....Enquiry Officer and you had participated

in the enquiry. After the enquiry the Enquiry Officer has found you guilty of the charges levelled against you.

I have carefully perused the proceedings of the enquiry and considered the report of the Enquiry Officer.

The proceedings of the enquiry reveal that you were given all reasonable opportunities for conducting your defence in the enquiry and that the enquiry was held in strict adherence to the principles of natural justice and fair play.

On scrutiny of the records of the enquiry we found no reason to differ with the said findings of the Enquiry Officer.

We have perused the representation submitted by you in reply to the show cause notice on punishment proposed to be imposed on you. You have also been heard in the matter in deference to your request.

We have to inform you that upon scrutiny of your past records of service and your above representation in the matter of punishment, we found no extenuating circumstance which would justify leniency in the matter of awarding punishment.

In the circumstances, we regret to inform you that we have decided to dismiss/discharge you from service.

Accordingly, you are hereby dismissed/discharged from service with immediate effect. You are advised to come to this office immediately after receiving this letter on any working day during the working hours to collect your legal dues.

Manager/Employer

Notes : (1) If any proceedings relating to any industrial dispute is pending before any Conciliation Officer of Labour court, or Tribunal at the time of passing of the above order and the delinquent is a workman concerned in the said dispute and the acts of misconduct in question are with regard to any matter connected with the dispute, an express permission of the said authority will be necessary in terms of sec. 33(1)(b) of the Industrial Disputes Act. So the last paragraph reading "Accordingly you are hereby dismissed etc." will be substituted with the following :

"However since a proceeding relating to an industrial dispute is pending before (Name of the authority) whose prior permission in writing is necessary for dismissing/discharging you, we have made an application to the said authority for its express permission in writing and pending permission of the said authority, you are placed under suspension with effect from the date of service of the letter.

(2) If any proceedings relating to an industrial dispute is pending before a Conciliation Officer, Labour court or Industrial Tribunal and delinquent is a workman concerned in the dispute and the act of misconduct in question is not connected with the dispute, the last paragraph reading "Accordingly you are hereby dismissed etc." will remain in tact and thereunder the following paragraph will be added.

"However since a proceeding relating to an industrial dispute is pending before the (Name of the authority) whose approval to the order of dismissal/discharge is

necessary in terms of sec. 33 (2) (b) of the Industrial Disputes Act, an application has been made to the said authority for its approval to the order of dismissal/discharge passed against you. Further, in terms of the same provision of the said Act, a sum of Rupees.....only being your wages for the month has been sent to you by Money order.

18. Specimen letter of warning

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

We have to refer to the charge-sheet dated.....served on you and your written reply to the charges levelled against you.

Shri.....who was appointed to act as the Enquiry Officer held the enquiry in which you had participated. The Enquiry Officer has found you guilty of the charges in his findings.

The proceedings of the enquiry reveal that the enquiry was held in strict adherence to the principles of natural justice and you were afforded all reasonable opportunities to defend your-self in the enquiry.

Upon scrutiny of the evidence on record and the finding of the Enquiry Officer, we found no ground to differ with his said finding. As such we decided to discharge you from service and so directed you to show cause as to why the punishment of discharge should not be awarded to you. We have considered your representation requesting us to pardon you in view of the extenuating circumstances stated therein.

Considering your past records of services which is no doubt satisfactory and the extenuating circumstances stated in the re-presentation, we let you off, this time, with a warning.....

It is hoped that you will appreciate this generosity by better conduct on your part in future.

Manager/Employer

19. Specimen notice of suspension

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

We have to refer to the charge-sheet dated.....served upon you for the purpose of a domestic enquiry against you. You have been directed to submit your written statement of defence within the time limit fixed in the charge-sheet.

Since the charges levelled against you are of grave and serious nature, you are placed under suspension with immediate effect, pending finalisation of the disciplinary proceedings against you.

In the period of your suspension, you will be entitled to such amount of subsistence allowance as will be admissible under provisions of the standing order/of law.

You are directed to make over charge of papers and records/tools and equipment etc. in your possession, to the workman authorised by the departmental manager/supervisor to take over the charge from you.

General Manager/Employer

20. Specimen notice of suspension

(Before issue of charge-sheet)

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

Certain allegations constituting acts of misconduct (vide clause.....of the standing order) have been made against you.

The allegations are in brief as follows :

.....

The management has contemplated an enquiry in the matter. So a formal charge-sheet will be served on you shortly, in due course.

Since the allegations are of grave and serious nature, you are hereby suspended with immediate effect, pending finalisation of the disciplinary proceedings and final orders.

During the period of suspension you will paid subsistence allowance (as per law/ in terms of the relevant provision of the Standing Order).

Manager/Employer

Notes : (i) If a standing order is operative, please quote the relevant clause thereof, otherwise delete the words "as per clause.....of the standing order).

(ii) The order of suspension cannot be passed with retrospective effect.

(iii) The allegation on the basis of which the suspension order is made must be specified clearly.

21. Specimen notice of enquiry

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

We acknowledge receipt of your written statement of defence dated.....in reply to the charges levelled against you in the charge-sheet dated.....

It has been considered expedient to hold an enquiry into the charges, so you are hereby advised to present yourself at (place of enquiry) on (date) at (time) for the purpose of the said enquiry.

Shri (Name & designation) has been appointed to act as the Enquiry Officer, to hold the enquiry into the charges.

At the enquiry, you will be given all reasonable opportunities to conduct your defence by cross-examining the witnesses of the management and leading your own evidence to controvert the charges.

Should you fail to present yourself at the enquiry on the dates fixed and to be fixed later on, without sufficient reasons, the enquiry shall proceed ex-parte on the presumption that you have admitted the charges and you have no defence to offer.

Manager/Employer

Notes : (i) The notice should be given well in advance.

(ii) A copy of the notice will be supplied to the enquiry officer.

22. Specimen notice of enquiry when the workman/employee fails to submit his explanations.

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

It transpires that you have, in spite of reminders and the time given, failed to submit your written statement of defence in respect of the charge-sheet dated..... duly served on you.

However, since it has been considered expedient to hold an enquiry into the charge levelled against you, you are hereby advised to present yourself at (place) on (date) at (time) for the purpose of the said enquiry.

Shri.....(Name & designation) has been appointed to act as the Enquiry Officer to hold the enquiry at the place, date and time fixed above.

At the enquiry, you will be given all reasonable opportunities to conduct your defence by cross-examining the witnesses of the management and leading your own defence to controvert the charges.

Should you fail to present yourself at the enquiry, the enquiry shall proceed *ex parte* on the presumption that you have admitted the charges and you have no defence to offer.

Manager/Employer

23. Specimen charge-sheet

(For non-performance of work during working hours)

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

It is reported that on (date) at (place) at (time) you had been found absent from your place of work during the duty hours between.....and.....(time) and you had absented your-slef without permission of your superior officer.

You had, on a number of occasions in the past committed similar acts of delinquency and as such it appears that you are habituated to be absent from the place of work. To cite instances of your delinquency, it may be mentioned that on (give dates) you had been found absent from your place of work without permission and ignored the advice of your superior officer to correct yourself.

You are therefore directed to show cause on or before.....in writing, as to why disciplinary action should not be taken against you for your habitual negligence of duty.

If no reply is received within the time fixed, it will be presumed that you have no explanation to offer and you have admitted the charge. In the case, the management will proceed against you *ex parte* without further reference to you.

Manager/Employer

24. Specimen show cause notice

(For unauthorised absence beyond the period at leave)

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

On.....(date) you proceeded on leave for ten days after your application for leave for the said period was approved by.....(Superior officer competent to grant leave) Further you were granted extension of the leave for another fifteen days on your petition from your native place for such extension of leave.

It has been reported that you have not joined duty on the expiry of the leave and have been absenting beyond the period of leave granted and subsequently extended.

Since you have been absenting unauthorisedly after expiry of your approved leave and since the period of your unauthorised absence has exceeded eight days, you are directed to report to duty immediately and show cause as to why suitable disciplinary action will not be taken against you for unauthorised absence from duty.

If you remain unauthorisedly absent in spite of this notice and without submitting your explanation, you will be deemed to have abandoned the service of this concern

voluntarily and in that case, you will lose your lien on your appointment and your name will be struck from the records of this office for that reason.

Manager/Employer

- Notes : (1) The standing order may provide the time limit for unauthorised absence beyond which there may be loss of lien of the employee on his appointment.
- (2) Under provisions of the Industrial Employment (Standing Orders) Central Rules, an employee shall lose his lien on his appointment if he does not return to join his duty within eight days of the expiry of the leave.

25. Specimen charge-sheet

(For negligence in work)

Shri.....

Date.....

(Supervision-section).....

Name of the Shop / Establishment.....

You are working as the Supervisor in the (Name of the section) and it is your duty to supervise the work of the workmen on duty under your charge and see that the section gives the targetted production/work schedule regularly and consistently. Needless to say, your personal responsibility in the matter cannot be lost sight of.

It is reported that during the period from.....to.....you did not properly supervise the performance of the section as a result of which the output of work was markedly low as compared to the output of the section in other shifts.

The following particulars would indicate the deterioration in the standard of performance of the section in your period of duty.

Sl. No.	Shift	Output of work	Difference
1.			
2.			
3.			

You are therefore directed to show cause on or before..... (date) as to why disciplinary action will not be taken against you for negligence of duty. If no reply is received within the time limit fixed, it will be presumed that you have no explanation to offer and that you have admitted the charge. In that case, the management shall have the right to proceed *ex parte* against you.

Manager/Employer

26. Specimen charge-sheet

(For insubordination)

Shri.....

Date.....

(Category).....

Name of the Shop / Establishment.....

You are a workman of the (Section) and you perform your duties under the supervision, and general superintendence of your supervisor Shri.....

It has been reported that on.....(date) at.....(time) when the said supervisor asked you to sign on a notice of the manager requiring you and other workmen of your section to work overtime beyond the scheduled duty hours you snatched away the paper from the hand of the supervisor and threw it away saying that the supervisor was a worthless and imbecile person who was always unable to stop the manager from issuing orders, now and then to require the workmen to work overtime. Further you had shouted at the top of voice saying that even the father of the supervisor would not be able to make you work overtime on that day.

Since your aforesaid conduct on the aforesaid day, amounted to an act subversive of discipline and of insubordination, you are directed to show caus by (date) as to why disciplinary action should not be taken against you.

If you fail to submit your written reply to the charges within the time limit fixed, it will be presumed that you have no explanation to offer and in that case the management shall have the right to proceed against you *exparte*.

Manager/Employer

Note : The charge-sheet must contain exact abusive words used.

* * *

APPENDIX - X

MISCONDUCT - MEANING AND SCOPE

- (A) (i) **Concept of misconduct :**
- (ii) **What is not a "Misconduct"**
- (B) **Misconduct relating to duty :**
 - (i) Non-performance of work
 - (ii) Negligence of duty
 - (iii) Absence without leave
 - (iv) Late Attendance
 - (v) Strike
 - (vi) Go - show
 - (vii) Gherao
- (C) **Misconduct relating to discipline :**
 - (i) Acts subversive of discipline
 - (ii) Insubordination
 - (iii) Riotous and disorderly behaviour during working hours at the establishment
 - (iv) Riotous and disorderly behaviour beyond working hours outside the premises of the establishment
- (D) **Misconduct relating to morality :**
 - (i) Theft
 - (ii) Dishonesty and fraud
 - (iii) Disloyalty
 - (iv) Corruption
 - (v) Moral turpitude
- (E) **Judicial notice of employees' misconduct :**
- (F) **Miscellaneous :**

(A) (i) **Concept of misconduct :** Misconduct is a transgression of some established rules of action, where no discretion is left except what necessity may demand. It is a violation of a definite law, a forbidden act. It differs from carelessness (Ballentine's Law Dictionary, Edn. 1948). Misconduct is a specific word with a specific connotation. It cannot be mere inefficiency or slackness. Something more than a positive and deliberate disobedience of any order of a superior authority will be one species of misconduct – *Presidency Talkies v N. S. Natarajan*, (1968) 11 LLJ 801 : (1969) Lab IC 432 Mad.

Any conduct on the part of an employee inconsistent with the faithful discharge of his duties towards his employer would be a misconduct. Any breach of the express or implied duties of an employee towards his employer, therefore, unless it be of a trifling nature, would constitute an act of misconduct. However, the act of misconduct must have some relation with the employee's duties towards his employer - *Victoria Mills Co. Ltd. v Presiding Officer*, (1970) Lav 431 (All); *Bharat Electronic Ltd. v Industrial Tribunal*, (1970) Lab IC 337 Mys (DB).

Misconduct comprises positive acts and not mere neglect or failure. It differs from carelessness. Every breach of discipline may amount to misconduct, the penalty for which varies with the gravity thereof. It is difficult to lay down exhaustively what constitutes misconduct and indiscipline. The conclusion depends on the examination of facts in each case.

Misconduct, even if it is an offence under the Indian Penal Code, is equally a misconduct - *Assam Oil Company Ltd. v L. N. Mohan*, 1952 IAC 488.

Misconduct, i.e. inconsistent conduct has to be proved and cannot be inferred - *Ramkrishna Ramnath Shop v Union of India*, ILR 1960 Bom. 507.

SHAH, J. observes : "Misconduct spreads over a wide and hazy spectrum of industrial activity, the most seriously subversive conducts rendering an employee wholly unfit for employment to mere technical default are covered thereby" - *Delhi Cloth and General Mills Ltd. v Workmen*, (1969) II LLJ. 755/772 (SC).

Misconduct in the context of Government service means a conduct in violation of statutory rules or a conduct which may be unbecoming of a Government servant. Misconduct by necessary implication contemplates a deliberate conduct on the part of the Government servant indicating his culpability - *G. S. Sial v President of India*, (1981) Lab. IC 59 NOC 1 (All).

Smoking at a work place is an offence of minor character. In spite of the prohibition, workers often indulge in smoking at the work-place. The supervisory staff also ignore it. But if smoking becomes a rule rather than an exception then it becomes a misconduct and cannot be ignored any longer. Smoking will be a serious offence where fire-hazard is great, such as in textile and jute mills or match factories or where, explosives are manufactured. Dismissal is not an unexceptionable punishment for smoking at such prohibited places.

It is held by the S.C. that acts of an employee which were detrimental to the interest and prestige of the employer amount to misconduct *M.H.Devendrappa v K.S.S.I.D Corporation*. AIR 1998 SC 1064

In industrial law there are two kinds of misconduct :

- (1) major misconducts which justify the punishment of dismissal or discharge; and

- (2) minor misconducts which do not justify punishment of dismissal or discharge but may call for lesser punishments - *Caltex India Ltd. v Labour Court, Patna, AIR 1966 SC 1729 : (1966) II LLJ 137.*

The expression "misconduct" has not been defined either in the Industrial Disputes Act or the Industrial Employment (Standing Orders) Act. The Industrial Employment (Standing Orders) Central Rules, 1964, framed under the Industrial Employment (Standing Orders) Act, 1946, under clause 14 (3) provides that the following acts and commissions shall be treated as misconduct :

- (a) wilful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior,
- (b) theft, fraud or dishonesty in connection with the employer's business or property,
- (c) wilful damage to or loss of employer's goods or property,
- (d) taking or giving bribes or any illegal gratification,
- (e) habitual absence without leave or absence without leave, for more than 10 days,
- (f) habitual late attendance,
- (g) habitual breach of any law applicable to the establishment,
- (h) riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline,
- (i) habitual negligence or neglect of work,
- (j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent of the wages in a month, and
- (k) striking work or inciting others to strike work in contravention of the provisions of any law or rule having the force of law.

There may be many more acts which may constitute misconduct. The employers may frame their own standing orders suited to the peculiar exigencies of their industries and establishments. It is not possible to provide for every type of misconduct in the standing orders for justifying disciplinary action against the workmen—*Express Newspapers (P). Ltd. v Industrial Tribunal, (1961) I LLJ 100, 106 (Mad.)*

In the case of *S. K. Seshadri v H. A. L. and others, (1983) II LLJ 410*, the validity of the order in the Standing Order of H.A.L. that money-lending in company's premises is a misconduct was challenged on the ground that standing order for matters not provided in the Model Standing Order is not valid. The Karnataka High Court held that it cannot be contended that the standing orders cannot contain anything more than what is contained in the Model Standing Orders. As long as the standing orders fall within the schedule to the Act, the standing orders would not

be invalid or ultra vires because they contain additional provisions not provided for in the Model Standing Orders.

In the absence of standing orders it would be open to the employer to consider reasonably what conduct can be properly treated as misconduct. It would be difficult to lay down any general rule in respect of this problem – *Agnani v. Badri Das*, (1963) 1 LLJ 684, 690 (SC).

In the absence of standing orders, however the question will have to be dealt with reasonably in accordance with commonsense. Acts of misconduct would then depend on the facts and circumstances of each case – *Agnani v. Badri Das*, (1963) 1 LLJ. 684, 690 (SC.)

Mere technical misconduct which leaves no trail of indiscipline is something different from a misconduct resulting in damage to the employer's property or misconduct which though not directly causing damage may be conducive to grave indiscipline, such as acts of violence against the management or other employees or riotous behaviour in or near the place of employment – *New Victoria Mills Co. Ltd. v. Labour Court*, (1970) Lab. IC 431 (All).

In the case of *Workmen of Dewan Group of Tea Estates v. Presiding Officer, Labour Court, Assam*, (1981) Lab. IC 713 (Ass), His Lordship relying on the decision of the Supreme Court in AIR 1976 SC 2062, observed that the standing order of the establishment describes a class of misconduct and the same cannot be exhaustive of all the species of misconduct which a workman may commit. Even though a given conduct may not come within the specific term of misconduct described in the standing order, it may still be a misconduct, in the special facts of the case and if the workman is held guilty of such a misconduct, appropriate action can be taken by the employer.

The Bombay High Court in *Sharda Prasad Onkar Prasad Tewari v. Central Railway*, (1960) 1 LLJ 167, 170 (Bom.) (DB), per RAJU, J. enumerated broadly the following specific illustrative cases of acts of misconduct, the commission of which would justify dismissal of the delinquent employee –

- (i) an act or conduct prejudicial or likely to be prejudicial to the interests or reputation of the master;
- (ii) an act or conduct inconsistent or incompatible with due or faithful discharge of his duty to him master;
- (iii) an act or conduct making in unsafe for the employer to retain him in service;
- (iv) an act or conduct of the employee so grossly immoral that all reasonable men may say that they cannot be trusted;
- (v) an act or conduct of the employee which may make it difficult for the master to rely on the faithfulness of the employee;

- (vi) an act or conduct of the employee opening before him temptations for not discharging his duties properly;
- (vii) an abusive act or an act disturbing the peace at the place of employment;
- (viii) insulting or insubordinate behaviour to such a degree as to be incompatible with the continuance of the relation of master and servant;
- (ix) habitual negligence in respect of the duties for which the employee is engaged; and
- (x) an act of neglect, even though isolated, which tends to cause serious consequences.

Misconduct in industrial employment can broadly be dealt with under three headings, viz.,

- (1) misconduct relating to duty;
- (2) misconduct relating to discipline; and
- (3) misconduct relating to morality.

But it may be stated that these heads are not and cannot be watertight compartments and, therefore, are devised merely for the purposes of convenience of treatment.

The following acts have not been treated as misconduct –

- (1) In the case of **Bawa Gockery House v R. N. Bhowmick** (1954 LAC 293), it was held that absence for a short time from the place of work has not been treated as misconduct.
- (2) In the case of **Northern Railway Co-operative Credit Society Ltd. v Industrial Tribunal** [1967] II LLJ 46 (SC)], it was held that refusal to carry out orders which are not enforceable under any rule cannot be the basis of discharge or dismissal.
- (3) In the case of **Agnani v. Badri Das** [(1963) I LLJ 46 (SC)], it was held that a private quarrel between the employee of an establishment and a citizen outside the factory premises cannot ordinarily fall within the categories of misconduct.
- (4) In the case of **Andhra Scientific Co. Ltd. v Seshagiri Rao** [(1961) II LLJ 117 (SC)], it was held that refusal of a workman to do the work which he is not obliged to do would not constitute misconduct.
- (5) An order to do work which involves a reasonable apprehension of danger to the life or person of the workman or an unlawful order would not constitute misconduct – **Bouzourou v. Ottoman Bank**, AIR 1930 PC 119.

- (6) In the case of **Banchelal v. State of UP** [(1957) II LLJ 231], it was held that the passing of a resolution or seconding a resolution to resort to pen-down strike will not constitute misconduct.
- (7) In the case of **Itti Cheria v. State of Kerala** [(1958) II LLJ 724], it was held that acts constituting mere irregularities are not misconduct.
- (8) Impossibility, illegality or ambiguity of orders or mistake in the orders would be valid defence against the charge of insubordination or disobedience of orders – **M. C. Donald v. Moller Line (UK) Ltd.** [(1953) 2 Lloyds Rep 662]
- (9) A speech exhorting workmen to take steps for the removal of the manager or any officer is not a misconduct amounting to insubordination or subversion – **Laxmi Debi Sugar Mills Ltd. v. Nand Kishore**, AIR 1957 SC 7.

(A) (ii) What is not a 'Misconduct'

- (A) The S. C. in the case of **orissa cement Ltd. v. Habibulla** 1960 (I) LLJ. 522, held that it would be difficult to accede to the argument that if the evidence given by an employee in an industrial adjudication is disbelieved that is self without any thing more would constitute misconduct.
- (B) In another case the S.C. held, 1978 (I) LLJ. 508, that the private quarrel between an employee and a stranger with which the employer is not concerned falls outside the categories of misconduct.
- (C) The S. C. again in the case of **union of India v. J. Ahmed**, AIR 1979 SC-1022 had held as under :

"It is, however, difficult to believe that lack of efficiency or attainment of highest standard in discharge of duty attached to public office would *ipso-facto* constitute misconduct. There may be negligence in performance of duty or error or judgment in evaluating the developing situation, but that would not constitute misconduct unless the consequences directly attributable to negligence would be such as to irreparable or the resultant damage would be so heavy that the degree of culpability would be very high...
- (D) The H. C. of Kerala, 1985 (II) LLJ 88, held that even criticism of an employer by an employee couched in moderate language been held not to amount to misconduct. No authority is entitled to treat the exercise of a fundamental right (making adverse comments in the press) as a misconduct.
- (E) The H. C. of Madras held that "An order of transfer made in violation of the service rules need not be obeyed and non-compliance with such an order result in disciplinary action-1991 (I) LLJ 364.

- (F) The H.C. of Calcutta had held, 1992 (II) LLJ. 698 that an error in judgment is not a misconduct since it is not culpable.
- (G) The H.C. of Bombay had held, 1993 (I) LLJ 1196, that :
 “It would not be right for the workmen to operate the Tail Gas Fan (Newly installed equipment) without being trained in that behalf. If on account of such under standing and feeling they refused to obey the orders their superiors, it can not be said that orders of their superiors.”
- (H) The H. C. of Bombay had held, **S. A. Kerkar V.S.UN.P.O.I.T & ors**, 1996 (I) LLJ 675, that -
 “Merely securing a wrong or false medical certificate by it self does not amount to misconduct. The Certificate of the doctor may be false due to ignorance or incompetence and there fore a wrong or false certificate does not necessarily create delinquency either on the doctor or on the person who produces it.”
- (I) The S. C. of India in the case of **Kashinath Roy V. State of Bihar**, 1997 (I) LLJ. 517, expressed the view that no disciplinary action could be taken for committing mistakes or errors within the limits of tolerance. In this case, a sessions judge while granting bail to an accused person made certain remarks as against the criminal jurisprudence obtained in this country that courts exercising bail jurisdiction normally do and should refrain from indulging in elaborate reasoning in their order.

(B) Misconduct relating to duty : Before an employee can be charged, the employer has to be satisfied that he had a duty to do and that he omitted to do the act or refrained from performing it. Such duties may be express or implied. Express duties are generally created by statute or the contract of employment. Express duties may be created by the Factories Act or the standing orders framed and certified under the Industrial Employment (Standing Orders) Act.

In the case of **Sharada Prosad Onkar Prasad v. Central Railway** [(1960) I LLJ 167 Nag], the Bombay High Court held that implied duties mean and include that the employee should be trustworthy and enjoy confidence of the employer by his acts, would not do anything to prejudice or damage the interest of the employer, would not act behave in a way inconsistent with faithful discharge of his duties, would not behave in an insubordinate manner, would not be habitually negligent etc.

An employee is expected to discharge not only express duties allotted to him but also the implied duties incidental to his job and the contract of service. He is not however within his competence to do duties which are neither his express duties nor incidental to his job or contract of service – **Presidency Talkies (P) Ltd., v Labour Court**, (1969) I LLJ 90 Mad.

In this case certain employees working as compositors in a printing press refused to do the work of imposition of "Types" which is known as joining work, on the plea that the management went back on their promises to pay some additional remuneration for the work. They did not allege that they did not possess the necessary skill for such work. The employees were dismissed. The Labour Court set aside the dismissal holding that the work of imposition of types was not part of the job of a compositor. Allowing the writ petition of the employees the Madras High Court held that the Labour Court failed to consider the nature and scope of the duties of the concerned workmen from an erroneous perspective. Joining work was an integral part of the technical process of printing. Rigid delimitation of several interlinked parts of the technical process where labour is employed would practically be paralysing the management **Press Labour Union v. Express Newspapers**, (1963) 1 LLJ. 492 Mad.

(i) **Non-performance of work** : The fact that some employees were employed as clerks and some as typists does not lead to the conclusion that a clerk cannot be asked to work as typist and *vice versa*—**Goswami v. G.M., South Eastern Railway**, (1966) 1 LLJ. 194 Cal.

But the matter is different when there is a covenant of services and an employee is asked to perform some duties which are totally outside the covenant—**Press Labour Union v Express Newspapers**, (1963) 1 LLJ 492 Mad (DB).

If an employee either deliberately or negligently damages employer's property or reputation he will expose himself to disciplinary action for misconduct of sabotage — **Janata Pictures & Theatres Ltd. v. Amullya Chakravarty**, [(1956) II LLJ 67 (LAT)].

In the case of **N. Y. Marigodara v Principal Munsiff**, (1982) Lab IC 1204, the Karanataka High Court held that the refusal of the stenographer of the Munsiff to go to the home office of the Munsiff on public holidays to take down dictations etc. without valid excuse, amounted to dereliction of duty warranting minor punishment.

The fact that one is an office bearer of a trade union does not confer immunity upon him from the performance of his duty and he cannot be allowed to adopt a truculent attitude merely because of his holding the capacity of an office bearer of the union—**Laxmi Devi Sugar Mills Ltd. v Nand Kishore**, (1956) II LLJ 439 (SC).

However, an error in judgment is a good defence against charge of damaging employer's property — **Indian General Navigation and Railway Co. v Workmen**, (1961) II LLJ 372; **Andhra Scientific Co. Ltd. v Seshagiri Rao**, (1961) II LLJ 117 : AIR 1967 SC 408.

When a worker failed to arrange store items properly as per order of higher authority he is just guilty of negligence and not of insubordination or disobedience — **Bharat Sugar Mills v Jai Singh**, (1961) II LLJ 644.

To justify disciplinary action, the employer has to prove that the employee had contravened the express or implied conditions of service - **Bharat Electronics Ltd. v Industrial Tribunal**, (1970) Lab IC 337 Mys (DB).

Where a workman doing union activities was in the habit of loitering outside his place of work without permission of his departmental head and did not refrain from doing so even though warned and his services were therefore dispensed with, it cannot be said that the employer was actuated by an improper motive to victimise him for his union activities - **Burn & Co. Ltd. v Their Workmen**, AIR 1959 SC 529 : (1959) 1 LLJ 450.

In the case of **Union of India v J. Ahmed**, AIR 1979 SC 1022 while the respondent J. Ahmed, an IAS Officer, was serving as the District Magistrate, Nowgong in June 1960, there were serious disturbances in the area, described in official parlance as "language disturbances". The Additional Chief Secretary to the Government of Assam held an enquiry into the causes of disturbances and on his report, the Government suspended the respondent and charge-sheeted him for the purpose of a departmental proceeding. As the respondent was to retire on superannuation on reaching the age of 55 years (as per rules in force at the time) on 1.2.62, the Governor of Assam directed that the respondent be retained in service for a period of 3 months beyond the date of his retirement or till finalisation of the proceeding, whichever is earlier. By subsequent orders, the respondent was retained in service till final orders were passed in the proceedings. The Enquiry Officer in his report held the respondent guilty of certain charges and thereafter the President of India removed the respondent from service w.e.f. 11.10 1963. The respondent filed a petition under Art. 226 of the Constitution before the High Court of Assam and Nagaland. The High Court quashed the disciplinary action declaring it unjustified and without jurisdiction and ordered that the respondent be deemed to have retired from service on and from 1.2.1962. The Union of India and State of Assam preferred appeal by special leave. The Supreme Court held that none of the charges framed against the respondent constituted misconduct in law. The substance of the allegations was that the respondent was not an efficient officer and lacked the quality of leadership and deficient in the faculty of decision making. These deficiencies would not constitute misconduct." The order of the Assam High Court was confirmed. The appeal was dismissed.

The general rule is that disobedience or wilful disobedience is a sufficient ground for dismissal - **Eldec Velvet and Silk Mills, Bombay v Mill Mazdoor Sabha**, (1995) 1 LLJ 577.

The master is to be the judge of the circumstances under which the services of the servant are required, subject to the condition that he is to be given only lawful commands - **Eldec Velvet & Silk Mills, Bombay v Mill Mazdoor Sabha**, (1955) 1 LLJ 577.

Deliberate refusal to work overtime with the object of harassing the company is misconduct - **Employees v B. C. B. Industries & Printers Ltd.**, 1954 LAC 234.

Sleeping while on duty is a misconduct - **Ranga Villas Mills v Workmen**, (1951) II LLJ 599.

Adopting go slow methods or inciting others to do so is a major misconduct - **Bathgate Employees' Union v Bathgate & Co.**, 1953 LAC 149.

Fomenting illegal strike or resistance against an order lawfully made is misconduct - **Ranga Villas Mills v Workmen**, (1951) II LLJ 599.

Acts subversive of discipline and having a tendency to disturb peace and good order amount to misconduct - **Shalimar Rope Works Mazdoor Union v Management**, (1953) II LLJ 876.

A switching off of electric power during working hours without permission or order of a superior officer is a misconduct deserving the punishment of dismissal unless the act done was due to an error of judgment - **Indian General Navigation & Railway Co. v. Workmen**, (1961) II LLJ 372.

(ii) Negligence of duty : The contract of industrial employment postulates that a workman owes a duty to his employer, to exercise reasonable care and skill in the performance of his duty. Negligence is the absence of such care, skill and diligence. The omission to perform duty may consist of a variety of things. Doing nothing, wasting time by loitering, loafing, idling, gossiping or sleeping during duty hours or the pretence of awaiting instructions with a view to shirk are acts which constitute serious misconduct justifying dismissal provided when any of the above acts are committed habitually - **Victoria Jute Co. Ltd. v Fifth Industrial Tribunal**, (1965) I LLJ 628 Cal.

In the case of **Algemene Bank Nederland v Central Government Industrial Court and others** (1978) II LLJ 117 Cal, bank employees abstained from work one day between 3 p.m. and 5.45 p.m. The bank deducted wages of the employees for the period of unauthorised absence on the principle of no-work-no-pay. Disposing the writ petition filed by the management, the Calcutta High Court held that a contract of employment involved reciprocal promises. Right of employees to remuneration depends generally upon performance of work during the period of employment. Wages means remuneration for services rendered in terms of employment. Performance of work for the specified period is one of the principal terms of employment. Therefore no wages became payable for the said period of unauthorised absence under the W.B. Shops & Establishments Act.

In order to bring a particular act or omission under the head, it is necessary to prove that the workman was negligent in the discharge of his duties as a habit. Hence isolated or stray incidents of negligence unless attended by serious consequences will not constitute misconduct to warrant the punishment of discharge of

dismissal – **Baster v. London Country Printing Works**, All ER 437: 68 LJQB 622 : 47 WR 639 : 15 TLR 331.

Workman was charge-sheeted for having been caught redhanded while smoking in the vicinity where smoking was strictly prohibited, at a time when an aircraft was being refuelled. A serious accident might have been caused to the aircraft. After an enquiry the workman was dismissed. The dismissal was upheld by the Tribunal and later on affirmed by the Supreme Court as justified – **Caltex (India) Ltd. v Eugenie Fernandes**, (1955) 1 LLJ 746.

Before a person can be said to be guilty of habitual negligence, it has to be shown that he has been guilty of negligence on several occasions – **Baster v London County Printing Works**, All ER 437 : 68 LJQB : 47 WR 639 : 15 TLR 331.

Habitual sleeping during the duty hours would constitute an act of gross negligence and serious dereliction of duty - **Ford Motor Co. India Ltd. v S. K. K. Naik**, (1952) 1 LLJ 388 (LAT).

Habitual loitering in the premises of an industrial establishment is a misconduct justifying dismissal - **Burn & Co. Ltd. v Workmen**, (1959) 1 LLJ 450 (SC).

Habitual negligence or neglect of work has been listed as misconduct in the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946.

The question whether a mere act of negligence constitutes gross misconduct or not will depend upon its peculiar facts and circumstances and the nature of work performed by an employee as well as the status and position he occupies - **Baster v. London Country Pringing works**, All ER 437 : 68 LJQB 622 : 47 WR 639 : 15 TLR 331.

In spite of the fact that the management had directed the worker not to allow unauthorised persons to handle live electric wires, an unauthorised person did so in presence of the worker who stood about 10/12 yards from the site. Held, the worker's service was rightly terminated - **Benaras Electric and Power Co. Ltd. v Labour Court**, AIR 1972 SC 2182.

Systematic acts of leaving work without permission in spite of warning not to do so constitutes grave misconduct for which dismissal is the proper punishment - **Indian Iron & Steel Co. v Workman**, AIR 1954 SC 529 : (1959) 1 LLJ 450.

Any act which affects production is a misconduct such as goslow – **Bhart Sugar Mills Ltd. v Jai Singh**, (1961) II LLJ 644 (SC).

(iii) **Absence without leave** : It is one of the common causes that constitute misconduct in industrial employment. Even if the workman is not absent from the employer's business premises, his absence from the specific place of duty where he is required to be, without permission would also constitute an act of misconduct - **Burn & Co. Ltd. v Workmen**, (1959) 1 LLJ 450 : AIR 1959 SC 529.

Habitual absence from without leave has been made a misconduct under the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946.

In the case of **Tata Engineering and Locomotive Co Ltd. Jamshedpur v State of Bihar and others**, 1984 Lab IC 206, the workmen were arrested by the police on criminal charges and the management instituted domestic enquiry for their continued absence without leave. None of the charge-sheeted workmen participated in the enquiry and after the enquiry the management discharged them from service. The matter ultimately came up before the Patna High Court on the basis of writ petition filed by the petitioner. The High Court held that when the Labour Court found on the basis of the evidence that the workmen were arrested by the police not at the instance of the management, the action of the management against the workers was not in violation of the principles of natural justice. The High Court further held that the absence of the workmen in such case could not be said to be for reasons beyond their control.

It is unjust to hold that if a worker is arrested, the company is always required to grant leave and cannot terminate his services. It is immaterial whether the charges are established against the worker or not- **Indian Iron & Steel Co. v Workmen**, (1964) 1 LLJ 429.

The fact the worker was continuously absent from duty without leave on account of his detention in jail for an offence, will not give him an immunity and the employer will be justified in discharging him from service - **Burn & Co. Ltd. v Their Workmen**, (1957) 1 LLJ 226, 234 (SC),

No employee can claim leave of absence as a matter of right and remaining absent without leave will itself constitute gross violation of discipline - **Burn & Co. v Their Workmen**, (1965) 1 LLJ 450, 452 (SC),

Continued absence from work without permission will constitute misconduct justifying the discharge of a workman from service. The mere fact that he applied for leave would not be a good defence when the leave was refused by the employer in exercise of his discretion, unless it would be shown that the action taken was actuated by the desire to victimise the workman- **Indian Iron & Steel Co. Ltd. v Their Workmen**, (1958) 1 LLJ 260 (SC),

In **Indian Iron & Steel Co. Ltd. v Their Workmen** [(1958) 1 LLJ 260 (SC)], seven workmen were absent without leave for 14 consecutive days as they were in police custody. But from the police custody they applied for leave which was refused and the company terminated their services under the relevant standing order for remaining absent from duty without leave for 14 days. Dealing with the discharge of these workmen, the Industrial Tribunal took the view that the relevant standing order was not the inflexible rule and mere application for leave was sufficient to arrest the operation of the standing order. But the Labour Appellate

Tribunal had in each case considered the justification of absence without leave and that in view of the circumstances that the workmen were in custody, the company was not justified in refusing leave.

Another defence open to an employee against the charge of absence without leave is that the absence was on account of circumstances beyond his control. However, if a workman malinagers, i.e. pretends sickness in order to avoid duty by producing a false medical certificate, this would itself be a serious act of misconduct - *Rabindra Nath v First Industrial Tribunal, West Bengal*, (1963) 1 LLJ 567 Cal.

In the case of *Samad (appellant) v Andhra Pradesh State Road Transport Corporation*, (1983) Lab IC 1513, Shri A. Samad, a mechanic absented from 12.8.1980 unauthorisedly. According to Regulation 17(2) of the Employees (Leave) Regulations 1963 of the Corporation, a permanent employee remaining absent for a period exceeding seven days unauthorisedly shall cease to have leave on any post in the service. The Corporation, in terms of the above regulation terminated his service. The issue ultimately came up before the Andhra Pradesh High Court. The High Court found that Regulation 17 was applicable only to employees who remained absent from duty "after the end of leave." The High Court held that for the reason stated above, Regulation 17 was not applicable to this case. The High Court observed that if action was sought to be taken against the employee on ground of absence without leave, the same would constitute misconduct within the meaning of Regulation 28 of the Employees (Conduct) Regulations of the Corporation. So the employee, in this case, could have been removed only after holding an enquiry as required by Regulation 12. In the present case, no such enquiry was held so the order of termination was liable to be reversed.

When the employee goes on applying for extension of leave on the ground of sickness, the employer is not bound to grant him leave for an indefinite period, especially when no leave is due to him. However, the burden of proof would be on the employee to show that this absence was justified - *Thomas v. Vivian*, (1872) 37 JP 288.

The quantum of punishment in cases of misconduct of absence from duty without leave would depend upon the facts of each case - *Nagaraja Rao v State of Mysore*, (1958) 1 LLJ 319, 322 Mys (DB).

Where the worker absented after the tiffin hour continuously for 2 days, such temporary absence would not amount to misconduct justifying the penalty of dismissal - *Shalimar Rope Works v. State of West Bengal*, (1965) 1 LLJ 625 (Cal),

In the case of *Md. Abdul Khader v A.P. State Road Transport Corporation and others*, 1984 Lab. IC 90, the Andhra Pradesh High Court held that termination of services of the employee for overstay on expiry of leave by the management amounts to retrenchment. In this case no enquiry has been made to justify the action of termination on ground of misconduct. So, for the failure of the

management to comply with the provisions of sec. 25F of the Industrial Disputes Act before terminating the service of the employee, the order of termination is liable to be quashed. Decision of the Supreme Court in the case of **L. Robert D'Souza v Executive Engineer, Southern Railway** in AIR 1982 SC 854 followed.

In the case of **General Industrial Society Ltd. v Industrial Tribunal and others**, (1978) II LLJ 384, the respondent workman had overstayed his leave and applied for extension. Without granting or refusing extension of leave, the management asked him to show cause as to why he should not be dismissed for remaining absent without leave. Ultimately he was dismissed. The workman filed an application under sec. 33A. The Tribunal ordered his reinstatement with back wages. Dismissing the writ petition of the management, the Calcutta High Court held that in the instant case the dismissal was not a termination simpliciter but by issuing a charge-sheet without giving the workmen necessary opportunity to explain his conduct.

In order to justify the severe penalty of discharge or dismissal, it is to be proved that the workman remained absent without leave for an inordinately long period or that he is habituated to absent himself from duty. For instance, where a worker remained absent on merely 3 occasions in a month, it was held that it was not sufficient in law to prove the misconduct of habitual absence - **Tata Iron & Steel Co. Ltd. v Laltu Tury**, (1967) II LLJ 207 Pat (DB),

When a workman systematically absents himself from work without permission and without making any application for leave, such act is gross violation of discipline - **Burn & Co. Ltd. v Their Workmen**, (1959) I LLJ 450, 452,

When a workman makes it a habit of loitering outside his place of work and without taking permission for leaving the work he goes out and refuses to give up such a habit though repeatedly warned against doing so, it would be an act of grave misconduct - **Burn & Co. Ltd. v Workmen**, AIR 1959 SC 529 : (1959) I LLJ 450.

(iv) **Late Attendance** : Habitual late attendance is a misconduct and is generally included in the Standing Orders of Industrial Establishments because late attendance is a species of absence without leave between the time an employee is required to arrive and the time he actually arrives.

In the case of **Tobacco Manufactures (India) Ltd. v Cigarette Factory Workers Union** [(1953) II LLJ 42], the workman concerned, on more than six occasions within a period of 12 months, came late to the office. He was warned thrice and on one occasion, suspended. In spite of final warning by the employer, he continued to persist in his habit of late attendance without any valid excuse. In the circumstances his dismissal for habitual late attendance was held justified by the Labour Appellate Tribunal.

In the case of **Gurudas Chatterjee and another v State Bank of India and others**, (1983) II LLJ 200 Cal, the Calcutta High Court held that the *sine qua non*

for the applicability of sec. 9A read with the Fourth Schedule is that there should be a change in the condition of service in respect of matters specified in the Schedule. Mere withdrawal of a privilege will not amount to a change in the condition of service until such privilege having been allowed to be enjoyed by the employees over a long stretch of time as a matter of custom or usage, has become an accepted condition of service. The court further held that unpunctuality is a misconduct under existing conditions of service of the bank employees, and because such a misconduct, was dealt with leniently by the employer in the past, cannot constitute a privilege even when the employer does not intend to condone it any more.

In the case of **Gurudas Chatterjee and another v State Bank of India and others**, (1983) II LLJ 207, the Calcutta High Court held that in a big city like Calcutta there is always unpredictable hazards and disruption in vehicular movement. Suburban train services are very often irregular. In the present set-up of big cities like Calcutta it becomes often difficult for the employees to attend office in time in spite of the best efforts. Strict enforcement of punctuality without considering aforesaid unpredictable and unforeseen impediments and hazards cannot but cause great hardship to the concerned employees and it is reasonably expected that the State Bank authorities, in enforcing strict discipline in the office will consider the practical difficulties in attending office always in time.

(v) **Strike** : A strike without adequate and proper notice as required under sec. 22 (i) (b) of the Industrial Disputes Act is illegal – **State of Bihar v Deodhar Jha**, AIR 1958 Pat 51 (DB).

Illegal strikes have been included in the list of misconducts. But the punishment for taking part in an illegal or unjustified strike would depend upon the construction of the standing orders and also the facts and circumstances of each case.

In the case of **Punjab National Bank v Workmen**, (1952) II LLJ 656 (LAT) Cal, it was held that where any strike is commenced without giving notice under sec. 22 of the Act or within seven days of the conclusion of conciliation proceedings, the strike must be held to be illegal irrespective of whether it was provoked by the employer and the workmen would not be entitled to any pay for the period of strike.

In the case of **Ramkrishna Iron foundry v Workmen**, (1954) II LLJ 372 the Labour Appellate Tribunal observed that a strike may be held to be unjustified for various reasons, which it is not possible to define. It may be held to be unjustified because the demands were pitched unreasonably high or that the strike was resorted to in spite of very reasonable attitude of the employer or because the demands were not made *bona fide* but with extraneous motives, mainly for the purpose of embarrassing the employer.

In the case of **Fertiliser Corporation of India. v Workmen**, 1970 Lab IC 743 : (1970) II LLJ 25 : AIR 1970 SC 867, the Supreme Court held that since the strike was started on union's demand for *ex gratia*, the ground for the strike cannot be considered to be of an urgent and serious nature. Such a strike was unjustified and so the workmen participating in the strike were not entitled to any wages for the period of strike.

In **Ballu Govind v. Appollo Mills Ltd.**, (1957) II LLJ 55 (LAT) (Bom), the Labour Appellate Tribunal held that where a large number of workmen refused to do full work assigned to them and performed work only to half extent, then action must be held to amount to partial cessation of work under a concerted refusal within the meaning of the term strike. Where a large number of workmen stop work simultaneously, the presumption is that they do so in concert.

In the case of **Sadul Textile Mills Ltd. v I. T., Jaipur and others**, (1958) II LLJ 628 Raj, the Rajasthan High Court held that even without violence a stay-in-strike or sitdown strike is an invasion on the rights of the employer and there could be no justification for such strike. By staging a stay-in-strike the workers commit wrong and put themselves out of court even though they might not have actively committed acts of violence or sabotage. By remaining on the property they practically deprive the employer of his property and stop him from carrying business with the help of others. There is, at least, an element of trespass upon property of the employer in the case of sitdown or stay-in-strike. Hence workers participating in such unjustified strike could not claim any wages for the strike period.

In **Model Mills Ltd. v Dharam Das** [(1958) I LLJ 539 (SC)], it was held that refusal to work by the sympathising workmen was a concerted action. The dismissal of the workmen for participating in the strike was held to be proper and justified by the Supreme Court.

In **Bata Shoe Co. (P) Ltd. v D. N. Ganguly** (1961) I LLJ 303 (SC), per WANCHOO, J., the Supreme Court observed as follows :

It may be that participation in an illegal strike may not necessarily and in every case be punishable with dismissal; but where an enquiry has been properly held and the employer has inflicted the punishment of dismissal upon the employee who has been guilty of the misconduct of joining an illegal strike, the Tribunal should not interfere, unless it finds an unfair labour practice or victimisation against the employee.

The Supreme Court in India General Navigation & Railway Co's case observed that "mere taking part in an illegal strike without anything further would not necessarily justify the dismissal of all workmen taking part in the strike - (1961) I LLJ 372.

The punishment of dismissal is not proper for mere participation in an illegal strike without anything more, unless under the standing orders such punishment is

expressly authorised - **I. M. H. Press. Delhi v Additional Industrial Tribunal, Delhi**, AIR 1960 SC 219. In this case too, there were no standing orders applicable to the employer's establishment. Nonetheless, it was held that a domestic enquiry should have been held in order to entitle the management to dispense with the services of its workmen on the ground of misconduct.

It was held by S.C that "Punishment of dismissal is not proper for mere participation in an illegal strike without anything more unless under S.O such punishment is expressly authorised for the offence" **L.M.H.Press v. Delhi v.Add.I.T Delhi** AIR 1961 SC 1168

In the case of **Gujarat Steel Tubes Ltd v. G.S.T. Mazdoor Sabha** - 1980 (I) LLJ 138 the S.C. again held that "Passive participation in a strike which is both illegal and unjustified does not *ipso facto* inrite dismissal or punitive discharge"

The Bombay High Court based on the above judgement of S.C held the same view, firstly in the case of **Jaslok Hospital** 1984(I) LLJ 776 and secondly in the case of **C.C.parikar v K.K.Mills Ltd & ors.**1992 (II) LLJ 640 and thirdly in case of **Bharti textile Mills** 1995 (I) LLJ 92.

However, where during an illegal and unjustified strike, the workman physically obstructed other willing workers from working by sitting down between the tram-lines, it was held to be a serious misconduct for which the action of dismissal was justified and no presumption of victimisation could be drawn if the workmen were not given lesser punishment - **Bengal Bhatdee Coal Co. Ltd. v Ram Prakash Singh**, (1963) I LLJ 291 (SC), per WANCHOO, J.

Mere participation of workers in the strike either during working hours or beyond working hours will not itself be a serious misconduct even if such presence constitutes a civil trespass - **Punjab National Bank Ltd. v Their Workmen**, (1964) II LLJ 626 Mad, per RAMCHANDRA AYYAR, CJ.

When a strike for a particular specified reason is expressly prohibited by statute and is declared illegal, the longer question as to workmen's right to resort to strike as a measure of collective bargaining against an action taken by the employer does not arise at all - **Raja Bahadur Motilal Poona Mills v Tukarma Piraji Musale**, AIR 1957 SC 73.

Where the workman forcibly entered the premises of the mills in spite of the warnings given by the watchman and continued to stay there threatening violence towards the property and persons, the action of dismissal was held to be justified - **Lakshmi Devi Sugar Mills v Ram Sarup**, (1957) I LLJ 17 (SC),

The employer cannot treat the workmen as having left the service merely because of their absence from duty during a strike. If he wishes to take action against them he must hold a regular enquiry before doing so - **Express Newspapers Pvt. Ltd. v Michael Mark**, AIR 1963 SC 1141 : (1963) II LLJ 220.

Taking part in demonstrations connected with an illegal strike or making preparation for that strike does not by itself amount to participation in the strike even when the part so taken is an active part. Actual participation in the strike must be proved - *D. K. Ghose v Ex. Joseph*, AIR 1963 SC 47.

A worker cannot always be dismissed for joining a strike which is not illegal, but is simply unjustified. In the absence of any evidence to show that the workmen concerned were guilty of violence during the strike the action of dismissal cannot be sustained - *Swadeshi Industrial Ltd. v Its Workmen*, (1960) II LLJ 78, 87 (SC). Nevertheless, the employer will have the right to dismiss a workman joining a strike only when (i) the strike itself is not *bona fide* or (ii) when it is launched on other extraneous considerations and not solely with a view to better the conditions of labour - *Ramkrishna Iron Foundry v Their Workmen*, (1954) II IJ 372 (LAT).

A strike resorted to for the purpose of influencing the employer to open negotiations as to demands is not "illegal strike" provided the provisions of secs. 22 and 24 of the Industrial Disputes Act, 1947, are not contravened - *Swadeshi Industries Ltd. v Workmen*, AIR 1960 SC 1958 : (1960) II LLJ 78.

But the disciplinary action of dismissal or discharge for taking part in an illegal strike can only be justified, if the employer has found the delinquent workman guilty of the misconduct of taking part in such illegal strike and has determined the extent of the participation of the workmen in it - *Express Newspapers (P) Ltd. v Michael Mark*, (1962) II LLJ 220 (SC), per MUDHOLKAR, J.

Illegality and justification cannot coexist. An illegal strike can never be said to be justified. Once the strike is held illegal, the only question which remains is what should be the appropriate punishment therefor. The tendency to condone illegal strikes, just because the workmen remained peaceful, must be deprecated - *Indian General Navigation and Railway Co. Ltd. v Their Workmen*, AIR 1960 SC 219 : (1960) 2 SCR 1.

In the case of *Madura Coats Ltd. v Inspector of Factories and another*, (1981) I LLJ 255 SC, the question arose before the Supreme Court whether workmen who go on strike contravening sec. 22 of the Industrial Disputes Act can claim wages for a national holiday which falls in the strike period in terms of sec. 5 (1) of the Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, 1958. Held that the workmen went on strike without service of notice under sec. 22 of the Act. That being so, the strike was wholly unjustified, if not illegal. When workers themselves brought about a situation by going on a strike, they cannot be permitted to claim wages under sec. 5 (1) of the Act since the management was deprived of their right to call upon the workmen to work on such holidays in terms of sec. 5 (2) of the Act.

In the case of *Jay Engineering Works Ltd. v The State of West Bengal*, AIR 1968 Cal 407, the court laid down the following propositions of law with regard to trade union activities.

“Sections 17 and 18 of the Trade Unions Act grant certain exemption to members of trade unions. But there is no exemption against either an agreement to commit an offence or intimidation, molestation or violence where they amount to an offence. Members of trade unions may resort to a peaceful strike and their concerted move to collect together outside or inside the industrial establishment, within working hours is permissible. But where they resort to unlawful confinement of persons, criminal trespass or criminal assault or mischief to person or property, the exemption can no longer be calimed.”

(vi) **Go slow** : Go slow is a deliberate delaying of production by workmen pretending to be engaged in the factory. Go slow is likely to be much more harmful than the total cessation of work by strike as during a strike much of the machinery can be fully turned off, while during the go slow, the machinery is kept going on at a reduced speed which may even damage the machinery. Go slow is a serious misconduct - **Bharat Sugar Mills Ltd. v Jai Singh**, (1961) II LLJ 644 (SC), (1962) 3 SCC 684; (1961) 3FLR 371 (SC)

In the words of DAS GUPTA, J. “go slow” which is a picturesque description of deliberate delaying of production by workmen pretending to be engaged in the factory, is one of the most pernicious practices that discontented or disgruntled workmen sometimes resort to - **Bharat Sugar Mills Ltd. v Jai Singh**, (1961) II LLJ 644 (SC) : (1962) 3 SCC 684 : (1961) 3 FLR 317 (SC).

“Go slow” has also been made a misconduct under the Model Standing Orders, and it is generally included in the Stading Orders of industrial establishments as a species of misconduct. not only dismissal is the penalty in such cases, a criminal charge can be brought against persons using violence to coerce other to join ‘go-slow’.

For “go-slow” refer the following case laws.

- Saxbi Former India Ltd v Workmen (1956) ILLJ 72
- Ganesh flour Mills v Chandrika Prasad (1957) I LLJ 656 (LAT)
- Workmen of the motipur sugar Factory (P) Ltd v Motipur Sugar Factory (P) Ltd. AIR 1965 SC 1803 (1811-1812) : (1965) II LLJ 102.
- Bathgate employee’s Union v Bathgate & Co.Ltd (1953) I LLJ 492-493 (LAT)

(vii) **Gherao** : Gherao may be defined as a physical blockade of a target, either by encirclement or forcible occupation. The blockade may be complete or partial and is invariably accompanied by wrongful restraint, and/or wrongful confinement, and occasionally accompanied by assault, criminal trespass, mischief to person or property, unlawful assembly and various other criminal offences - **Jay Engineering Works v State of West Bengal**, AIR 1968 Cal 407.

Gherao may be of two kinds. The ordinary kind of *gherao* is encirclement or blockade of the industrial establishment including the office, factory, workshop or residence, where the person *gheraoed* who is generally a person in managerial or supervisory position, happens to be present. the encirclement may be complete or partial. In such case gates or doors are blocked, preventing egress and ingress. There might be such blockade outside the premises at the public thoroughfare or the person blocking may trespass into the land belonging to the industrial establishment. The second kind of *gherao* is encirclement in depth, that is to say, forcible possession of the industrial establishment and ouster of the real owner and the managerial and other staff – *Jay Engineering Works v State of West Bengal*, AIR 1968 Cal 407 : 72 CWN 441.

The Calcutta High Court, quashing the circular of the laws are made, whether substantive or procedural, neither the Governor, nor the cabinet nor the ministers nor a subordinate executive authority has the power to add or to detract from its content or to interfere with its working or to affect any discretionary power given under it unless such right is clearly granted under the constitutional law. It was further held that where there is a *gherao*, accompanied by the commission of an offence, e.g. wrongful confinement, the executive Government has no power to give directions, pass orders, issue circulars to the police or the magistrate to the effect that the procedure to be followed by them should be in anyway different from or at variance with what has been laid down by the Criminal Procedure Code or any other law governing such procedure - *Jay Engineering Works v State of West Bengal*, AIR 1968 Cal 407 : 72 CWN 441.

A *gherao* may or may not amount to a strike but when accompanied by violence or commission of any offence it can never be lawful.

A concerted movement by workmen by gathering together either outside employer's establishments or inside, within the working hours is permissible when it is peaceful and does not violate the provisions of law (exemptions bysecs. 17 and 18 of the Indian Trade Union Act, 1926).

In the case of *Swamy Oil Mills v Their Workmen*, (1953) II LLJ 785, workmen were charged with wrongful restraint of car or factory executives and stopping vehicles carrying goods to and from the factory. Held, in such cases individual charge-sheet to be given.

All workmen guilty of wrongfully restraining any person belonging to the management, or wrongfully confining him, during a *gherao* would be guilty under section 339 or 340 of the I.P.C. for having committed cognizable offences for which they would be liable to be arrested without warrant and punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to Rs. 500 or with both - *Jay Engineering Works v State of West Bengal*, AIR 1968 Cal 407.

Refer also : Titagraph paper Mills Ltd v Their employee's Union (1957) II LLJ 550 (LAT)

The concept of *gherao* being new one it has hitherto not been included, either in the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946, or the standing orders framed by the industrial employers. But since this mode of demonstration has been held to be unconstitutional and unlawful involving the breach of several provisions of the criminal law, its commission will also be a misconduct for the purpose of disciplinary action by industrial employers.

(C) Misconduct relating to discipline :

- (i) **Acts subversive of discipline :** Generally in industrial adjudication the following acts have been treated as acts subversive of discipline :
 - (i) Writing a letter to the director of the company containing offensive remarks against him - **Jaichand Bansal v Industrial Tribunal**, (1966) II LLJ 289 Bom (DB),
 - (ii) Behaviour, insulting and insubordinate to such a degree as to be incompatible with the continuance of the relation of employer and employee - **Shalimar Rope Works' Mazdoor Union v Shalimar Rope Works**, (1953) I LLJ 876 (LAT).
 - (iii) Abusing a superior officer by using vulgar and filthy language - **Orissa Cement Ltd. v Adikanda Sahu**, (1960) I LLJ 518 (SC), .
- also refer :** Ramakrishna v Union of India 1996 (1) LLJ -985: The Management of Eswaran and sons eng.Pvt.Ltd.v III ALC Madras & others 1997 (I) LLJ. 698 : S.K.Mohiuddin v Chairman, TNPSC & Anr.1997 (II) LLJ -112 (D.B) : Ramakant Mishra v State of U.P 1982 (II) LLJ.472 : Vedprakash Gupta v M/s Demton Cable India (P) Ltd 1984 (I) LLJ 546:
- (iv) Preferring a false complaint to the police against a superior officer knowing it to be false with a view to bringing the management into humiliation - **Agarpara Jute Mills v sukdeo Rai**, (1957) I LLJ 418 (LAT).
 - (v) The act of wrongfully restraining and confining the manager by workmen with a view to making him concede to their demands - **Titagarh Paper Mills Ltd. v Paper Mills Employees' Union**, (1957) II LLJ 550 (LAT).
 - (vi) Preventing a superior officer from discharging his duties towards the management - **CalcuttaJute Manufacturing Co. Ltd. v Calcutta Jute Manufacturing Workers' Union**, (1961) II LLJ 686 (SC).
 - (vii) Sleeping in office while on duty - **Maneck Chowk and Ahmedabad**

Manufacturing Co. Ltd. v Industrial Court, (1967) I LLJ 483 Gujarat (DB),

According to H.C of Bombay 1995 (I) LLJ 23 sleeping while on duty accompanied with false excuse and insubordination amount to a serious misconduct and the punishment of dismissal is neither shocking nor disproportionate.

- (viii) Rowdy conduct in the course of working hours, or in some cases, even outside the working hours but within the precincts of the concern and directed towards the employees of the concern - **Agnani (W.M.) v Badri Das**, (1963) I LLJ 684 (SC),
- (xi) In the case of **Shalimar Rope Works Ltd., Howrah v Workmen**, (1957) II LLJ 876, it was held that a fight between two workmen in the factory during working hours over their private affairs would be an act subversive of discipline even if the standing order did not mention it as misconduct. It was further held that an act would be regarded as misconduct. It was further held that an act would be regarded as misconduct even if it occurs outside the factory when the act is inconsistent with the express or implied conditions of service or directly linked with the general relationship of employer and employee or has a direct connection with contentment or comfort of workmen at work or has a material bearing on the smooth and efficient working of the concern.
- (xii) **Playing Cards** : The S.C in the case of **Fakirbhai Fucabhai Solanki v The Presiding officer & Anr.** 1986 (II) LLJ 124 held as below : "The Act of misconduct attributed to the appellant was that he was playing cards along with two other workmen during the working hours of the factory on the facts we are of the view that punishment imposed in this case on the appellant appears to be excessive"

The fact that the workman happens to be an office bearer of the worker's union cannot confer immunity upon him from punishment for breach of discipline. Such misconduct when proved would justify the punishment of dismissal - **Burn & Co. Ltd. v Workmen**, AIR 1959 SC 529 : (1959) I LLJ 450.

A worker deliberately exhibited slide without permission of the management, during a performance. As a result the advertising firm gained to the loss of the management. Held, it was an act of grave misconduct justifying dismissal - **Presidency Talkies (P) Ltd. v Presiding Officer, Labour Court**, (1969) I LLJ 90 Mad.

In the case of the **Railway Board v Niranjana Singh** (1969) II LLJ 743 SC, the Supreme Court held that there is no fundamental right for anyone to hold meetings in the properties belonging to others. When the employer prohibited meetings at various depots and centres and sent a letter to the union in this behalf, then holding of such meetings was subversive of discipline. The property rights are

themselves fundamental rights under the Constitution. Any demonstration at the work-place is likely to disturb the orderly working of the business of the employer. The Supreme Court further held that if a workman collects subscription at the work-place during the hours of work, he is guilty of misconduct.

A Stenographer is an essential part of the administration officer, his deliberate disobedience is sufficient to warrant a punishment of dismissal - **Sarabhai M. Chemicals v M.S Ajmera** 1982 Lab I.C 97 (Bom)

(ii) **Insubordination** : The word 'insubordination' means unwillingness to submit to authority; disobedience to orders; infraction of rule or generally disaffected attitude towards authority **Webster's Third New International Dictionary**.

Deliberate refusal to obey the orders of the authority will constitute insubordination but negligence in obeying the orders will be an act of disobedience though it may not fall within the connotation of the expression "insubordination" - **Calcutta Jute Mft. Co. Ltd. v Workers' Union**, (1961) II LLJ 686 (SC). (1962) 4 FLR-7.

Refusal to obey a lawful order of transfer amounts to wilful disobedience and insubordination and is a serious misconduct - **Bata Shoe Co. v Ali Hasan**, (1956) I LLJ 278.

An employee who writes to the director of the company a letter which contains offensive remarks, commits an act which amounts to misconduct - **Jaichand Bansal v Industrial Tribunal**, (1966) I LLJ 289 Bom. (DB).

Insubordination or disobedience, whether alone or in combination with any other, of a lawful or reasonable order of a superior constitutes misconduct which may justify the dismissal of the delinquent employee - **Cambia Mills Ltd. v Industrial Tribunal**, (1959) I LLJ 80 (Mad), per BALKRISHNA AYYAR, J.

However, each and every act of disobedience does not call for extreme penalty. It is only when the allegation is serious it justifies dismissal. When the worker entered into manager's room with a mob, caught hold of the manager's collar and misbehaved with him, it is serious act of insubordination and breach of discipline and deserves the punishment of dismissal **LaluMahto v Central Govt I.T** 1987 Lab. I.C 416 (pat0 When the workers tears the leave application and throws it on the face of the Asst. Manager, his dismissal from the service is Justified. **Jamadoba Coliery v Their Workmen** (1971) 23 FLR 52; also refer (1988) 56 FLR 335 (MP); (1988) 57 FLR (ALL) : (1984) 2 LLN 590 (Bom): 1987 Lab.I.C 143 (Guj) : (1993) II LLJ.852 (Bom).

In the case of **Boots Pure Drug & Co. (India) Ltd., Cochin v K. C. Bastian and another**, (1977) II LLJ 113 Ker, the respondent was the driver of the car of the manager. He was transferred as a packer and thereafter on the charge of refusal to obey the lawful order of transfer he was dismissed. The Industrial Tribunal before whom the dispute came up for hearing upheld the dismissal. Upon writ

petition filed by the workman, the award of the Tribunal was set aside. The management filed the writ appeal against the order. The Kerala High Court in disposing the appeal observed as follows :

- (1) The workman having been appointed substantially as a car driver, an order transferring him to act as a packer cannot be held as a lawful order. The fact that he worked as packer when the vehicle was not available, would not make him a packer. Therefore driver's disobedience to discharge the duties of a packer cannot entail penal consequences.
- (2) As regards employer's contention that the respondent driver should not function as driver, the High Court observed that if the employer is justified in saying so, the question would arise whether the driver should be entitled to reinstatement or to only compensation and if compensation is decided to be given, what amount should be paid as compensation.

The High Court remanded the matter to the Tribunal for a decision in the light of the above observations.

Refusal to disclose the names of the members of the superior staff who were in fault when required by the employer has been held to be a misconduct of disobedience - **Somenath Sahu v State of Orissa**, (1965) 1 LLJ 349 (Ori), Similarly, the refusal on the part of the workmen to receive the written orders of the employer has been held to be an act of insubordination and a gross misconduct - **Tractors (India) Ltd. v Mahammad Syed**, (1959) 1 LLJ 224 (SC),

Refusal to answer the question put to a workman during the course of domestic enquiry has been held to be an act of insubordination in breach of discipline - **Laxmi Debi Sugar Mills Ltd. v Nand Kishore**, (1956) 11 LLJ 439 (SC).

Insubordination of employee upon provocation by the management has not however been treated as misconduct - **Cawnpore Omnibus Service Employees' Union v Cawnpore Omnibus Service**, 1953 LAC 232.

The question of signing a statement recorded during a domestic enquiry has been held to be standing on a different footing and a workman giving evidence in the course of enquiry might, if he chose, sign the report, but he could not be compelled to do so and his refusal to sign the statement could not be treated as a misconduct or disobedience of the lawful orders of his employer - **Kumbalingam (S) v Indian Metal and Metallurgical Corporation** (1964) 1 LLJ 81 Mad (DB),

A workman of the **Amrita Bazar Patrika** was discharged for misconduct and subversive conduct, after a domestic enquiry as he had ignored the assignments, allotted to him by the acting Chief Reporter. The Labour Court held the discharge unjustified and ordered his reinstatement. The Supreme Court set aside the award of the Labour Court holding that the workman should not have adopted extremely

militant attitude by announcing that he would take no orders from the acting Chief Reporter and assign to himself his duties - *Amrita Bazar Patrika v Employees*, (1963) 1 LLJ 429 (SC).

In *Birla Cotton Spinning and Weaving Mills Ltd. v Deshraj*, (vide Delhi Government Gazette dated 12.5.65) it was held that if an employee occupies the quarters of the company in an unauthorised manner, he can be asked to vacate the said quarters. If he disobeys the order and continues to occupy the quarters, the employer has got the right to get the said quarters vacated as well as dismiss the employee for disobedience of orders.

Impossibility, illegality or ambiguity of the orders or mistake in the orders would be valid defence against the charge of insubordination or disobedience of orders - *Mc Donald v Moller Line (U.K.) Ltd.*, (1953) 2 Lloyds Rep. 662.

In *India Marine Services v Their Workmen*, (1963) 1 LLJ 122, 124 (SC), per MUDHOLKAR, J., the superior officer took away from the concerned workman's desk, a purchase estimate book maintained by him for the purpose of checking the entries made by the workman in that book. The workman got infuriated and abused the officer in the presence of the entire staff and threatened him with violence. This conduct was held to be an act of grave insubordination warranting the punishment of dismissal.

In *Culcutta Jute Manufacturing Co. Ltd., v Calcutta Jute Manufacturing Workers' Union* [(1961) II LLJ 686 (SC)], per SARKAR, J., the court after examining the allegations of misconduct against the two workmen, was of the view that insubordination would include defiance of persons in authority whether such persons were direct superiors of the workmen charged or not and this misconduct would also include a riotous conduct which made it impossible for the higher officers to discharge their duties properly. It was observed that "it was clearly an implied rule of the factory that the higher officers would not be threatened and prevented from bringing to the notice of the management the wastefulness of the workmen causing loss to the employer". Consequently, the award of the Tribunal holding that the conduct of the workmen did not amount to wilful insubordination was set aside.

(iii) **Riotous and disorderly behaviour during working hours at the establishment** : Fighting, assaulting, abusing, drunkenness etc. on the premises of an establishment during duty hours are some of the common instances of riotous or disorderly behaviour. In the absence of standing orders, it would be open to the employer to consider reasonably what conduct can be properly treated as misconduct and it is difficult to lay down any general rule in respect of this problem - *Burn & Co. Ltd. v Employees*, (1957) 1 LLJ 226 (SC).

Acts which are subversive of discipline being of riotous and disorderly nature amongst the employees would constitute misconduct. Rowdy conduct in the course

of working hours would constitute misconduct. Misbehaviour even outside the premises of the establishment but within the precincts of a concern and directed towards an employee of that concern may, in certain cases constitute misconduct - **Burn & Co. Ltd. v Employees**, (1957) 1 LLJ 226 (SC).

(iv) Riotous and disorderly behaviour beyond working hours outside the premises of the establishment : In certain cases, particularly where there are no standing orders, acts of riotous and disorderly behaviour committed even beyond the working hours and outside the premises of the establishment may constitute misconduct provided that there is a rational connection of the act with the employment of the assailant and victim - **Shalimar Rope Works Ltd., Howrah v Workmen**, (1957) 11 LLJ 876.

If a servant is guilty of such crime (though beyond his duty hours) as to make it unsafe for the master to keep him in his employment, the servant may be dismissed by his master and if the servant's conduct is so grossly immoral that all reasonable men would say that he cannot be trusted, the master may dismiss him - **Pearce v Foster**, 1886 QBD 536.

When a responsible employee of a commercial concern misbehaved in such a way even outside the premises of a concern or even when he was out of the duty, that he impaired the reputation of the concern or created resentment against it or provoked unrest among its workers, the employer was perfectly justified in treating that conduct as one calculated to harm its reputation and so as one subversive of its discipline - **Dewan Badridas v Industrial Tribunal**, (1962) 1 LLJ 526 (Punj).

In law, even acts done by a servant, outside working hours and outside the course of employment might amount to misconduct justifying dismissal, if such an act or conduct is prejudicial to the interests or the reputation of the master - **Sharda Prasad Onkarprasad Tewari v Central Railway**, (1960) 1 LLJ 167 Nag; **Central India Coal Field Ltd. v Rambilash and Shobnath**, AIR 1961 SC 1189.

In the case of **Tata Oil Mills Co. Ltd. v Lts Workmen**, AIR 1965 SC 155, a worker favoured the introduction of incentive bonus scheme which was resented by other workmen and the union and for this reason he was assaulted outside. The Supreme Court held that such an assault was within the disciplinary jurisdiction of the employer.

In the case of **Dewan Badridas v I.T., Punjab**, (1962) 1 LLJ 526 Punj, the court held that, if an employee misbehaves in such a way even outside the premises of his employer's concern or even when he was off duty, that it impaired the reputation of the company, the act is subversive of discipline.

In **New Victoria Mills Co. Ltd. v Presiding Officer, Labour Court**, (1968) 17 FLR 260, the Allahabad High Court held that improper conduct of an employee committed even outside company's premises and outside the working hours could be misconduct and, in case of theft, it is not necessary that it should be the property

of the company.

The S.C. in **Glaxo Laboratories (I) Ltd. v Labour Court, Meerut**, (1984) (I) LLJ 16, held that misconduct committed within the premises of the undertaking only is punishable. But now this position of law, different courts have made deviations as shown below :

- **B.P.L. India Ltd. v B.P.L and P.S.P Thozhilali Union**, (1992) (I) LLJ 115 (Ker. H.L.)
- **Muralidhar Raghoji Sauant v. G. M. Mathur & Plate (I) Ltd.** (1992) (II) L.L.J. 394 (Bom. H.C.)
- **Narayana v. B.P.L. Systems Pvt. Ltd.** (1995) (I) LLJ 33 (Ker. H.C.)
- **Municipal Corporation of Greater Bombay V.S.E. Phadtare & Ors.** (1995) (I) LLJ 70 (Bom. H.C.)
- **K. K. Bhooade v. Kalyani Steels Ltd & Ors** (1995) (II) LLJ 314 (Bom. H.C.)

In all the above cases, the High Court have deviated from Glaxo Laboratories case and held that misconduct even if committed outside the establishment is punishable if there is nexus between the misconduct and the employment.

The Madras High Court gone further on this subject and expressed the view that the employees will have to be held responsible for acts which are out side the service condition's which affect the society at large and employer in particular - **The Management of Ashok Leyland Ltd., Madras v Presiding Officer** (1995) (I) LLJ 887.

The recent case of S. C. in the case of **Paghat B.P.L. & P.S.P Thozhiali Union v BPL India Ltd & Another**, (1996) (II) LLJ 335. In this case S. C. held that any act subversive of discipline committed outside the premises is also misconduct. Any act unrelatable to the service committed outside the factory would not amount to misconduct.

(D) Misconduct relating to morality : Acts involving moral turpitude are acts which seriously infringe moral sentiments of the community. These are acts of depravity in the sphere of private and social duties which a man owes to fellowmen of a society. The Allahabad High Court in the case of **Baleswar Singh v District Magistrate & Collector, Benaras** (AIR 1959 All 71), has laid down the following tests to determine whether a particular act involves moral turpitude or not. The court has observed that when the act is such as would shock the moral conscience of the society in general or when the motive that led to the act is a base one or when because of that act the perpetrator could be considered to be of depraved character and to be looked down upon by the society, such acts are acts involving moral turpitude. Some of the acts which will constitute misconduct against morality are discussed under the following heads :

(i) **Theft** : In industrial law, the acts of theft, fraud and dishonesty, apart from the penal liability under criminal law, have been treated as acts of misconduct justifying dismissal - **J. K. Cotton spinning and Weaving Co. Ltd. v Its Workmen**, (1965) 1 LLJ 153 (SC), per MUDHALKER, J. The Model Standing Orders include in the scope of the expression "misconduct", "an act or conduct inconsistent with the faithful discharge of his duty to the master" and "an act or conduct of the employee so grossly immoral that all reasonable men may say that he cannot be trusted." Likewise, the Standing Orders of industrial employers also deem such acts and conducts "Misconduct" by including them in their standing orders.

There is however, a distinction between such acts committed by an employee towards his employer and towards others. In the former case, the misconduct will justify the disciplinary action of dismissal or discharge by the employer, but in the latter case, a towards a stranger or towards other persons employed by the employer - **Delhi Cloth and General Mills v Kushal Bhan**, (1960) 1 LLJ 520 (SC).

also refer the following Case law

- Palani v Union of India 1993 LIC 2353
- K.baby v Union of India 1986 (II) LLJ 474
- 1990 (I) LLJ 137
- Ganikhan v M.S.R.T.C 1993 (I) LLJ - 62

(ii) **Dishonesty and fraud** : Acts of dishonesty and fraud constitute misconduct of serious nature which expose an industrial employee to the penalty of dismissal - **Tikka Ram & Sons Ltd. v Their Workmen**, (1960) 1 LLJ 514 (SC), per GAJENDRAGADKAR, J.

Ticket examiner was found in the bus with 26 passengers of which 9 1/2 passengers possessed no tickets, though fares were collected; collusion with conductor could not be ruled out. Held, misconduct of dishonesty was made out -D. C. Roy v Presiding Officer, M. P. Industrial Court, 49 FJR 104.

Dishonesty and pilferage of property is a serious offence, no matter how small the amount may be — **C.P.S. Motor Service v Jugal Kishore**, 1959 ICR 944.

In the case of **M.P. State Road Transport Corporation, Bhopal v Shri Krishna Yadava and others**, 1984 Lab IC (NOC) 12, the bus conductor was charged for carrying passengers without tickets with the dishonest intention. The service of the bus conductor was terminated by the employer. The dismissed workman raised an industrial dispute and the matter was referred to the Labour Court for adjudication. The Labour Court found that the bus conductor was found guilty only of the charge of carrying passengers without tickets but the major part of the charge, viz., dishonest intention was not established and so the Tribunal interfered with the punishment awarded to the bus conductor by the employer. The Madhya Pradesh High Court held that the interference by the Labour Court with the pun-

ishment was justifiable and that the punishment of removal from service was too severe. The High Court observed that only withholding of back wages of the workman would have met the ends of justice.

In the case of **C.S. Shanabhai v State Bank of India Ahmedabad** 1984 (II) LLJ 322 the Gujarat High Court held as under :

“Despite the fact that it may appear that moral values are tumbling down it can never be said that the accepted moral values of our society are such that one can continue in service even after he is guilty of offence of cheating forgery and using forged documents as genuine while holding office in a Public Sector undertaking like a bank”

Also refer: D.C. Roy v The P.O.L.C AIR 1976 Sc 1960 : GSRTC v K.M Parmar 1994 (II) LLJ 332; 1994 (II) LLJ 689; 1998 LLJ.1105 : 1997(I) LLJ 985.

(iii) **Disloyalty** : One of the basic requirements of what an employer would expect from an employee is loyalty towards him — **Robb v Green**, (1865) 298, 315 (320) CA.

The facts of making defamatory and false statements against the employer would, apart from being subversive of discipline, also constitute the misconduct of disloyalty towards the employers as the offence constitutes wilful harm on the employer **Daljit & Co. v. State of Punjab**, (1963) I LLJ-17 (Punj),

(iv) **Corruption** : Accepting bribes or illegal gratifications is a criminal offence as well as act of misconduct on the part of a Government officer. However, accepting of such gratifications or bribes by commercial or industrial employees may not constitute a misconduct warranting disciplinary action.

(v) **Moral turpitude** : Occasionally the industrial employers include acts of moral turpitude in the list of misconduct warranting disciplinary action.

If a servant is guilty of such a crime outside his service, as to make it unsafe for the master to keep him in his employment, the servant may be dismissed by his master and if the servant's conduct is so grossly immoral that all reasonable men would say that he cannot be trusted, the master may dismiss him - **Pearce v Foster**, 1886 QBD 536.

In the case of **Tractors and Firm Equipment Ltd. v T.A. Doss and First Labour Court**, (1983) March Lab IC 460, the question arose before the Madras High Court if the conviction of a person under Tamil Nadu Prohibition Act for taking liquor is an offence involving “Moral Turpitude.” Dealing with the matter the High Court answered in the negative and observed that in order to bring an act within the scope of the phrase “moral turpitude” there must be an element of baseness and depravity in the Act. The act must be vile and harmful to the society in general or contrary to accepted rules or rights and duties between man and man. Violation of particular statute does not amount to commission of an act of moral turpitude.

The H.C. of Bombay in case of **sindhu education society, Jarpatha, Nagpur v. K. Achary Jairam Johbragade and others**, 1994 LAB. I.C. 565 had held that in case of normal turpitude non-holding of departmental enquiry cannot invalidate termination when holding such enquiry would have amounted to inviting undesirable social consequences lies on the employer.

The S. C. in its recent judgment in the case of **Avinash Nagra v. Navodaya Vidyalaya Samithi**, 1997 (II) 640, held as below :

"The Director of school has correctly taken the decision not to conduct any enquiry exposing the students and modesty of the girl and to terminate the service of Appellant by giving one month's salary and allowances in lieu of notice as he is temporary Employee under probation. It is very hazardous to expose the young girls for tortuous process of cross examination "Narrating different evidences relating to the case, the S. C. finally said, "Therefore, dispensing with regular enquiry under the rules and denial of cross-examination are legal and not vitiated by violation of the Principles of Natural Justice."

(E) Judicial notice of employee's misconduct : The various type of misconduct recognised at common law in India and in England and acted upon by Judicial authorities the Gujarat High Court has enumerated certain act as misconducts which may justify dismissal from service These are :

- (A) an act or conduct prejudicial or likely to be prejudicial to the interest or reputation of the employer (master);
- (B) an act or conduct inconsistent or incompatible with the due or faithful discharge of his duty to the employer;
- (c) an act or conduct making it unsafe for the employer to retain him in service;
- (D) an act or conduct of the employee so grossly immoral that all reasonable men may say that he cannot be trusted;
- (E) an act or conduct of the employee which may make it difficult for the master to rely on the faithfulness of the employee.
- (f) an act or conduct of the employee in such as to open before him temptations for not discharging his duties properly;
- (G) an act or conduct disturbing the peace at the place of his employment;
- (H) insulting or insubordinate behaviour to such a degree as to be incompatible with the continuance of the relation of master and servant;
- (I) habitual negligence in respect of the duties for which the employee is engaged.

[**K. V. Siva Kumar V. Member, Audit Board, Madras** (1990) 14 ATC 223 (226) (CAT) (Mad) :

- (J) an act of neglect even though isolate which tends to cause serious consequences.

[Jagmohan das Jagjivan das Mody v State of Bombay (1962) II LLJ 507 (Guj. H.C)] It is seen that the Guj. H.C. has adopted the misconducts at common law as enumerated by Smith - 6th ed: at p. 79 in his Law of Master and servant also refer - **Sharda Prasad Onkar Prasad Tewari v Central Railway (1960) I LLJ 167 (170) (DB).**

- (F) **Miscellaneous :**

- (A) **Strict Construction of "misconducts" as provided in standing order**

Refer following case-laws :

- Glaxo Laboratories (I) Ltd v Presiding Officer, Labour Court AIR 1984 SC 505 (510, 511) : 1983 Lab I. C. 1909 : (1984) 1 SLJ 219 (SO).
- Mahendrasingh Dhantwal v Hindustan Motors Ltd. AIR 1976 SC 2062 also refer -AIR 1984 SC. 505
- Mulchandani Electrical works v workmen AIR 1975 SC 2175.
- A.L. Kalra v. Project and Equipment Corporation. AIR 1984 SC 1361.
- R. V. Patel v. Ahmedabad Municipal Committee. (1985) 1 SLJ 180 (SC).
- Palghat B.P.L. & P.S.P Thoshilali union v. B.P.L. India Ltd. (1995) 6 SCC 2378 : 1995 SCC (L & S) 1367

- (B) **Employee - misconduct to be viewed in a broader social perspective : Refer following case laws :-**

- Clouston v. Corry 1906 AC 122 (PC)
- Golam Mohiuddin v State of West Bengal (1964) I LLJ. 462 (481) (Cal H.C.)
- Kutch v. Bell 1944 SCT 31.
- Palghat B.P.L. & P.S.P Thoshilali union v B.P.L. India Ltd. (1995) 6 SCC 237 : 1995 SC (L & S) 1367.
- Ramakant Misra v State of U.P. AIR 1982 SC 1552 (1555) : (1983) 1 SCR 648 : (1982) 3 SCC 346 : 1982 Lab. IC 1790 (SC)
- Gujarat Steel Tubes Ltd. v Its Mazdoor Sabha AIR 1980 SC (1896), (1924)

- (C) **Ground of challenging disciplinary action and interference by Courts .**

According to the H.C. of Patna 1991 (I) LLJ. 328, a workman can assail disciplinary action of employer on the grounds of violation of principles of Natural Justice, Victimisation, unfair Labour practice and mala fides.

Kerala High Court 1994 (II) LLJ. 282, the Court interferes in disciplinary matters :

1. Where procedure is found to be grossly unfair and unreasonable.
2. When the punishment order is perverse and unreasonable and is irrational.
3. If the decision awarded is grossly disproportionate to misconduct.
4. If the decision maker acted illegally.
5. If there is failure of act with fairness.
6. If there is failure to observe basic rules of natural justice.

(D) Union activities when become subversive of disciplines :

Refer the following cases :

- Railway Board v Niranjan Singh AIR 1969 SC 966; 1969 (2) SCJ 513.
- M. Ramu v. Govt. of India AIR 1970 Mad. 331.
- V. S. Desh Pande v Comptroller 1976 Lab. IC 934 (Nag. H.C.)
- Bengal Bhatdee coal Co. Ltd. v Ram Probeshsing (1963) 1 LLJ. 291 : 24 FJR 406 (SC).
- Workmen v. Bharat Fritz werner (P) Ltd. AIR 1990 SC 1054 : (1990) 3 SCC 565 : (1990) 2 SLR 20 (SC)

(E) Some acts subversive of discipline not mentioned in the Model S.O.

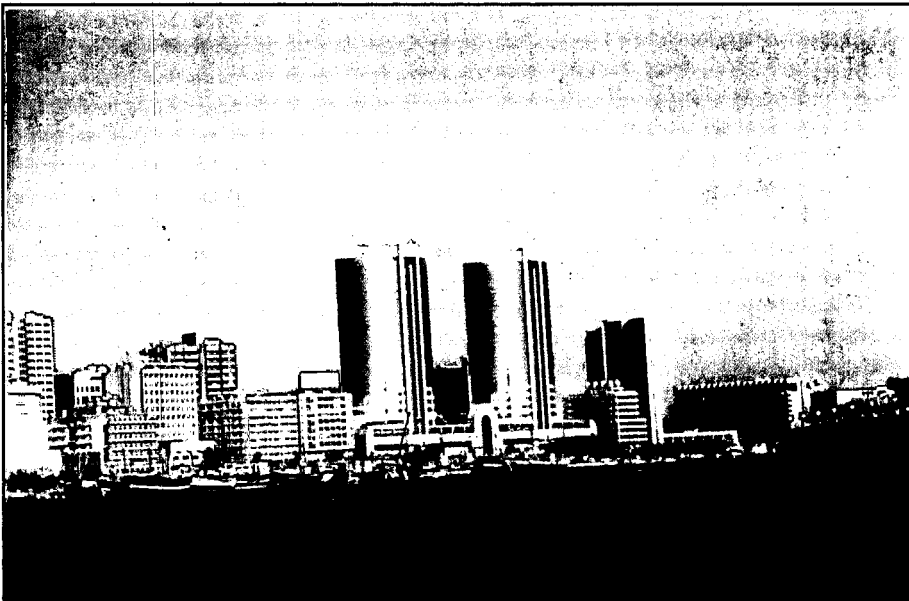
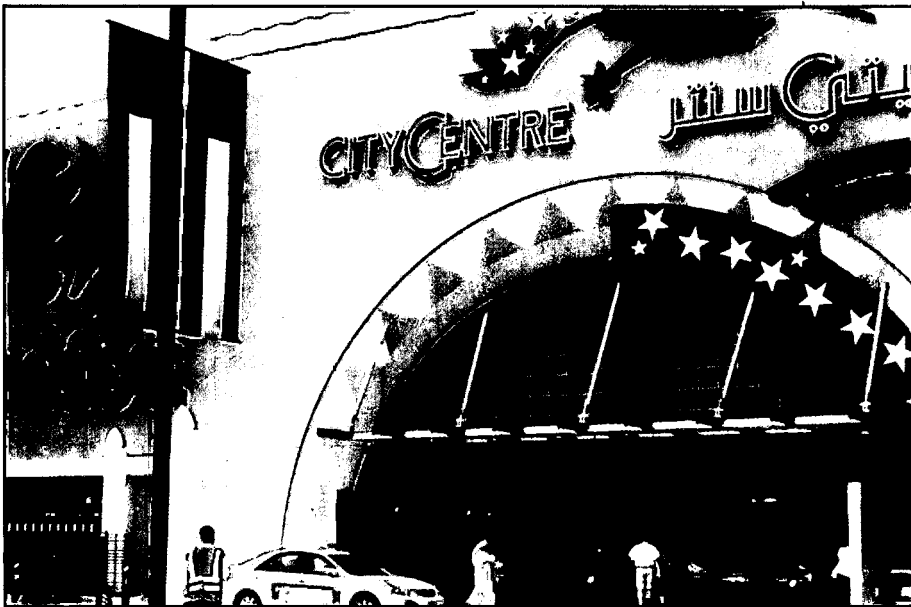
Refer the following case-law :-

- Shalimar Rope works Mazdoor Union, Howrah v. Shalimar Rope-works Ltd. (1955) II LLJ. 876 (LAT)
- Clouston & Co. Ltd v Corry (1906) AC 122. (129)
- Tomilson v The London Midland and Scottish Rly. Co. (1944) 1 All.E.R. 537
- Air India Ltd v. Lobo - 1952 LAC 337 : (1953) II LLJ 602 (LAT) (Bom. Bend.)
- Motisingh vaghela v S. D. Mehta (1966) I LLJ 55 (Guj. H.C.)

(F) Need for interpretation of "Misconducts" in tune with changing values :

Refer the following case-law :

- Hindustan Machine tools Ltd v. Mohd. Usman AIR 1984 SC 321 : 1983 Lab. IC 1739 : (1983) II LLJ. 386 (SC)
- Workmen of Dadsal (P) Ltd. v. dadsal (P) Ltd. AIR 1979 SC 1027 : 1979 Lab. I.C. 810 (SC).
- G. M. Chandigarh Transport undertaking v. Ranjitsingh 1982 Lab. I.C. 604 (606) (P & H).



HEMDIP AGENCIES

2nd Floor, Pushpa Bhuvan, Madanzampa Road,
BARODA-390001