

# **The Plantations Labour Act, 1951**

[Act 69 of 1951]

*with*

Labour Laws (Exemption from Furnishing Returns  
and Maintaining Registers by  
Certain Establishments Act, 1988

*and*

SHORT NOTES

# Plantation Labour Act, 1951

[Act 69 of 1951 as amended by Acts 42 of 1953, 34 Of 1960<sup>1</sup>, 53 Of 1961, 58 of 1981<sup>2</sup> and 61 Of 1986]

[2<sup>nd</sup> November, 1951]

*An Act to provide for the welfare of labour, and to regulate the conditions of works, in plantations*

Be it enacted by Parliament as follows:

**Prefatory Notes** – The following Statement of Objects and Reasons shows the necessity for this Act:

1. In spite of the fact that the plantation industry provides employment for more than a million workers, there is at present no comprehensive legislation regulating the conditions of labour in the industry. The Tea Districts Emigrant Labour Act, 1932, which applies only to Assam regulates merely the conditions for recruitment of labour for employment in the tea gardens of Assam. The Workmen's Compensation Act, 1923, which applies to estates growing cinchona, coffee, rubber or tea also does not confer any substantial benefit on plantation labour as accidents in plantationns are few. The other Labour Acts like the payment of Wages Act, 1936. Industrial employment (Standing Orders) Act, 1946 and Industrial Disputes Act, 1947, benefit plantation labour only to a very limited extent. In its report the Labour Investigation Committee observed "that as the conditions of the life and employment on plantations were different from those in other industries it would be very difficult to fit plantation labour in the general

framework of the Industrial Labour Legislation without creating serious anomalies” and recommended a Plantation Labour Code covering all plantation areas.

2. The present Bill drafted as an All India measure seeks to regulate the conditions of plantation labour generally. It applies in the first instance to tea, coffee, rubber and cinchona plantations, but the state Government may apply it to any other plantation. Provision is made in the Bill for assuring to the worker reasonable amenities, as for example, the supply of wholesome drinking water or suitable medical and educational facilities or provisions for canteens and creches in suitable cases, or provision for sufficient number of latrines and urinals separately for males and females. Housing accommodation is also to be provided for every worker and standards and specifications of such housing accommodation will be prescribed after due consultation. The Bill also regulates the working hours of workers employed in plantation.
3. Children under twelve are prohibited for employment in any plantation and State Governments are empowered to make rules regulating payment of sickness or maternity benefits.
4. Necessary provision is made in the Bill for the appointment of a suitable inspecting, medical or other staff for the purposes of securing in plantations of the various provisions in the Act.

## CHAPTER I

### PRELIMINARY

#### 1. Short title, extent, commencement and application.-

(1) This Act may be called the Plantations Labour Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

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

<sup>3</sup>[(4) It applies to the following plantations, that is to say,-

(a) to any land used or intended to be used for growing tea, coffee, rubber, [cinchona or cardamom]<sup>4</sup> which admeasures <sup>5</sup> [5] hectares or more and In which [fifteen]<sup>6</sup> or more persons are employed or were employed on any day of the preceding twelve months;

1. The amending Act 34 of 1960, came into force w. e. f. 21-11-1960, vide S. O. 2788, dt. 15-11-1960, published in Gaz. of India, Pt, II, S. 3(ii), dt. 19-11-1960, p. 3352.
2. The amending Act 58 of 1981 came into force w.e.f. 26-1-1982, vide S.O.45(E), dt. 23-1-1982(1982-CCL-III-18).
3. Subs.by Act 34 of 1960.
4. Subs. by Act 58 of 1981.( w.e.f. 26-1-1982).
5. Subs.by Act 58 of 1981.( w.e.f. 26-1-1982).

(b) to any land used or intended to be used for growing any other plant, which admeasures <sup>7</sup>[5] hectares or more and in which <sup>8</sup>[fifteen]or more persons are employed or were

employed on any day of the preceding twelve months, if, after obtaining the approval of the Central Government or the State Government, by notification in the Official Gazette, so directs.

<sup>9</sup>[Explanation.— Where any piece of land used for growing any plant referred to in clause (a) or clause (b) of this sub-section admeasures less than 5 hectares and is contiguous to any other piece of land not being so used, but capable of being so used, and both such pieces of land are under the management of the same employer, then, for the purpose of this sub-section, the piece of land first mentioned shall be deemed to be plantation, if the total area of both such pieces of land admeasures 5 hectares or more.]

(5) The State Government may, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any land used or intended to be used for growing any plant referred to in clause (a) or clause (b) of sub-section (4), notwithstanding that –

(a) It admeasures less than <sup>10</sup> [5] hectares, or

(b) The number of persons employed therein is less than [fifteen]<sup>11</sup>:

Provided that no such declaration shall be made in respect of such land which admeasured less than <sup>12</sup> [5] hectares or in which less than <sup>13</sup> [fifteen] persons were employed, immediately before the commencement of this Act.]

Note I. – The Act came into force w.e.f. 1<sup>st</sup> April, 1954.<sup>14</sup> Extended to Pondicherry by Reg.7 of 1963. Applied to

Naga Hills District by Assam Government Noti. Dated 17-11-1954.

Note II.-For exemption from application of this Act to small and very small establishments, see Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 (51 of 1988).

The power conferred under Section 1(5) to the state Government does not amount to excessive delegation of legislative function. *K. T. Thomas v. Union of India*, (1979) 2 LLJ 290 (Ker.)

2. **Definitions.**- In this Act, unless the context otherwise requires,

(a) “adolescent” means a person who has completed his <sup>15</sup> [fourteenth] year but has not completed his eighteenth year,

(b) “adult” means a person who has completed his eighteenth year,

(c) “Child” means a person who has completed his <sup>15</sup>[fourteenth] year,

(d) “day” means a period of twenty-four hours beginning at midnight;

(e) “employer” when used in relation to a plantation, means the person who has the ultimate control over the affairs of the plantation, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name)

such other person shall be deemed to be the employer in relation to that plantation;

6. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
7. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
8. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
9. Ins. by Act 58 of 1981 (w.e.f. 26-1-1982)
10. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
11. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
12. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
13. Subs. by Act 58 of 1981 (w.e.f. 26-1-1982)
14. See. S.R.O. 880, dt. 6<sup>th</sup> Mar., 1954, Gaz. of India, 1954, Pt. II, S. 3, p. 530.
15. Subs. by Act 61 of 1986.

<sup>16</sup>[(ee) “family” , when used in relation to a worker, means –

- (i) his or her spouse, and
- (ii) the legitimate and adopted children of the worker dependent upon him or, who have not completed their eighteenth year, and includes, where the worker is a male, his parents dependent upon him;]

<sup>17</sup>[(eee) “inspector” means an inspector of plantation appointed under sub-section (1) of section 4 and includes an additional inspector of plantations appointed under sub-section (1-A) of that section;]

<sup>18</sup>[(f) “plantation” means any plantation to which this Act, whether wholly or in part, applies and includes offices, hospitals, dispensaries, schools, and any other premises used for any purpose connected with such plantation, but does not

include any factory on the premises to which the provisions of the Factories Act, 1948 (63 of 1948), apply];

(g) “prescribed” prescribed means prescribed by rules under this Act;

<sup>19</sup>[(h) “qualified medical practitioner” means a person holding a qualification granted by an authority specified or notified under section 3 of the Indian Medical Degrees Act, 1916 (7 of 1916), or specified in the Schedules to the Indian Medical Council Act, 1956 (102 of 1956), and include any person having a certificate granted under any Provincial or State Medical Council Act;

(i) “Wages” has the meaning assigned to in clause (h) of section 2 of the Minimum Wages Act, 1948 (11 of 1948);

(j) “week” means a period of seven days beginning at midnight on Saturday night or such other night as may be fixed by the State Government in relation to plantation in any area after such consultation as may be prescribed with reference to the plantations concerned in that area;

<sup>20</sup>[(k) “worker” means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, but does not include –

- (i) a medical officer employed in the plantation
- (ii) any person employed in the plantation (including any member of the medical staff) whose monthly wages exceed [rupees seven hundred and fifty]<sup>21</sup>;



(iii) any person employed in the plantation primarily in a managerial capacity, notwithstanding that his monthly wages do not exceed [rupees seven hundred and fifty]<sup>21</sup>;

16.ins. by Act 34 of 1960.

17. ins. by Act 58 of 1981(w. e. f. 26-1-1982).

18. subs. by Act 34 of 1960.

19. subs. by Act 34 of 1960.

20. subs. by Act 34 of 1960.

21. subs. by Act 58 of 1981. (w. e. f. 26-1-1982).

(iv) any person temporarily employed in the plantation in any work relating to the construction, development or maintenance of buildings, roads, bridges, drains or canals;]

(l) “young person” means a person who is either a child or an adolescent.

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

Provided that for any area in which the Indian Standard Time is not ordinarily observed, the State Government may make rules-

(a) specifying the area ;

(b) defining the local mean time ordinarily, observed therein;  
and

(c) permitting such time to be observed in all or any of the plantations situated in that area.

## <sup>22</sup>[CHAPTER I-A

### **REGISTRATION OF PLANTATIONS**

**3-A. Appointment of registering officers:** - The state Government may, by notification in the Official Gazette,-

- (a) appoint such persons, being Gazette Officers of Government as it thinks fit, to be registering officers for the purposes of this Chapter, and
- (b) define the limits within which a registering officer shall exercise the powers and discharge the functions conferred or imposed on him by or under this chapter.

**3-B. Registration of plantations:** -

(1) Every employer of a plantation existing at the commencement of the Plantations Labour (Amendment) Act, 1981 shall within a period of sixty days of such commencement, and every employer of any other plantation coming into existence after such commencement shall, within a period of sixty days of the coming into existence of such plantation, make an application to the registering officer for the registration of such plantation:

Provided that the registering officer may entertain any such application after the expiry of the period aforesaid if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application made under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the plantation.

(4) Where a plantation is registered under this section, the registering officer shall issue a certificate of registration to the employer thereof in such form as may be prescribed.

(5) Where, after the registration of a plantation under this section, any change occurs in the ownership or management or in the extent of the area or other prescribed particulars in respect of such plantation, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

22.Chap. I-A ins. By Act. 58 of 1981 (w.e.f. 26-1-1982).

(6) Where as a result of any intimation received under sub-section (5), the registering officer is satisfied that the plantation is no longer required to be registered under this section, he shall, by order in writing, cancel the registration thereof and shall, as soon as practicable, cause such order to be published in any one newspaper in the language of, and having circulation in, the area where the plantation is situated.

### **3-C. Appeals against orders of registering officer-**

(1) Any person aggrieved by the order of a registering officer under sub-section (6) of Section 3-B may, within thirty days of the publication of such order in the newspaper under that sub-section, prefer and appeal to such authority as may be prescribed.

Provided that the appellate authority may entertain an appeal under this sub-section after the expiry of the aforesaid period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within such period.

(2) After the receipt of an appeal under sub-section(1), the appellate authority may, after giving the appellant, the employer referred to in sub-section (5) of Section 3-B and the registering officer an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

## **N O T E S**

**Principles for condoning delay :-** In dealing with the question of condoning the delay under Section 5 of the Limitation Act the party seeking relief has to satisfy the Court that it had sufficient cause for not preferring the appeal or making the application within the prescribed time and this has always been understood to mean that the explanation has to cover the whole period of delay. It is not possible to lay down precisely as to what facts or matters would constitute sufficient cause under the section but those words should be liberally construed so as to advance substantial justice where no negligence or any inaction or want of bona fides is imputable to the party; that is, the delay in filing the appeal should not have been for reasons which indicated the party's negligence is not taking necessary steps which he would have or should have been taken. Discretion is conferred on the High Court before which and application for condoning the delay is made and if the Court after keeping in view relevant principles exercises its discretion grant in relief, unless it is shown to be manifestly unjust or perverse, the Supreme Court would be loathe to interfere with it. Sandhay Rani Sarkar v V. Sudha Rani Devi, (1978) 2 SCC 116: AIR 1978 SC 537.

Section 5 of the Limitation Act is a hard task-master and judicial interpretation has encased it within a narrow compass. A large measure of case-law has grown around Section 5, its highlights being that one ought not easily to take away a right which has accrued to a party by lapse of time and that therefore a litigant who is not vigilant about his right must explain every day's delay. These and similar considerations which influence the decision of Section 5 applications are out of place in cases where the appeal itself is preferred within the period of limitation but there is an irregularity in presenting it. *Bikram Dass Chela v. Financial Commissioner, Revenue*, (1977) 4 SCC 69; AIR 1977 SC 2221.

### **3-D. Power to make rules.-**

- (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.
- (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 form of application for the registration of a plantation, the particulars to be contained in such application and the fees to be accompanied along with such application;
  - (b) the form of the certificate of registration;
  - (c) the particulars regarding any change in respect of which intimation shall be given by the employer to the

registering officer under sub-section (5) of Section 3-B and the form in which such change shall be intimated;

(d) the authority to which an appeal may be preferred under Section 3-C and the fees payable in respect of such appeal;

(e) the registers to be kept and maintained by a registering officer.

## **CHAPTER II**

### **INSPECTING STAFF**

4. Chief inspector and inspectors.- (1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector of plantation and so may duly qualified persons to be inspectors of plantations subordinate to the chief inspector as it thinks fit.

<sup>23</sup>[(1-A) The State Government may also, by notification in the Official Gazette, appoint such officers of the State Government or of any local authority under its control as it thinks fit, to be additional inspectors of plantations for all or any of the purposes of this Act.]

(2) Subject to such rules as may be made in this behalf by the State Government, the chief inspector may declare the local area or areas within which, or the plantations with respect to which, inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

23. Ins. By Act 58 of 1981 (w. e. f. 26-1-1982)

Note – This section empowers the State Government to appoint duly qualified Inspecting Staff with a Chief Inspector of Plantations and many inspectors under hid.

5. Powers and functions 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) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of any plantation;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any plantation or part thereof at any reasonable time for the purpose of carrying out the objects of this Act;

(c) examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements on any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed:  
provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

6. Facilities to be afforded to inspectors- Every employer shall afford the inspector all reasonable facilities for making any entry, inspection, examination or enquiry under this Act.

7. Certifying surgeons- (1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such plantation or class of plantations as it may assign to them respectively.

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

(a) the examination and certification of workers;



(b) the exercise of such medical supervision as may be prescribed where adolescents and children are, or are to be, employed in any work in any plantation which is likely to cause injury to their health.

### **CHAPTER III**

#### **PROVISIONS AS TO HEALTH**

8. Drinking water – In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.

9. Conservancy- (1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

10. Medical facilities- (1) In every plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers [and their families]<sup>24</sup> as may be prescribed by the State Government.

(2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

(3) For the purposes of such recovery the chief inspector may certify the costs to be recovered to the collector, who may recover the amount as an arrear of land revenue.

## **CHAPTER IV**

### **WELFARE**

11. Canteens –(1) The State Government may make rules requiring that in every plantation wherein one hundred and fifty workers are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the workers.

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

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

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs which may be served therein and the charges which may be made therefore.

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

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

Note- Under this section the State Governments are empowered to ask employers to open canteens in the plantations wherein one hundred and fifty workers are employed and to make rules for the working and maintenance of canteens

24. Ins by Act 34 of 1960

**12. Creches-** <sup>25</sup>[(1) In every plantation wherein fifty or more women workers (including women workers employed by any contractor) are employed or were employed on any day of the preceding twelve months, or where the number of children of women workers (including women workers employed by any contractor) in twenty or more, there shall be provided and maintained by the employer suitable rooms for the use of children of such women workers.

Explanation- For the purposes of this sub-section and sub-section (1-A), “children” means persons who are below the age of six years.]

<sup>26</sup>[(1-A) Notwithstanding anything contained in sub-section (1), if, in respect of any plantation wherein less than fifty women workers (including women workers employed by any contractor) are employed or were employed on any day of the preceding twelve months, or where the number of children of such women workers is less than twenty, the State Government, having regard to the number of children of such women workers deems it necessary that suitable rooms for the use of such children should be provided and maintained by the employer, it may, by order, direct the employer to provide and maintain such rooms and thereupon the employer shall be bound to comply with such direction.]

(2) <sup>27</sup>[The rooms referred to in sub-section(1) or sub-section 1-A) shall-

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition; and
- (d) be under the charge of a woman trained in the care of children and infants.

(3) The State Government may make rules prescribing the location and the standards of <sup>28</sup>[the rooms referred to in sub-section(1) or

sub-section (1-A) in respect of their construction and accommodation and the equipment and amenities to be provided therein.

13. Recreational facilities- The State Government may make rules requiring every employer to make provision in his plantation for such recreational facilities for the workers and children employed therein as may be prescribed.

14. Educational facilities- Where the children between the ages of six and twelve of workers employed in any plantation exceed twenty-five in number, the State Government may make rules requiring every employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.

25. Subs. By Act 58 of 1981 (we. E. f. 26-1-1982).

26. Subs. By Act 58 of 1981 (we. E. f. 26-1-1982).

27. Subs. By Act 58 of 1981 (we. E. f. 26-1-1982).

28. Subs. By Act 58 of 1981 (we. E. f. 26-1-1982).

<sup>29</sup>[15. Housing facilities- It shall be the duty of every employer to provide and maintain necessary housing accommodation-

(a) for every worker (including his family) residing in the plantation;

(b) for every worker (including his family) residing outside the plantation, who has put in six months of continuous service

in such plantation and who has expressed a desire in writing to reside in the plantation;

- (c) Provided that the requirement of continuous service of six months under this clause shall not apply to a worker who is a member of the family of a deceased worker who, immediately before his death, was residing in the plantation.]

Notes- Although Sections 15 and 16 cast a duty on the management to provide minimum residential accommodation to its workmen, Rule 65(2) of the Assam Plantations Labour Rules, 1956, clearly lays down that the occupant of a house shall not make any unauthorized additions to or alterations in the house. Where a workman started construction a house adjoining his quarter provided by the management without the management's permission and despite the management's repeated orders to dismantle the construction, completed the same and on being charge-sheeted, submitted explanation expressing inability to dismantle the house on the ground that he had installed a deity there, held the management was justified in proceeding with a domestic enquiry against him and discharging him as a result of the report of the enquiry. Hattilai T. E. v. Presiding Officer, Labour Court, 1976 Lab IC 172 Gau).

**16-. Power to make rules relating to housing-** The State Government may make rules for the purposes of giving effect to the provisions of Section 15 and, in particular providing for-

- (a) the standard and specification of the accommodation to be provided;
- (b) the selection and preparation of sites for the construction of houses and the size of such plot;

- (c) the constitution of advisory boards consisting of representatives of the State Government, the employer and the workers for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified;
- (d) the fixing of rent, if any, for the housing accommodation provided for workers;
- (e) the allotment to workers and their families of housing accommodation and suitable strips of vacant land adjoining such accommodation for the purposes of maintaining kitchen gardens, [\* \* \*]<sup>30</sup> and for the eviction of workers and their families from such accommodation;

29. Subs. By Act 58 of 1981 (we. E. f. 26-1-1982).

30. Omitted by Act 34 of 1960.

- (f) access to the public to those parts of the plantation wherein in workers are housed.

<sup>31</sup>[16-A. Liability of employer in respect of accidents resulting from collapse of houses provided by him- (1) If death or injury is caused to any worker or a member of his family of result of the collapse of a house provided under Section 15, and the collapse is not solely and directly attributable to a fault on the part of any occupant of the house or to natural calamity, the employer shall be liable to pay compensation.

(2) The provisions of Section 4 of, and Schedule IV to, the Workmen's Compensation act, 1923 (8 of 1923), as in force for

the time being, regarding the amount of compensation payable to a workman under that Act shall, so far as may be, apply for the determination of the amount of compensation payable under sub-section (1).

**16-B. Appointment of Commissioners-** The State Government may, by notification in the Official Gazette, appoint as many persons, possessing the prescribed qualifications, as it thinks fit, to be commissioners to determine the amount of compensation payable under Section 16-A and may define the limits within which each such Commissioner shall exercise the powers and discharge the functions conferred or imposed on him by or under this Act.

31. Ss. 16-A to 16-G ins. By Act 58 of 1981 (w.e.f.26-1-1982).

Compensation is to be awarded under the Workmen's Compensation Act on the basis of 'wages' of the injured employee. When the question is what compensation is to be awarded to an employee who has been injured, the term 'wages' is to be interpreted in the light of the definition given in Section 2(n) of the Workmen's Compensation act, and not in the light of the definition given in the Payment of Wages Act. The words 'privilege or benefit' in the definition of 'Wages' in the Workmen's Compensation Act includes the benefit of free accommodation. It is, therefore, clear that the monetary value of such accommodation, since free accommodation is capable of being estimated in money, when provided free to an applicant falls within the term 'wages' for the purpose of assessing the amount of compensation. B. M. & G. Engineering Factory v. Bahadur Singh, AIR 1955 All 182 (DB).

**16-C. Application for compensation-** (1) An application for payment of compensation under Section 16-A may be made to the Commissioner-

- (a) by the person who has sustained the injury ; or
- (b) by any agent duly authorized by the person who has sustained the injury; or
- (c) where the person who has sustained the injury is a minor, by his guardian; or
- (d) where death has resulted out of collapse of the house, by any dependant of the deceased or by any agent duly authorized by such dependant or if such dependant is a minor, by this guardian.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars as may be prescribed.

(3) No application under this section shall be entertained unless it is made within six months of the collapse of the house:

Provided that the Commissioner may, if he is satisfied that the applicant was prevented by sufficient cause from making the application within the aforesaid period of six months, entertain such application within a further period of six months.

*Explanation-* In this section, the expression “dependant” has the meaning assigned to it in clause (d) of Section 2 of the Workmen’s Compensation Act, 1923 (8 of 1923).

**16-D. Procedure and powers of Commissioner –**



(1) On receipt of an application under Section 16-C, the Commissioner may make an inquiry into the matter covered by the application.

(2) In determining the amount of compensation payable under Section 16-A , the Commissioner may, subject to any rules that may be made in this behalf, follow such summary procedure as he thinks fit.

(3) The Commissioner shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions of the examination of witnesses or documents'

(f) any other matter which may be prescribed,.

(4) Subject to any rules that may be made in this behalf, the Commissioner may, for the purpose of determining any claim or compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist him in holding the inquiry.

16-E. Liability to pay compensation, etc., to be decided by Commissioner –

(1) Any question as to liability of an employer to pay compensation under Section 16-A, or as to the amount thereof, or as to the person to whom such compensation is payable, shall be decided by the Commissioner.

(2) Any person aggrieved by a decision of the Commissioner refusing to grant compensation, or as to the amount of compensation grant to whom, or to the apportionment thereof, may prefer and appeal to High Court having jurisdiction over the place where the collapse of the house had occurred, within ninety days of the communication of the order to the Commissioner to such person:

Provided that the High Court may entertain any such appeal after the expiry of the period aforesaid if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within such period:

Provided further that nothing in this sub-section shall be deemed to authorize the High Court to grant compensation in excess of the amount of compensation payable under Section 16-A.

(3) Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (2), the decision of the Commissioner under sub-ection (1) shall be final and shall not be called in question in any court.

**16-F. Saving as to certain rights-** The right of any person to claim compensation under sub-section 16-A shall be without prejudice to the right of such person to recover compensation

payable under any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect of the same collapse of the house.

**16-G. Power to make rules** – (1) The State Government may, by notification in the Official Gazette, make rules for giving effect to the provisions of Sections 16-A to 16-F (both inclusive).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (i) the qualifications and conditions of service of Commissioners;
- (ii) the manner in which claims for compensation may be inquired into and determined by the Commissioner;
- (iii) the matters in respect of which any person may be chosen to assist the Commissioner under Section 16-D and the functions that may be performed by such person;
- (iv) generally for the effective exercise of any powers conferred on the commissioner.]

**17. Other facilities:** - The State Government may make rules requiring that in every plantation the employer shall provide the workers with such number and type of umbrellas, blankets, rain coats or other like amenities for the protection of workers from rain or cold as may be prescribed.

**18. Welfare officers** – (1) In every plantation wherein three hundred or more workers are ordinarily employed the employer shall employ such number of welfare officers as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

## **STATE AMENDMENT**

**Kerala.** – In Section 18, after sub-section (1) add the following :  
(1-A) if in any plantation, welfare officers are not employed as required by the rules made under sub-section (1), the chief inspector may appoint the required number of welfare officers and there upon such officers shall be deemed to have been employed by the employer under sub-section (1):

Provided that before appointing welfare officers under this sub-section the employer shall be given an opportunity of being heard- Kerala Act 25 of 1969, S. 2 (1-12-1969).

### **SECTION 18-a**

**KERALA-** After Section 18, add the following section:

18-A. Chief Inspector to provide facilities on default by employer  
– (1) If in any plantation, facilities are not provided or maintained by the employer as required by Section 8 or Section 9 or Section 12 or Section 15 or the rules made under Section 11 or Section 14 or section 17, the chief inspector may cause to be provided or maintained therein such facilities and recover the cost thereof from the defaulting employer:

Provided that before providing or maintaining such facilities the employer shall be given an opportunity of being heard.

(2) For the purpose of all recovery of the cost under sub-section(1) the chief inspector may certify the amount to be recovered to the Collector, who may thereupon recover such amount as an arrear of land revenue. -Kerala Act 25 of 1969, S.2 (1-12-1969).

**CHAPTER V**  
**HOURS AND LIMITATION OF EMPLOYMENT**

**19. Weekly hours-** <sup>32</sup>[(1)] Save as otherwise expressly provided in this Act, no adult worker shall be required or allowed to work on any plantation in excess of <sup>33</sup>[forty-eight hours] a week and no adolescent or child for more than <sup>34</sup>[twenty-seven hours] a week.

<sup>35</sup>[(2) Where an adult worker works in any plantation on any day in excess of the number of hours constituting a normal working day or for more than forty-eight hours in any week, he shall, in respect of such overtime work, be entitled to twice the rates of ordinary wages:

Provided that no such worker shall be allowed to work for more than nine hours on any day and more than fifty-four hours in any week.

(3) For any work done on any closed holiday in the plantation or on any day of rest, a worker shall be entitled to twice the rates of ordinary wages as in the case of overtime work.]

**20. weekly holidays-** (1) The State Government may by rules made in this behalf-

(a) provide for a day of rest in every period of seven days which shall be allowed to all workers;

32. Renumbered by Act 58 of 1981 (w.e.f.26-1-1982).

33. Subs. by Act 58 of 1981 (w.e.f.26-1-1982).

34. Subs. by Act 58 of 1981 (w.e.f.26-1-1982).

35. Subs. by Act 58 of 1981 (w.e.f.26-1-1982).

<sup>36</sup>[(b) provide for the conditions subject to which, and the circumstances in which, and adult worker may be required or allowed to work overtime.]

(2) Notwithstanding anything contained in clause (a) of sub-section (1) where a worker is willing to work on any day of rest which is not a closed holiday in the Plantation, nothing contained in this section shall prevent him from doing so:

Provided that in so doing a worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

*Explanation 1-* Where on any day a worker has been prevented from working in any plantation by reason of tempest, fire, rain or other natural causes, that day, may, if he so desires, be treated as his day of rest for the relevant period of seven days within the meaning of sub-section(1).

*Explanation 2-* Nothing contained in this section shall apply to any worker whose total period of employment including any day spent on leave is less than six days.

**21. Daily intervals for rest-** The period of work on each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest for at least half an hour.

**22. Spread-over-** The period of work of an adult worker in a plantation shall be so arranged that inclusive of his interval for rest under Section <sup>37</sup>[21] it shall not spread over more than twelve hours including the time spent in waiting for work on any day.

**23. Notice of period of work-** (1) There shall be displayed and correctly maintained in every plantation a notice of periods of work in such form and manner as may be prescribed showing clearly for every day the periods during which the workers may be required to work.

36. Subs. by Act 58 of 1981 (w.e.f.26-1-1982).

37. Subs. By Act 42 of 1953, S.4 and Sch. III, for :19”.

(2) Subject to the other provisions contained in this Act, no worker shall be required or allowed to work in any plantation otherwise than in accordance with the notice of periods of work displayed in the plantation.

(3) An employer may refuse to employ a worker for any day if on that day returns up for work more than half an hour after the time fixed for the commencement of the day’s work.

24. *Prohibition of employment of young children*<sup>38</sup>[\* \* \*]

**25. Night work for women and children-** Except with the permission of the State Government, no woman or child worker shall be employed in any plantation otherwise than between the hours of 6 a.m. and 7 p.m.

Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any plantation.

**26. Non-adult workers to carry tokens:** - No child <sup>39</sup>[\* \* \*] and no adolescent shall be required or allowed to work in any plantation unless-

- (a) a certificate of fitness granted with the reference to him under Section 27 is in the custody of the employer; and
- (b) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

**27. Certificate of fitness-** (1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work, examine such person

38. Omitted by Act 61 of 1986.

39. Omitted by Act 61 of 1986.

and ascertain his fitness for work either as a child or as an adolescent.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the young person, his parents or guardian.



**28. Power to require medical examination-** An inspector may, if he thinks necessary so to do, cause any young person employed in a plantation to be examined by a certifying surgeon.

## **CHAPTER VI LEAVE WITH WAGES**

**29. Application of chapter** – The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other law or under the terms of any award, agreement, or contract of service:

Provided that where such award, agreement or contract of service provides for a longer leave with wages than provide in this chapter the worker shall be entitled only to such longer leave.

*Explanation* – For the purpose of this Chapter leave shall not, except as provided in Section 30, include weekly holidays or holidays for festivals or other similar occasions.

**30. Annual leave with wages-** (1) Every worker shall be allowed leave with wages for a number of days calculated at the rate of –

- (a) if an adult, one day for every twenty days of works performed by him, and
- (b) if a young person, one day for every fifteen days of work performed by him:

<sup>40</sup>[\* \* \*]

40. Proviso omitted by Act 58 of 1981 (w. e. f.26-1-1982).

<sup>41</sup>[*Explanation* [(1)]<sup>42</sup> – For the purposes of calculating leave under this sub-section –

- (a) any day on which no work or less than half a day's work is performed shall not be counted, and
- (b) any day on which half or more than half a day's work is performed shall be counted as one day.]

<sup>43</sup>[*Explanation 2*- The leave admissible under this sub-section shall be exclusive of all holidays, whether occurring during, or at either end of, the period of leave.]

(2) If a worker does not in any one period of twelve months take the whole of the leave allowed to him under sub-section (1), and leave on taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months.

(3) A worker shall cease to earn any leave under this section when the earned leave due to him amounts to thirty days.

<sup>44</sup>[(4) If the employment of a worker who is entitled to leave under this section is terminated by the employer before he has taken the entire leave to which he is entitled, the employer shall pay him the amount payable under Section 31 in respect of the leave not take, and such payment shall be made before the expiry of the second working day after such termination.]

**31. Wages during leave period-** <sup>45</sup>[(1) For the leave allowed to a worker under Section 30, he shall be paid,-

- (a) if employed wholly on a time-rate basis, at a rate equal to the daily wage payable to him immediately before the commencement of such leave under any law or under the terms of any award, agreement or contract of service, and
- (b) in other cases, including cases where he is, during the preceding twelve calendar months, paid partly on a time-rate

basis and partly on a piece-rate basis, at the rate of the average daily wage calculated over the preceding twelve calendar months.

41. Ins. By Act 34 of 1960.

42. Ins. By Act 58 of 1981 (w.e.f 26-1-1982).

43. Ins. By Act 58 of 1981 (w.e.f. 26-1-1982).

44. Ins. by Act 34 of 1960.

45. Subs. by act 34 of 1960.

*Explanation-* For the purposes of clause (b) of sub-section (1), the average daily wage shall be computed on the basis of this total full-time earnings during the preceding twelve calendar months, exclusive of any overtime earnings of bonus, if any, but inclusive of dearness allowance.

(1-A) In addition to the wages for the leave period at the rates specified in sub-section (1), a worker shall also be paid the cash value of food and other concessions, if any, allowed to him by the employer in addition to his daily wages unless these concessions are continued during the leave period.]

(2) A worker who has been allowed leave for <sup>46</sup>[any period not less than] four days in the case of an adult and five days in the case of a young person under Section 30 shall, before his leave begins, be paid his wages for the period of the leave allowed.

<sup>47</sup>**32. Sickness and maternity benefits-** (1) Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer -

(a) in the case of sickness certified by a qualified medical practitioner, sickness allowance, and

(b) if a woman, in case of confinement or expected confinement, maternity allowance, at such rate, for such period and at such intervals as may be prescribed.

(2) The State Government may make rules regulating the payment of sickness or maternity allowance and any such rules may specify the circumstances in which such allowance shall not be payable or shall cease to be payable, and in framing any rules under this section the State Government shall have due regard to the medical facilities that may be provided by the employer in any plantation.

46. Subs. by Act 42 of 1953, S.4 and Sch. III, for :any period less than”.

47. On the enforcement of the Maternity Benefit Act, 1961 (53 of 1961 ) in a State in relation to establishments in that State referred to in S. 1(3) thereof, S. 32 will stand amended as follows :-

- (A) In sub-section(1), the letter and brackets “(a)” before the words “in the case of sickness” the word “and” after the words “sickness allowance” and clause (b) shall be omitted;
- (B) in sub-section (2), the words “or maternity” shall be omitted.

#### <sup>48</sup>[CHAPTER VI-A ACCIDENTS

**32-A. Notice of accident:** - Where in any plantation, an accident occurs which causes death or which causes any bodily injury to a worker by reason of which the worker injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such a nature as may be prescribed in this behalf, the employer thereof shall send notice thereof to such authorities, in such form, and within such time, as may be prescribed.

**32-B. Register of accidents:** - The employer shall maintain a register of all accidents which occur in the plantation in such form and in such manner as may be prescribed.]

## **CHAPTER VII PENALTIES AND PROCEDURE**

**33. Obstruction:** - (1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or willfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorized by or under this act in relation to any inspection, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever willfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**34. Use of false certificate of fitness:** - Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under Section 27 a certificate granted to another person

48. Ins. By Act 58 of 1981 (w.e.f. 26-1-1982).

under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows and attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

**35. Contravention of provision regarding employment of labour:** - Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restriction or regulation the employment of persons in a plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**36. Other offences:** - Whoever contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**37. Enhanced penalty after previous conviction:** - If any person who has been convicted of any offence punishable under this act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

<sup>49</sup>[37-A. power of court of make orders-(1) Where an employer is convicted of an offence punishable under Section 36, the court may, in addition to awarding any punishment, by order in writing, require him within such period as may be specified in

49. Ins. By Act 58 of 1981 (w.e.f. 26-1-1982).

the order (which the court may, if it thinks fit and on an application made in this behalf by the employer, from time to time, extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(2) Where an order is made under sub-section (1), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, as the case may be, specified by the court, but if, on the expiry of such period or extended period, the order fo the court has not been fully complied with, the employer shall be deemed to have committed a further offence and he shall, on conviction, be punishable with imprisonment for a term which may extend to six months and with fine which may extend to three hundred rupees for every day after such expiry.]

**38. Exemption of employer from liability in certain cases: -**

Where an employer charged with an offence under this Act, alleges that another person is the actual offender, he shall be entitled upon complaint made by him in this behalf to have, on giving to the prosecutor in this behalf three clear days' notice in writing of his intention so to do, that other person brought before the court on the day appointed for the hearing of the case

and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that-

- (a) he has used due diligence to enforce the execution of the relevant provisions of this Act; and
- (b) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be acquitted:

Provided that-

- (a) the employer may be examined on oath and this evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges to be the actual offender and by the prosecutor, and.
- (b) If, in spite of due diligence, the person alleged as the actual offender cannot be brought before the court on the day appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournment does not exceed three months, and if, by the end of the said period, the person

Alleged as the actual offender cannot still be brought before the court, the court shall proceed to hear the case against the employer.

**39 Cognizance of offences:** - No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the chief inspector and no court inferior to that of a Presidency Magistrate or a



Magistrate of the second class shall try any offence punishable under this Act.

**40. Limitation of prosecutions:** - No court shall take cognizance of an offence punishable under this Act unless the complaint thereof has been made or is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

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

## **CHAPTER VIII MISCELLANEOUS**

**41. Power to give directions:** - The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

**42. Power to exempt:** - The State Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act:

Provided that no such exemption <sup>50</sup>[other than an exemption

50. *Ins* by Act 34 of 1960.

from Section 19] shall be granted except with the previous approval of the Central Government.

**43. General power to make rules:** – (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act:

Provided that the date be specified under clause (3) of Section 23 of the General Clauses Act, 1897 (10 of 1897), shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for-

- (a) the qualifications required in respect of the chief inspector and inspector;
- (b) the powers which may be exercised by inspectors and the areas in which and the manner in which such powers may be exercised;
- (c) the medical supervision which may be exercised by certifying surgeons;
- (d) the examination be inspectors or other persons of the supply and distribution of drinking water in plantations;
- (e) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;
- (f) the time within which housing, recreational, educational or other facilities required by this Act to be provided and maintained may be so provided;

- (g) the types of latrines and urinals that should be maintained in plantations;
- (h) the medical, recreational facilities that should be provided in plantations;
- (i) the form and manner in which notices of period of work shall be displayed and maintained;
- (j) the registers which should be maintained by employers and the returns, whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act; <sup>51</sup>[\* \* \*]
- (k) the hours of work for a normal working day for the purpose of wages and overtime.

<sup>52</sup>[(1) any other matter which is required to be, or may be prescribed.]

(3) All rules made under this Act shall, if made by any Government, other than the Central Government, be subject to the previous approval of the Central Government.

**LABOUR LAWS**  
**(Exemption from Furnishing Returns and**  
**Maintaining Registers by Certain**  
**Establishments) Act, 1988 <sup>1</sup>**

[Act 51 of 1988]

[24<sup>th</sup> September, 1988]

## **CONTENTS**

### *Sections*

1. Short title and commencement
2. Definitions
3. Ammendment of certain labour laws
4. Exemption from returns and registers required under certain labour laws

51. Omitted by Act 58 of 1981 (w.e.f. 26-1-1982).

52. Added by Act 58 of 1982 (w.e.f. 26-1-1982)

1. Received the assent of the President on Sept. 24, 1988, and published in the Gaz. of India, Extra, Pt. II, S. 1, dt. Sep. 27, 1988.

5. savings

6. Penalty

7. power to ammend Form

8. Power to remove difficulties

### THE SCHEDULE

*An Act to provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws*

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:

**Prefatory Note- Statement of Objects and Reasons: -**

t(1) Rules and regulations framed under various labour laws provide for maintenance of registers in prescribed formats and periodical submission of returns in prescribed forms. There has been persistent demands from small business and industrial establishments for the simplification and reduction in the number of forms and registers required to be maintained/submitted by small establishments. A Working Group appointed for the purpose had suggested undertaking of legislation as well as other appropriate measures for simplification and reduction in the number of forms and registers required to be maintained by small establishments. In the light of the recommendations of the Working Group, the matter was considered further at various for and Government has considered it desirable that establishments employing smaller number of persons should be exempted to a limited extend, from maintaining registers in the prescribed form and from submitting the various returns under certain existing labour laws.

(2) A small establishment has been defined in the Bill as an establishment in which not less than ten and not more than nineteen persons are employed or were employed on any day of the preceding twelve months. A very small establishment has been defined as an establishment in which not more than nine persons are employed or were employed on any day of the preceding twelve months.

(3) Small establishments will be required to maintain only three muster registers and will be required to submit only one core return in lieu of the existing returns prescribed under the various labour laws.

Similarly, very small establishments would be allowed to combine the three muster registers into a single

Register, Further, they would be required to submit only one annual core return in lieu of the existing returns prescribed under the various labour laws. The forms of the registers and returns have been prescribed in the Bill itself.

(4) However, in view of the special requirements of social security legislation such as, recovery of contribution from employers and employees, their Accountability, reimbursement, etc, no exemption has been given in relation to social security legislation. The enactments from which exemption is sought to be given have been mentioned in the Schedule to the Bill.

(5) The Bill seeks to achieve the above objects.

1. Short title and commencement – (1) This Act may be called the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988.

2. It extends to the whole of India:

Provided that nothing contained in this Act, in relation to the Plantations Labour Act, 1951 (69 of 1951) shall extend to the State of Jammu and Kashmir.

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

Date of Enforcement- The Act came into force in the whole of India w.e. f. 1-5-1989 *vide* Noti. No. G.S.R. 436E) dated 10-4-1989 (1989CCL-III-274).

2. Definitions – (1) In this Act, unless the context otherwise requires,-

(a) “employer”, in relation to a Scheduled Act, which defines such expression, has the same meaning assigned to it in that Act, and in relation to any other Scheduled Act, means the person who is required to furnish returns or maintain registers under that Act;

#### NOTES

“Employer” includes a legal representative of a deceased employer- *See* Payment of Wages Act, 1936, Section 2(i-a).

When there is a manager who is entrusted with the affairs of the company the directors of the company cannot be said to be employer. *Superintendent and Rememberancer of Legal Affairs v. Balai Chand Saha*, 78 CWN 757: 45 FJR 489.

(b) “establishment” has the meaning assigned to it in a Scheduled Act, and includes-

(i) an “industrial or other establishment” as defined in Section 2 of the Payment of Wages Act, 1936 (4 of 1936).

(ii) A “factory” as defined in Section 2 of the Factories Act, 1948 (63 of 1948).

(iii) A factory, workshop or place where employees are employed or work is given out to workers, in any scheduled employment to which the Minimum Wages Act, 1948 (11 of 1948), applies;

(iv) a “plantation” as defined in Section 2 of the Plantations Labour Act, 1951 (69 of 1951); and

(v) a “newspaper establishment” as defined in Section 2 of the Working Journalists and other Newspaper Employees

(Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955);

S.4]

NOTES

Factory- If manufacturing process is done at two different places, they are factories (AIR 1955 All 702). Premises include land as well (AIR 1956 Bom 219). Kitchen is not factory (1941) 2 KB 232, 238 (B); but a contrary view has been expressed in 1980 Lab IC 100(Bom). There is difference between the definition of factory as given in the Indian Factories Act and the English Factories Act. Whether any restaurant is a factory has to be decided after taking into account all relevant considerations, *viz.*, Section 21 (*k*) and (*m*). Mere existence of frigidaire will not make the premises factory (AIR 1956 Mad 600). The process of grabbing paper with the aid of more than twenty persons in certain premises shall make the premises a factory (58 Cr LJ 1026).

*Newspaper establishment*- “Newspaper establishment” means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate-*See Working Journalists and other Newspaper Employees (Conditions of Service ) and Miscellaneous Provisions Act, 1955, Section 2(d).*

(c) “Form” means a Form annexed to this Act;

(d) “Scheduled Act” means as Act specified in the Schedule and is in force on the commencement of this Act in the territories to which such Act extends generally, and includes the rules made thereunder;



(e) “small establishment” means an establishment in which not less than ten and not more than nineteen persons are employed or were employed on any day of the preceding twelve months;  
(f) “very small establishment” means an establishment in which not more than nine persons are employed or were employed on any day of the preceding twelve months.

3. Amendment of certain labour laws- On and from the commencement of this Act, the Scheduled Acts shall have effect subject to the provisions of this Act.

4. Exemption from returns and registers required under certain labour laws- (1) On and from the commencement of this Act it shall not be necessary for an employer in relation to any small establishment or very small establishment to which a Scheduled Act applies to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act:

Provided that such employer,-

(a) furnishes, in lieu of such returns, a Core Return in Form A;

(b) maintains, in lieu of such registers,-

(i) registers in Form B, Form C and Form D, in the case of small establishments; and

(ii) registers in Form D and Form E, in the case of very small establishments;

Provided further that every such employer shall continue to-

(a) issue wage slips in the Form prescribed in the Minimum Wages (Central) Rules, 1950 made under Section 18 and 30 of the Minimum Wages act, 1948 (11 of 1948) and slips relating to measurement of the amount of work done by piece-rated workers required to be issued under the Payment

of Wages (Mines) Rules, 1956 made under Section 13-A and 26 of the Payment of Wages Act, 1936 (4 of 1936); and

(b) file returns relating to accidents under Section 88 and 88-A of the Factories Act, 1948 (63 of 1948) and Sections 32-A and 32-B of the Plantations Labour Act, 1951 (69 of 1951).

(2) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including in particular, the inspection of the registers by, and furnishing of their copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that Scheduled Act.

(3) Where an employer in relation to a small establishment or very small establishment to which a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in that Scheduled Act shall render him liable to any penalty for his failure to furnish any return or to maintain any register under that Scheduled Act.

5. Savings- The commencement of this Act shall not affect,-

- (a) the previous operation of any provision of any Scheduled Act or the validity, invalidity, effect or consequence of anything done or suffered under that provision, before the relevant period;
- (b) any right, privilege, obligation or liability already acquired, accrued or incurred under any Scheduled Act, before the relevant period;
- (c) any penalty, forfeiture, or punishment incurred or inflicted in respect of any offence committed under any Scheduled Act, before the relevant period;
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment aforesaid, and such

investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment shall be instituted, continued or disposed of, as the case may be, in accordance with that Scheduled Act.

*Explanation-* For the purpose of this section, the expression “relevant period” means the period during which and establishment is or was a small establishment or a very small establishment under this Act.

6. Penalty- Any employer who fails to comply with the provisions of this Act, shall, on conviction, be punishable-
- (a) in the case of the first conviction, with fine which may extend to rupees five thousand; and
  - (b) in the case of any second or subsequent conviction, with imprisonment for a period which shall not be less than one month but which may extend to six months or with fine which shall not be less than rupees ten thousand but may extend to rupees twenty-five thousand, or with both.
7. Power to amend Form- (1) The Central Government may, if it is of opinion that it is expedient so to do, by notification in the Official Gazette amend any Form and thereupon such Form shall, subject to the provisions of sub-section (2) , be deemed to have been amended accordingly.

(2) Any notification issued under sub-section(1) shall be laid before each House of Parliament, if it is sitting as soon as may be after the issue of the notification, and if it is not sitting, within seven days of its re-assembly and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so said

before the House of the People, and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be on no effect, as the case effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

8. Power to remove difficulties- If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

#### THE SCHEDULE

[See Section 2(1) (d) ]

- (1) The Payment of Wages Act, 1936 (4 of 1936).
- (2) The Weekly Holidays Act, 1942 (18 of 1942).
- (3) The Minimum Wages Act, 1948 (11 of 1948).
- (4) The Factories Act, 1948 (63 of 1948).
- (5) The Plantations Labour Act, 1951 (69 of 1951).
- (6) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).
- (7) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).
- (8) The Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).
- (9) The Equal Remuneration Act, 1976 (25 of 1976).

#### FORM A

[See Section 4(1) proviso (a)]

Core Return

RETURN FOR THE YEAR ENDING 31<sup>ST</sup> DECEMBER

(To be furnished on or before the 15<sup>th</sup> February of the succeeding year by small establishments and very small establishments)

1. (a) Name and postal address of the establishment.
- (b) Name and residential address of the employer.
- (c) Name and residential address of the Manager or person responsible for supervision and control of the establishment.
- (d) Name of the principal employer in the case of a contractor's establishment.
- (e) Date of commencement of the establishment.

*Nature of Operation/ Industry/ Work Carried on*

2. (a) Number of days worked during the year.
- (b) Number of man-days worked during the year.
- (c) Daily hours of work.
- (d) Day of weekly holiday.
3. (a) Average number of persons employed during the year
  - (i) Males.
  - (ii) Females.
  - (iii) Adolescents (those who have not completed 14 years of age).
- (b) Maximum number of workers employed on any day during the year.
- (c) Number of worker discharged, dismissed, retrenched or whose services were terminated during the year.
4. Rates of wages- categorywise:
  - (1) Males (2) Females (3) Adolescents (4) Children
5. Gross wages paid:
  - (a) in cash;

- (b) in kind.
- 6. Deductions:
  - (a) Fines.
  - (b) Deductions for damage or loss.
  - (c) Other deductions.
- 7. Number of workers who were granted leave with wages during the year.
- 8 Nature of welfare amenities provided : Statutory (specify the statute).
- 9. Does the establishment carry out any hazardous process or dangerous operation coming within the meaning of the Factories Act, 1948 If so, give particulars.
- 10. Number of Accidents:
  - (a) Fatal.
  - (b) Non-fatal.
- 11. Nature of safety measures provided as required under the Factories Act, 1948.

Date.....*Signatue of the Employer with full name in capitals*

Place.....

FORM B

[See Section 4(1) proviso (b) (i)]

Register of Wages required to be maintained by Small Establishments

*(To be maintained within seven days of the expire of the wage period)*

Name of establishment.....Name and address of employer.....

Address (Local).....Name of work.....

(Permanent).....Wage period.....

Sl.	Name of	Sex	Designation	Classification, whether	Father's	Total
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No.	the employee			permanent/temporary/ casual/part-time or any other	or husband's name	days numbe of unit worked
1	2	3	4	5	6	7

### WAGES EARNED

Basic wages	Dearness allowance	Overtime	Bonus or ex gratia	Maternity benefits	Gratuity	Any other allowance	Total amount
Statutory minimum rate	Actual						
8	9	10	11	12	13	14	15

### DEDUCTIONS

Other deductions indicating the nature	Total deductions	Net amount payable	Signature or thumbimpression of employee with date	Signature of Inspector with date	Remarks
23	24	25	26	27	28

Notes : 1. In case of deduction of any advance taken by an employee, the employer shall also indicate therein the number of installments paid/total installments by which advance is to be repaid such as "5/20, 6/20" etc. The purpose of advance shall also be mentioned in the Remarks column.

2. In case of imposition of fines or deduction for damage or loss, the specific act or omission for which the penalty has been imposed has to be indicated in the Remarks column. A certificate

shall also be recorded in the said column to the effect that on opportunity to show cause was given to the employee concerned before imposition of fine or deduction.

Date.....*Signature of the Employer with full name in capitals*

Place.....

FORM C

[See Section 4(1) proviso (b)(i)

*Muster-Roll to be maintained by small establishments*

Name of establishment.....Name and address of the employer.....

Address (Local).....

(Permanent).....Wage period.....

Sl. No.	Name of the employee	Date of employment	Permanent address	Age or date of birth
1	2	3	4	5

Father's or husband's name	For the period ending..... Number of units of work done during	Total attendance	Total overtime worked <sup>1</sup>	Total production in case of piece-rated workers <sup>2</sup>
6	7	8	9	10

Compensatory rest <sup>3</sup>			
Brought forward from previous wage	Given during the wage period	Signature of Inspector with date	Remarks



period			
11	12	13	15

Notes : 1. In the case of daily-rated workers, the extent of overtime done on each occasion has to be reflected against each concerned date, such as “P/1` meaning “Present with one hour’s overtime”, “P/11/2” meaning “Present with one-and-a-half hour’s overtime” and so on.

2. The number of units of work done by a piece-rated worker has to be noted for each day in the Register. In case of employment of any child/adolescent the employer shall indicate the hours worked each day with intervals of rest.

3. The compensatory rest availed by the worker has to be marked in the Register in red ink as ‘CR’

4. Column 7 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date .....*Signature of the Employer with full name in capitals*

Place.....

FORM D

[See Section 4(1) proviso (b)(i) and (ii)]

*Monthly Register showing welfare amenities to be maintained by small establishments and very small establishments*

Sl. No.	Name of the employee	Sex	Designation	Weekly day of rest	Dates of holidays or festivals or similar other occasions
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1	2	3	4	5	6
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Number of casual leave availed by the employee.	Quantum of annual leave with wages		Whether welfare amenities provided for		
	Due	Availed	Rest-room	Drinking-water	First aid
7	8	9	10	11	12

Whether Scheduled Cast/Scheduled Tribe, Handicapped, or any other particular category	Signature of the employer or his agent	Remarks of the Inspecting Officer	Signature of Inspector with date
13	14	15	16

Note:- To be completed within seven days of the expiry of each calendar month.  
 Date.....*Signature of the employer with full name in capitals*  
 Place.....

FORM E

[See Section 4(1) proviso(b)(ii)]

*Monthly register of muster roll-cum-wages required to be maintained by very small establishments*

Year.....

Month.....

or Wage period.....

(where different).....

Name of establishment.....

Name of employee.....Father 's name.....

Name of work.....Rate of wages.....

Wage period.....Date of employment.....

Date	Hours of work	Interval for Rest and Meal			Hours worked with the employer	Overtime		Casual or sickness leave availed during the month/wage period
		From	To	From		To	Hours worked	
1	2	3	4	5	6	7	8	9

Privilege Leave			Signature of the employer	Remarks of the employer	Remuneration Due			Total
Leave due	Leave availed	Balance			Basic salary or wage	Over-time	Other allowances, if any	
10	11	12	13	14	15	16	17	18

Fines and deductions on account of damage or loss by neglect or default	Deductions				Net amount of payment	Date of payment	Signature or thumb-impression of the employee	Signature of Inspector with remarks, if any, and date
	Other deductions	Advance paid, if any						
		Date	Amount	Total				
19	20	21	22	23	24	25	26	27

Note:- Columns 1 to 12 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date.....*Signature of the Employee with full name in capitals*

Place.....