

# **FACTORIES ACT AS AMENDED BY MAHARASHTRA GOVERNMENT**

Amendments taken place under Maharashtra Factories Act on 2.12.2015 are enforced by Govt. of Maharashtra w.e.f. 1st Feb., 2016 as per Notification dated 1.2.2016 hence earlier effective date of amendments as 2.12.2015 now stands cancelled. Following are amendments in nutshell.

## **• Applicability**

First change is made in section 2 of the Act empowering the state Government to notify any establishment involved in manufacturing process as factory under the Factories Act. If the manufacturing process is carried out without the aid of power with the help of 40 workmen then the provisions of the Factories Act will be applicable to such establishment and if the manufacturing process is carried out with the aid or help of power then 20 workmen if employed then such establishment will be considered as factory.

## **• Overtime**

Prior to this amendment, the maximum hours of overtime as per section 65, workers could perform in a quarter of a year was 75 hours overtime. The amendment is made and now workers in a quarter of the year can perform not more than 115 hours of overtime. This is subject to requirement of the work of the factory and state Government has a right to impose such terms and conditions while granting an exemption in this regard. Such exemption, if granted, then will be from all the provisions in sections 51, 52, 54 and 56 of the Factories Act.

## **• Female workers allowed to work in night shift**

Amendment is also carried out in section 66 of the Act wherein earlier female workers were prohibited to work in the factory from 7 PM to 6 AM. Subject to adequate safety and security measures and safeguards, as the case may be, female workers are now allowed to work between 7 PM and 6 AM i.e. 7 in the evening till 6 in the morning.

## **• Leave**

The qualifying period of service is reduced to 90 days hence any worker who has rendered services of 90 days will be eligible to claim privilege leave under the provisions of the Factories Act.

## **• Punishments and Prosecution**

Section 92A has been added by way of amendment which deals with the offences specified in the newly added Fourth Schedule of the Act. All the offences mentioned in Fourth Schedule can be compounded on prosecution by the officer not below the rank of the Deputy Chief Inspector of the Factories. And such officer will have power to impose amount of fine. That fine amount

should not be more than the maximum amount prescribed under section 92 which is Rs.1,00,000/-. It is also further provided that the State Government will have power to amend Forth Schedule as and when required thereby the State Government can and/or omit or will have right of variation of any offences specified in the Schedule. Once the offences are compounded by the officer, then there will not be any further proceeding against the offender in respect of that offence. In short small offences which are mentioned in the Fourth Schedule will be prosecuted and compounded before the officer not below the rank of the Deputy Chief Inspector of Factories.

The Fourth Schedule is newly incorporated in the Act. This Schedule deals with the offences as mentioned in section 11, 18, 19, 20, 42, 43, 44, 45,46, 47, 48, 50, 53, 59, 60, 61, 62, 63, 64, 65, 79, 80, 81, 82, it is three, 84, 93, 97, 108, 110, 111, 111A, 114.

These offences are mainly of the following nature,

- Not maintaining cleanliness in the factory.
- Not providing and maintaining arrangements for drinking water for the workers.
- Not providing latrine and urinals.
- Not providing spittoons.
- Not providing and maintaining washing facilities for workers.
- Not providing sitting facilities to workmen.
- Not providing and maintaining first aid facilities for workmen.
- Not providing and maintaining canteen facilities as further provisions.
- Not providing and maintaining shelters, restrooms and lunch rooms as per the provisions.
- Not complying with the rules framed under section 50 of the Act.
- Not displaying the notices and not maintaining the registers of compensatory holiday.
- Not maintaining the registers which are required to maintain under the Act.
- Allowing worker double employment on any day.
- Not displaying notice of periods of work for adult workers.
- Not maintaining the register of adult workers.
- Allowing workers to work not in correspond with the working hours mentioned in the notice.
- If the rules while exempting the factory from certain provisions if not followed.
- If the annual leave as per the law is not provided and wages for the authorised leave is not paid.
- If the advance in certain cases as per the legal provision is not paid to the workers.
- The owner of the premises has not complied with the required legal provisions.
- If workers have failed to discharge their legal responsibility.
- If the notices under the Act are not displayed.
- If employer denies the lawful and legal rights of the workers.
- If employer changes the facilities and conveniences offered to workers.

These are certain instances, when in the office, can be compounded before the authorised officer. By this change for every small prosecution now Factory Manager or Occupier is not required to face the prosecution before the Magistrate. It is an effort on the part of the State Government to simplify the provisions and avoid litigation for comparatively small offences.