The Factories Act

The Factories Act 1948 consolidates and regulates the law relating to labour in factories with the introduction of the factory system and the development of modern industry bringing about great reconcentrating of labour in industrial establishment the matter of health and safety of the workers became all pressing important. The precious law relating to the regulations to labour employed in factories in India was embodied in the factories act 1934. The experience of the working of that act had revealed a number of defects and weaknesses which hampered factory administration and the present act of 1948 was enacted to overcome those defects the existing law applies to industrial establishments where manufacturing process is carried on with the aid of power where 10 or more persons are working and 20 or more workers in all other cases.

Scheme of the Act

Important Definition

Manufacturing process means any process for making altering, repairing, ornamenting, finishing, packing, washing, cleaning, breaking up, demolishing or otherwise treating or adopting any article with a view to its use, sell, transport, delivery or disposal. Worker means a person employed directly or by or through any agency with or without the knowledge of the principal employer whether for remuneration or not in any manufacturing process or cleaning any part of the machinery or premises used for a manufacturing process or in any kind of work incidental to or connected with the manufacturing process or the subject of the manufacturing process but it does not include any member of the armed forces of the union.

Factory means any premises including precincts thereof more workers are working or were working on any day of the proceeding 12 months and in any part of which a manufacturing process is being carried out with the aid of power or is ordinary so carried on of. Reading the definition of worker factory and manufacturing process together together it is quite reasonable and legitimate to hold that a person to be a worker within the meaning of the factories act must be a person employed in the premises or precincts of the factory. Public emergencies means a state of emergency thereby the security of India or any part of the country thereof is threatened whether by war or by external aggression or internal disturbances.

Approval, Licensing and Registration of Factories

State Govt may make rules requiring the submission of plans of any clause or description of factories to the chief inspector of factories requiring the previous permission in writing to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or clause or description of factories required for the purpose of considering application for such permission the submission of plans and specifications prescribe nature of such plans and specifications and by whom they shall be certified. An application for registration of a factory and grant of licence shall be submitted to the chief
inspector the licence so obtained is renewable every year the occupier shall at least 15 days before the begins to occupy or use any premises as a factory a written notice containing name and situation of the factory name and trades of the occupier owner of the premise address to which communication may name of the manager of the factory no of workers likely to be employed and such other particulars are to be furnished.

**Inspection**

The inspectors are empowered to enter make examination of the premises, plant, machinery required the production of any prescribed register and other documents relating to the factory and obtain on the spot or otherwise statements of any persons and exercise such other powers as may be prescribed The inspectors are also empowered to prosecute conduct or appear before the court and make any complaint. Or institute other proceedings arising under the act or in discharge of his duties as the case may be.

**Health**

**Cleanliness of the Factory**

Every factory shall be kept clean and free from drain etc Accumulation of dirt and refuse shall be removed daily The employer should maintain a record of dates of washing varnishing are carried out etc.

Disposal of waste, Ventilation and Temperature, Dust and Fume, Over Crowding, Drinking Water etc are to be maintained clean in Daily work outs

**Safety**

1) **Fencing of Machinery**

In every factory every moving part of a prime mover and every fly wheel connected to a prime movers every head race and tail race of every water turbines every part of stock of a lathe and every part of electric generator motor rotary converter transmission machinery and every dangerous part of any other machinery shall be securely fenced by safeguards of substantial construction which shall be continuously maintained and kept in position while the parts of machinery are running or use. The act imposes a duty to fence whether the prime movers and transmission machinery are dangerous or not instructions have been issued to the employees is to defence for breach of statutory obligation to fence the fence should be normal and that of a fixed guard if owing to the nature of the operation the safety of the dangerous spot to any machinery cannot be secured by a fixed guard a device which automatically prevents the operator from coming into contact with the dangerous spot must be provided.
2) **Work on near machinery in motion.**

The act also prescribes that whenever it became necessary to examine any part of machinery while in motion or to carry out lubrication or other adjusting operation such examination shall be carried only by a specially trained male worker weaving a tight fitting clothing and the trained persons names should be recorded in the register prescribed.

3) **Employment of young persons on dangerous machines.**

No women or young persons shall be allowed to clean, lubricate or adjust any part of prime mover or of any transmission machinery while in motion. No young person shall work at any machinery unless he has been fully instructed as to the dangers arising in connection with machines and the precautions to be observed and has received sufficient training and is under adequate supervision.

4) **Prohibition of employment of workman and children near cotton openers.**

The act also specially prohibits employment of women and child in any part of the factory for pressing cotton in which a cotton opener is at work. In every hoist and lift shall be of good mechanical construction and sound material and adequately strength and which shall be properly maintained and through examined by a competent person at least once in every period of 6 months and a register shall be kept in for no36.

In every factory every lifting machine, every chain rope and lifting tackle shall be of good construction sound material and adequate strength by a competent persons approved by the chief inspector of factories.

The rule also prescribes that no man women of young person shall unaided by another person lift, limit in weight set out in the schedule.

5) **Precaution in case of fire.**

In every factory there shall be provided such means of escape in case of fire the act was amended in the year 1976 where in a provision to appoint safety officers where 1000 or more workers are ordinarily employed is made.

**Welfare**

**Washing Facilities**

In every factory adequate and suitable facilities for washing shall be provided and maintained separately and adequately screened facilities shall be provided for the use of male and female worker and such facilities shall be conveniently accessible and shall be kept clean. The act also provides for the facilities of storing and dyeing of clothes and sitting facilities in every factory. There shall be provided and maintained first aid boxes. The state govt are empowered to make rules requiring that in any specified factory where in more than 250 workers are
ordinarily employed a canteen or canteens shall be provided a maintained by the occupier for the use of the workers.

In every factory wherein more that 150 workers are ordinarily employed adequate and suitable shelters or rest rooms and a lunch rooms shall be provided.

The following are the duties of welfare officers - The duties of welfare officer shall be

- To establish contacts and hold consultations with a views to maintaining harmonious relations between the factory management and workers.
- To maintain a liaison regarding grievance of workers and to interpret labour policies to the workers in a language they can understand.
- To advice the factory management on obligations statutory or otherwise concerning the application of the provisions of the factories and the rules made there under.
- To promote between management and which will ensure productive efficiency and to help workers to adjust and adapt themselves to their working environments.
- To advise the management on provisions of amenities such as sickness and benevolent scheme, gratuity payments, leave etc.
- To advice on welfare provision such as housing facilities foodstuff social and recreational facilities and sanitations.
- To advice factory management on questions relation to supervision and control of notice board and information bulletins to further education of worker and to encourage their attendance at technical institutes.
- To encourage the formation of work and form production committees cooperative societies and safety and welfare committees and to supervise their work.
- To suggest measures which will serve to raise the standard of living of worker and in general promote their well being and
- To work for the improvements of education facilities and to promote adoption of the family welfare measures amongst the workers.

**Working Hours**

Sec 51 to 65 prescribe the hours of working in a factory weekly holidays intervals for rest etc. These regulations relating to labour which are of great importance and which have evoked good deal of controversy and are designed to promote welfare of the labouring class by fixing the number of their working hours are provided in the act. No adult worker shall be required or allowed to work in a factory for more than 48 hours in any week sec51 and no adult worker shall be required or allowed to work in a factory for more than 9 hours in and day sec54 the first day of the week shall be allowed as weekly holiday provided substitution may be allowed on the day immediately before or after the said holiday provided substitution may be allowed on the day immediately before or after the said holiday sec52 the period of work of adult in a factory each day shall be so fixed that no period shall exceed 5 hours before he has availed an interval for rest atleast for ½ an hour the period of work of a adult worker in a factory shall be so arranged that inclusive of his interval for rest shall not spread over more than 10 and ½ hours in a day The Act also prohibits overlapping of shifts.
Employment of young persons (sec67 to 71)

No child who has not completed his 14th year shall be required or allowed to work in a factory. A child who has completed 14th year or an adolescent shall be issued certificate of fitness and such person should carry a taken giving a reference to such certificate while on work. No child shall be employed for more than 41/2 hours in any day and shall not be employed during the night. The period of work of all children employed in a factory shall be limited to two shifts which should not spread over more than 5 hours each as in the case of adult notice of period of work for children should be displayed. The said notice should clearly show the periods during which children may be required or allowed to work. The manager of every factory should maintain a register of child workers with the following – The name of each child worker in the factory – the nature of his work – the no. of his certificate of fairness. The register of child worker shall be in the form no.14.

Annual Leave with Wages(sec78 to 84)

Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allow during the subsequent calendar year leave with wages for no of days calculated at - for an adult 1 day for every 20 days of work performed by him during the previous calendar year. - in the case of a child 1 day for every 15 days of work performed by him during the previous calendar year. Annual leave with wages deals with the provisions for a certain no. of holidays for the workers employed in factories.

Where a worker on his own accord does not avail himself of the leave he can accumulate the unexpired leave subject to max sec 79/5 provides that the max leave that can be accumulated shall not exceed 30 in case of adult or 40 in the case of a child where due to exigencies of situation a worker is not granted the leave he can accumulate the same without limit in the case of termination of services special provisions are made for proportionate leave any payment in lieu thereof if a worker is discharged or dismissed from his service or quits his employment or is superannuated or dies while in service special provisions from service his nominee as the case may be shall be to get wages in lieu of the quantum of leave to his credit immediately before his discharge of employment. Provision is also made for payment of advance wages for workers going on leave what constitute wages payable to a worker is clearly indicated however details concerning the calculation of number of holidays exclusion of certain holidays like weekly holidays and festival holidays absence without leave on reasonable grounds upto a certain no. of days in a year are all provided in detail.

Special Provisions (sec 85 to 91)

The state Govt. may also exempt any work shop place where the manufacturing process carried on and is attached to public institution maintained for the purpose of education training research or reformation from all or any of the provisions of this act however no exemption shall be granted from the provisions relating to hours of work and holidays unless the institution gets specified approval. Where the state Govt. is of the opinion that any manufacturing process or operation carried on in a factory expose any person employed in it to those factories specifying the operation as dangerous prescribe or restrict employment of women adolescents or children provide for periodical medical exam, provide for protection of all persons employed prescribe restrict or control the use of any
specified material require the provisions of additional welfare amenities and supply of protective equipments and provide for directing the manager or occupier to carry out such measures. Notices person injured is prevented. The notice of accident shall be in the of accidents where in any factory an accident occurs which causes death or which causes any bodily injury by reason of which The notice of accident shall be in form no 18 where any worker contracts any disease specified in the schedule the manager of the factory shall send notice to such a authorities.

The inspector is empowered to take sufficient sample of any substance used or intended to be used in the factory which in the belief of the inspector is in contravention of any of the provisions and in the opinion of the inspector likely to cause bodily injury or to the health of workers before taking samples the inspector should inform the occupier and taken the samples during the normal working hours.

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