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## Bangladesh

### Factories Act, 1965 (No. 4 of 1965).

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### CHAPTER I.- PRELIMINARY

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

- (1) This Act may be called the Factories Act, 1965.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force at once.

#### Section 2. Definitions. -

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

- (a) 'adolescent' means a person who has completed sixteen years but has not completed eighteen years of age;
- (b) 'adult' means a person who has completed eighteen years of age;
- (c) 'child' means a person who has not completed sixteen years of age;

- (d) 'day' means a period of twenty-four hours beginning at mid-night;
- (e) 'explosive substance' includes any materials for making any explosive substance;
- (f) 'factory' means any premises including the precincts thereof whereon ten or more workers are working or were working on any day of the preceding twelve months and in any part of which a manufacturing process is being carried on with or without the aid of power, but does not include a mine subject to the operation of the Mines Act, 1923 (IV of 1923).

*Notes.-* The word "premises" ordinarily includes lands and "precincts" means the "limit, bound or exterior line encompassing a place."

In order to make it a factory, it is not necessary that the workers should be continuously working in any premises. It would be sufficient if on any one day of the preceding twelve months ten workers are employed. Nevertheless, the premises will still continue to be a factory for the next twelve months even if the number of workers is subsequently reduced.

- (g) 'machinery' includes prime movers, transmission machinery and other appliances whereby power is generated, transformed, transmitted or applied.
- (h) 'manufacturing process' means any process -
- (i) for making, altering, repairing, ornamenting, painting and washing, finishing, or packing, or otherwise treating any articles or substance with a view to its use, sale, transport, delivery, display or disposal, or
- (ii) for pumping oil, gas, water, sewage or other fluids or slurries, or
- (iii) for generating, transforming or transmitting power or gas, or
- (iv) for constructing, reconstructing, repairing, refitting, finishing or breaking up of ships or vessels, or
- (v) for printing by letter press, lithography, photogravure or other similar work or book-binding which is carried on by way of trade or for purposes of gain or incidental to another business so carried on;
- (vi) 'occupier' in relation to a factory means the person who has ultimate control over the affairs of the factory:  
Provided that where the affairs of a factory are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory.

*Note.-* An occupier is one who has ultimate control over the affairs of the factory. A person who controls the business side of the factory is an occupier who may be an owner, a lessee or even a mere licensee. He must, however, have the right to occupy the property and dictate how it is to be managed although he may not be in actual possession of the property.

- (j) 'prescribed' means prescribed by rules made by the Government under this Act;
- (k) 'prime mover' means any engine, motor, or other appliance which generates or otherwise provides power;
- (l) 'relay' means where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such

sets;

- (m) 'shift' means, where work of the same kind is carried out by two or more sets or workers working during different periods of the day, each of such periods;
- (n) 'transmission machinery' means any shaft, wheel, drum pulley, system of pulleys couplings, clutch driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or plant;
- (o) 'week' means a period of seven days beginning with the preceding mid-night of the day specified as the weekly holiday;
- (p) 'worker' means a person employed directly or through any agency, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to or connected with, the manufacturing process or the subject of the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is carried on;
- (q) 'young person' means a person who is either a child or an adolescent;
- (r) 'power' means electrical energy and any other form of energy which is mechanically transmitted and is not generated by human or animal agency; and
- (s) 'wages' means wages as defined in the Payment of Wages Act, 1936 (IV of 1936).

### **Section 3. Power to apply the provisions of this Act to certain places. -**

(1) The Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process is being carried on or is ordinarily carried on whether with or without the use of power whenever five or more workers are working therein or have worked therein on any day of the twelve months immediately preceding.

(2) A notification under sub-section (1) may be made in respect of any one such place or in respect of any class of such places or generally in respect of all such places.

(3) Notwithstanding anything contained in clause (f) of Section 2, a place to which all or any of the provisions of this Act are, for the time being, applicable in pursuance of a declaration under sub-section (1), shall, to the extent to which such provisions are so made applicable but not otherwise, be deemed to be a factory.

### **Section 4. Power to declare departments to be separate factories. -**

The Government may, by order in writing, direct that the different departments or branches of a specified factory be treated as separate factories for all or any of the purposes of this Act.

### **Section 5. Power to exempt. -**

The Government may, by notification in the official Gazette, exempt any factory or any class or description of factories from all or any of the provisions of this Act for such period as it may think fit in the public interest:

Provided that no such exemption shall be made for a period exceeding six months at a time.

## **Section 6. Notice to Inspector before commencement of work. -**

(1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory send to the Chief Inspector a written notice containing -

- (a) the name and situation of the factory;
- (b) the name and address of the occupier;
- (c) the address to which communications relating to the factory may be sent;
- (d) the nature of the manufacturing process -
  - (i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act;
  - (ii) to be carried on in the factory during the next twelve months in the case of all factories;
- (e) the nature and quantity of power to be used; the name of the Manager of the factory for the purposes of this Act;
- (f) the number of workers likely to be employed in the factory;
- (g) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act; and
- (h) such other particulars as may be prescribed.

(2) In respect of all factories which come within the scope of this Act for the first time, the occupier shall send a written notice to the Chief Inspector containing particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act..

(3) Before a factory engaged in a manufacturing process, which is ordinarily carried on for less than one hundred and eighty working days in the year, resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days before the date of the commencement of work.

(4) Whenever another person is appointed as Manager, the occupier shall send to the Chief Inspector a written notice of the change, within seven days from the date on which such person assumes charge.

(5) During any period for which no person has been designated as Manager of the factory or during which the person so designated does not manage the factory, any person found acting as Manager or if no such person is found, the occupier himself shall be deemed to be the Manager of the factory for the purposes of this Act.

## **Section 7. Seasonal Factory. -**

The Government may, by notification in the official Gazette, declare any factory in which manufacturing processes are ordinarily carried on for not more than one hundred and eighty working days in the year and cannot be carried on except during particular seasons or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

## **Section 8. Approval of plans and fees for licensing and registration. -**

(1) The Government may -

- (a) require that previous permission in writing be obtained in the prescribed manner from the Chief Inspector for the construction or extension of any factory or class or description of factories;
- (b) require registration and licensing of factories or any class or description of factories and payment of fees for such registration and licensing or for the renewal of licences, in the prescribed manner.

(2) If, in accordance with the provisions of sub-section (1) an application for permission accompanied by the plans and specifications is sent to the Chief Inspector and no order is communicated to the applicant within two months from the date of its receipt by the Chief Inspector, the permission applied for in the said application shall be deemed to have been granted.

(3) Where the Chief Inspector refuses to grant permission to the said construction or extension of a factory or to registration and licensing of a factory the applicant may, within sixty days of the date of such refusal, appeal to the Government.

Explanation - A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or, within such limits as may be prescribed, of the addition of any plant or machinery.

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## **CHAPTER II.- CHIEF INSPECTOR, INSPECTORS AND CERTIFYING SURGEONS**

### **Section 9. Chief Inspector and Inspectors. -**

(1) The Government may, by notification in the official Gazette, appoint any person to be the Chief Inspector, who shall, in addition to the powers conferred on the Chief Inspector under this Act, have the powers of an Inspector throughout the country and shall also have powers of supervision and control over the Inspectors appointed under sub-section (2):

Provided that the Chief Inspector may authorise any other officer or officers under him to exercise all or any of his powers for such area or areas as may be specified by him.

(2) The Government may, by notification in the official Gazette, appoint such persons as it thinks fit, to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(3) The Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(4) Every Deputy Commissioner shall be an Inspector of his district.

(5) No person shall be appointed to be an Inspector under sub-section (2) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly, interested in a factory or in any process or business carried on therein or any patent or machinery connected therein.

(6) In any area where there are more Inspectors than one, the Government may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise, and the Inspector to whom the prescribed notices are to be sent.

(7) The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Penal Code, (Act XLV of 1860) [as adapted] and the Inspectors appointed under sub-section (3) shall be officially subordinate to such authority as the Government may specify on this behalf.

## **Section 10. Powers of Inspector. -**

(1) For carrying out the purposes of this Act, an Inspector may, within the local limits for which he is appointed -

- (a) enter with such assistants, being persons in the service of Bangladesh or of any municipal or other local authority, as he thinks fit, inspect and examine any place which is, or which he has reason to believe to be, used as a factory under the provisions of section 3;
- (b) require the production of the registers, certificates, notices and documents kept in pursuance of this Act, and inspect, examine and copy any of them;
- (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act and other laws for the time being in force relating to health and hygiene, in respect of a factory and any person employed in a factory are complied with;
- (d) require any person whom he finds in a factory to give such information as it is in his knowledge relating to the actual occupier of the factory;
- (e) examine, in respect of matters pertaining to this Act, every person whom he finds in a factory, or whom he has reasonable cause to be or to have been within the preceding two months, employed in a factory. Provided that no person shall be required to answer any questions or to give any evidence tending to incriminate himself; and
- (f) require every person so examined to sign the record of such examination by way of verification.

(2) The occupier of every factory, his agents and servants, shall furnish the means required by an Inspector as necessary for an entry, inspection, examination, enquiry, the taking of samples, or otherwise for the exercise of his powers under this Act, in relation to that factory.

(3) An Inspector may seize any record, register or any other documents of any factory, relevant to the enforcement of the provisions of this Act, as he may consider necessary in the prescribed manner for the purpose of carrying out his functions under this Act.

### **Section 11. Certifying Surgeons. -**

(1) The Government may appoint such registered medical practitioners as it deems fit to be Certifying Surgeons, for the purposes of this Act within such local limits or for such factory or class or description of factories as may be assigned to them respectively.

(2) No person shall be appointed to be a Certifying Surgeon, or having been so appointed, continue to exercise such powers, who is or becomes the occupier of a factory or is or becomes directly or indirectly interested therein or in any patent or machinery connected therewith or is otherwise in the employment of the factory.

(3) The Certifying Surgeon will carry out such duties as may be prescribed in connection with -

- (a) examination and certification of young persons under this Act;
- (b) examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed;
- (c) such medical supervision as may be prescribed for any factory or class or description of factory where -
  - (i) cases of illness having occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on or other conditions of work prevailing therein;
  - (ii) by reason of any change in the manufacturing process carried on or in the substance used therein or by reason of the adoption of any new manufacturing process or any new substance for use in a manufacturing process, there is likelihood of injury to the health of the workers employed in that manufacturing process; and
  - (iii) young persons are, or are about to be employed in any work which is likely to cause injury to their health.

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## **CHAPTER III.- HEALTH AND HYGIENE**

### **Section 12. Cleanliness. -**

(1) Every factory shall be kept clean and free from effluvia arising from any drain privy or other nuisance, and in particular, -

- (a) accumulation of dirt and refuse shall be moved daily by sweeping or

by any other effective method from the floors and benches of workrooms and from staircases and passages and disposed of in a suitable manner;

- (b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant where necessary or by some other effective method;
- (c) where the floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;
- (d) all inside walls and partitions, all ceilings or tops of rooms and walls, sides and tops of passages and staircases shall-
  - (i) where they are painted or varnished, be repainted or revarnished at least once in every five years;
  - (ii) where they are painted or varnished and have smooth impervious surfaces, be cleaned at least once in every fourteenth month, by such methods as may be prescribed;
  - (iii) in any other case, be kept white- washed or colour-washed and the white-washing or colour-washing shall be carried out at least once in every fourteen months; and
- (e) the dates on which the processes required by clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the Government may, by an order, exempt such factory or class or description of factories from any of the provisions of that sub-section and specify alternative methods for keeping the factory in a clean state.

### **Section 13. Disposal of wastes and effluents. -**

(1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein.

(2) The Government may make rules prescribing the arrangements to be made in accordance with sub-section (1) or requiring that the arrangement made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

### **Section 14. Ventilation and temperature. -**

(1) Effective and suitable provisions shall be made in every factory for securing and maintaining in every work-room -

- (a) adequate ventilation by the circulation of fresh air; and
- (b) such temperatures as will secure to workers therein reasonable conditions of comfort and which will prevent injury to health, and in particular, -
  - (i) the walls and roof shall be of such material and so designed that such temperature shall not be exceeded but be kept as low as practicable;
  - (ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperature,



such adequate measures as are practicable, shall be taken to protect the workers therefrom by separating the process which produces such temperature from the work-room by insulating the hot parts or by other effective means.

(2) The Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that a thermometer shall be provided and maintained in such place and position as may be specified.

(3) If it appears to the Government that in any factory or class or description of factories excessively high temperature can be reduced by such methods as white-washing, spraying or insulating and screening outside walls or roofs or windows or by raising the level of the roof, or by insulating the roof either by an air space and double roof or by the use of insulating roofing materials, or by other methods, it may prescribe such of those or other methods to be adopted in the factory.

### **Section 15. Dust and fume. -**

(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fumes or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, effective measures shall be taken to prevent its accumulation in any work-room and its inhalation by workers, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fumes or other impurity, and such point shall be enclosed so far as is possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into open air, and no internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to the workers employed in the work-room.

### **Section 16. Artificial humidification. -**

(1) The Government may, in respect of all factories in which humidity of the air is artificially increased, make rules -

- (a) prescribing standards of humidification;
- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed tests determining the humidity of the air to be correctly carried out and recorded; and
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the work-rooms.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified, he may serve on the Manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

### **Section 17. Overcrowding. -**

(1) No work-room in any factory shall be overcrowded to the extent that it is injurious to the health of the workers employed therein.

(2) Without prejudice to the generality of the provisions of sub-section (1), there shall be provided for every worker employed in a work-room-

- (a) at least three hundred and fifty cubic feet of space in the case of a factory in existence on the date of the commencement of this Act, and
- (b) at least five hundred cubic feet of space in the case of a factory built after the commencement of this Act.

*Explanation* - For the purpose of this sub-section no account shall be taken of a space which is more than fourteen feet above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each work-room of a factory a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may, by order in writing exempt, subject to the conditions as he may think fit to impose, any work- room from the provisions of this section if he is satisfied that compliance therewith in respect of such room is not necessary for the purpose of health of the workers employed therein.

### **Section 18. Lighting. -**

(1) In every part of a factory where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

(2) In every factory all glazed windows and skylights used for the lighting of the work-room shall be kept clean on both the outer and inner surfaces and free from obstruction as far as possible under the rules framed under sub-section (3) of section 14.

(3) In every factory effective provision shall so far as is practicable, be made for the prevention of -

- (a) glare either directly from any source of light or by reflection from a smooth or polished surface, and
- (b) the formation of shadows to such an extent as to cause eye strain or risk of accident to any worker.

(4) The Government may prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

### **Section 19. Drinking water. -**

(1) In every factory effective arrangements shall be made to provide and maintain at a suitable point conveniently situated for all workers employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "Drinking Water" in a language understood by the majority of the workers and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed, provision shall be made for cooling the drinking water during the hot weather by effective means and for distribution thereof.

(4) The Government may, in respect of all factories or any class or description of factories, make rules for securing compliance with the provisions of this section.

### **Section 20. Latrines and urinals. -**

(1) In every factory -

- (a) sufficient latrines and urinals of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are in the factory;
- (b) enclosed latrines and urinals shall be provided separately for male and female workers;
- (c) such latrines and urinals shall be adequately lighted and ventlated and no latrine or urinal shall, unless specifically exempted in writing by the Chief Inspector, communicate with any work-room except through an intervening open space or ventilated passage;
- (d) all such latrines and urinals shall be maintained in a clean and sanitary condition at all times with suitable detergents or disinfectants or with both;
- (e) the floors and internal walls of the latrines and urinals and the sanitary blocks shall, up to a height of three feet, be finished to provide a smooth polished impervious surface.

(2) The Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein and such further matters in respect of sanitation in the factories.

### **Section 21. Spittoons. -**

(1) In every factory there shall be provided, at convenient places, a sufficient number of spittoons which shall be maintained in a clean and hygienic

condition.

(2) The Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and such further matters as may be deemed necessary relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose. A notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whosoever spits in contravention of sub-section (3), shall be punishable with a fine not exceeding Taka Two.

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## **CHAPTER IV.- SAFETY**

### **Section 22. Precautions in case of fire. -**

(1) Every factory will be provided with such means of escape in case of fire as may be prescribed.

(2) If it appears to the Inspector that any factory is not provided with the means of escape prescribed under sub-section (1), he may serve on the Manager of the factory an order in writing specifying the measures which, in his opinion, should be adopted before a date specified in the order.

(3) In every factory the doors affording exit from any room shall not be locked or fastened so that they can be easily and immediately opened from inside while any person is within the room, and all such doors, unless they are of the sliding type, shall be constructed to open outwards, or where the door is between two rooms, in the direction of the nearest exit from the building and no such door shall be locked or obstructed while work is being carried on in the room.

(4) In every factory every window, door, or other exit affording means of escape in case of fire, other than the means of exit in ordinary use, shall be distinctively marked in a language understood by the majority of the workers and in red letters of adequate size or by some other effective and clearly understood sign.

(5) In every factory there shall be provided effective and clearly audible means of giving warning in case of fire to every person employed therein.

(6) A free passage-way giving access to each means of escape in case of fire shall be maintained for the use of all workers in every room of the factory.

(7) In every factory wherein more than ten workers are ordinarily employed in any place above the ground floor, or explosives or highly inflammable materials are used or stored, effective measures shall be taken to ensure that all the workers are familiar with the means of escape in case of fire and have been

adequately trained in the routine to be followed in such case.

(8) The Government may make rules prescribing in respect of any factory, or class or description of factories, the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.

### **Section 23. Fencing of machinery. -**

(1) In every factory the following shall be securely fenced by safeguards of substantial construction which shall be kept in position while the part of machinery required to be fenced are in motion or in use, namely -

- (a) every moving part of a prime mover, and every fly wheel connected to a prime mover;
- (b) the head-race and tail-race of every water wheel and water turbine;
- (c) any part of a stock-bar which projects beyond the head stock of a lathe; and
- (d) unless they are in such position or of such construction as to be as safe to every person employed in the factory as they would be if they were securely fenced -
  - (i) every part of an electricity generator, a motor or rotary convertor;
  - (ii) every part of transmission machinery; and
  - (iii) every dangerous part of any machinery:

Provided that, for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when it being necessary to make an examination of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts, lubrication or other adjusting operation while the machinery is in motion, such examination or operation is made or carried out in accordance with the provisions of section 24.

(2) Without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle wheel or pinion and all spur, worm and other toothed or friction gearing in motion with which a worker would otherwise be liable to come into contact, shall be securely fenced, to prevent such contact.

(3) The Government may exempt, subject to such conditions as may be imposed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this Act.

(4) The Government may, by rules, prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof.

### **Section 24. Work on or near machinery in motion. -**

(1) Where in any factory it becomes necessary to examine any part of machinery referred to in section 23 while the machinery is in motion, or as a result of such examination, to carry out any mounting or shipping of belts,

lubrication or other adjusting operation while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing whose name has been recorded in the register prescribed in this behalf and while he is so engaged such worker shall not handle a belt at a moving pulley unless the belt is less than six inches in width and unless the belt-joint is either laced or flush with the belt.

(2) No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of machine while that part is in motion, or to work between moving parts or between fixed and moving parts, of any machinery which is in motion.

(3) The Government may, by notification in the official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person, of specified parts of machinery when those parts are in motion.

### **Section 25. Employment of young persons on dangerous machines. -**

(1) No young person shall work at any machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and -

- (a) has received sufficient training in work at the machine, or
- (b) is under adequate supervision by a person who has thorough knowledge and experience of the machine.

(2) This section shall apply to such machines as may be notified by the Government to be of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

### **Section 26. Striking gear and devices for cutting off power. -**

(1) In every factory -

- (a) suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be so constructed, placed and maintained as to prevent the belt from crooping back on the first pulleys;
- (b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room.

(3) In respect of factories in operation before the commencement of this Act the provisions of sub-section (2) shall apply only to work-rooms in which electricity is used for power.

### **Section 27. Self-acting machines. -**

No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of eighteen inches from any fixed structure which is not part of the machine:

Provided that the Chief Inspector may permit the continued use of a machine installed before the commencement of this Act which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

## **Section 28. Casing of new machinery. -**

(1) In all machinery driven by power and installed in any factory after the commencement of this Act -

(a) every set screw, belt or key or any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger; and (b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion, shall be completely encased unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months, or with a fine which may extend to Taka five hundred or with both.

(3) The Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

## **Section 29. Prohibition of employment of women and children near cotton-openers. -**

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such heights as the Inspector may, in any particular case, specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

## **Section 30. Cranes and other lifting machinery. -**

(1) The following provisions shall apply in respect of cranes and all other lifting machinery, other than hoists and lifts, in any factory -

- (a) every part thereof, including the working gear, whether fixed or movable, ropes and chains and anchoring and fixing appliances shall be -
  - (i) of good construction, sound material and adequate strength;

- (ii) properly maintained;
- (iii) thoroughly examined by a competent person at least once in every period of twelve months, and a register shall be kept containing the prescribed particulars of every such examination;
- (b) no such machinery shall be loaded beyond the safe working load which shall be plainly marked thereon; and
- (c) while any person is employed or working on or near the wheel-tract of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

(2) The Government may make rules in respect of any lifting machinery or class or description of lifting machinery in factories -

- (a) prescribing requirements to be complied with in addition to those set out in this section; or
- (b) exempting from compliance with all or any of the requirements of this section, where, in its opinion, such compliance is unnecessary or impracticable.

### **Section 31. Hoists and lifts. -**

(1) In every factory-

- (a) every hoist and lift shall be -
  - (i) of good mechanical construction, sound material and adequate strength,
  - (ii) properly maintained, and shall be thoroughly examined by a competent person at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;
- (b) every hoistway and liftway shall be sufficiently protected by an enclosure fitted with gates, and the hoist or lift and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;
- (c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;
- (d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;
- (e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure the gate so that it cannot be opened except when the cage is at the landing and to ensure that the cage cannot be moved unless the gate is closed.

(2) the following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely-

- (a) where the cage is supported by rope or chain there shall be at least two ropes or chains separately connected to the cage and balance weight,



and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

- (b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes, chains or attachments;
- (c) an efficient automatic device shall be provided and maintained to prevent the cage from over-running.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The Government may, if, in respect of any class or description of hoist or lift, it is of the opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

### **Section 32. Revolving machinery. -**

(1) In every room in a factory in which the process of grinding is carried on, there shall be permanently affixed to, or placed near, each machine in use a notice indicating the maximum safe working peripheral speed of every grind stone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted and the diameter of the pulley upon such shaft or spindle necessary to secure safe working peripheral speed.

(2) The speeds indicated in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley disc or similar appliance driven by power is not exceeded.

### **Section 33. Pressure plant.-**

(1) If in any factory any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded.

(2) The Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may, in its opinion, be necessary in any factory or class or description of factories.

### **Section 34. Floors, stairs and means of access. -**

In every factory -

- (a) all floors, stairs, passages and gangways shall be of sound construction and be properly maintained and where it is necessary to

ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails; and

- (b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is, at any time, required to work.

### **Section 35. Pits, sumps, openings in floors, etc. -**

(1) In every factory, every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The Government may, by order in writing, exempt, subject to such conditions as may be imposed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

### **Section 36. Excessive wieghts. -**

(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

(2) The Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

### **Section 37. Protection of eyes. -**

The Government may, in respect of any manufacturing process carried on in any factory, by rules, require that effective screens or suitable goggles shall be provided for the protection of persons employed on or in the immediate vicinity of a process which involves -

- (a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or
- (b) risk to the eyes by reason of exposure to excessive light or heat.

### **Section 38. Powers to require specifications of defective parts or tests of stability. -**

If it appears to the Inspector that any building or part of a building, or any part of the ways, machinery or plant in a factory, is in such a condition that it may be dangerous to human life or safety, he may serve on the Manager of the factory an order in writing, requiring him before a specified date -

- (a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or
- (b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results

thereof.

### **Section 39. Safety of building and machinery. -**

(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the Manager of the factory, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the Manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

### **Section 40. Power to make rules to supplement this Chapter. -**

The Government may make rules requiring that -

- (1) in any factory or in any class or description of factories, such further devices and measures for securing the safety of the persons employed therein as it may deem necessary shall be adopted; and
- (2) work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building erected or taken into use as a factory until a certificate of stability in the prescribed form and signed by a person possessing the prescribed qualifications, has been sent to the Chief Inspector.

### **Section 41. Precautions against dangerous fumes -**

(1) In any factory no person shall enter or be permitted to enter any chamber, tank, vat, pit, pipe, flue or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risks of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No portable electric light of voltage exceeding twenty- four volts shall be permitted in any factory for use inside any confined space such as is referred to in sub-section (1) and where the fumes present are likely to be inflammable, lamp or light other than of flame proof construction shall be permitted to be used in such confined space.

(3) No person in any factory shall enter or be permitted to enter any confined space such as is referred to in sub-section (1) until all practicable measures have been taken to remove any fumes which may be present and to prevent any ingress of fumes and unless either -

- (a) a certificate in writing has been given by a competent person, based on a test carried out by himself, that the space is free from dangerous fumes and fit for persons to enter, or
- (b) the worker is wearing suitable breathing apparatus and a belt securely

attached to a rope, the free end of which is held by a person standing outside the confined space.

(4) Suitable breathing apparatus, reviving apparatus and belts and ropes shall, in every factory, be kept ready for instant use beside any such confined space as aforesaid which any person has entered, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practised in the use of all such apparatus and in the method of restoring respiration.

(5) No person shall be permitted to enter in any factory, any boiler furnace, boiler, flue chamber, tank, vat, pipe or other confined space for the purpose of working or making any examination therein until it has been sufficiently cooled by ventilation or otherwise declared to be safe for persons to enter.

(6) The Government may make rules prescribing the maximum dimensions of the manholes referred to in sub-section (1) and may, by order in writing, exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.

## **Section 42. Explosive or inflammable dust, gas, etc. -**

(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by -

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion as aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely -

- (a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by a stop-valve or other means;
- (b) before any such fastening as aforesaid is removed, all practicable

measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure;

- (c) where any such fastening, as aforesaid, has been loosened or removed, effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured; or, as the case may be, securely replaced:

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel, which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes non- explosive or non-inflammable, and no such substance shall be allowed to enter such plant, tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The Government may, by rules, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

## **CHAPTER V.- WELFARE**

### **Section 43. Washing facilities. -**

(1) In every factory -

- (a) adequate and suitable facilities for washing and bathing shall be provided and maintained for the use of the workers therein;
- (b) separate and adequately screened facilities shall be provided for the use of male and female workers; and
- (c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The Government may, in respect of any factory or class or description of factories or of any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

### **Section 44. First-aid appliances. -**

(1) There shall, in every factory or section of a factory, be provided and maintained, so as to be readily accessible during all working hours, first aid boxes and cupboards equipped with the prescribed contents and the number of such boxes and cupboards shall not be less than one for every one hundred and fifty workers ordinarily employed in the factory.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1) and all such boxes and cupboards shall be kept in charge of a responsible person who is trained in first-aid treatment and who shall always be available during the working hours of the factory.

(3) A notice shall be affixed in every work-room stating the name of the person in charge of the first-aid box or cupboard provided in respect of that room and such person shall wear a badge so as to facilitate identification.

(4) In every factory wherein five hundred or more workers are employed, there shall be provided and maintained an ambulance room or dispensary of the prescribed size containing the prescribed equipment or similar facilities, in the charge of such medical and nursing staff as may be prescribed.

#### **Section 45. Canteens. -**

(1) The Government may make rules requiring that, in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided for the use of the workers.

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

- (a) the date by which such canteen shall be provided;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
- (c) the foodstuff to be served therein and the charges which may be made therefor;
- (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen; and
- (e) the delegation to the Chief Inspector, subject to such conditions as may be specified, of the power to make rules in respect of matters referred to in clause (c).

#### **Section 46. Shelters, etc. -**

(1) In every factory wherein more than one hundred workers are ordinarily employed, adequate and suitable shelters or rest rooms, and a suitable lunch room with provision for drinking water where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of section 45 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exists no workers shall eat any food in the work room.

(2) The shelters, rest rooms or lunch rooms provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The Government may -

- (a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;
- (b) prescribe the type of shelter for persons, the nature of whose work

requires them to be exposed to the sun and the elements during the greater part of their work;

- (c) by notification in the official Gazette exempt any factory or class or description of factories from the requirements of this section.

#### **Section 47. Rooms for children. -**

(1) In every factory, wherein more than fifty women workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

(2) Such rooms shall provide adequate accommodation, be adequately lighted and ventilated and maintained in a clean and sanitary condition, and shall be under the charge of women trained or experienced in the care of children and infants.

(3) The Government may make rules -

- (a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section;
- (b) requiring the provision, in factories to which this section applies, of additional facilities for the care of children belonging to women workers including suitable provision of facilities for washing and changing their clothing;
- (c) requiring the provision, in any factory, of free milk or refreshment or both for such children;
- (d) requiring that facilities shall be given in any factory for the mothers of such children to feed them at the necessary intervals.

#### **Section 48. Welfare officers. -**

(1) In every factory wherein five hundred or more workers are employed, the occupier shall employ in the factory such number of welfare officers as may be prescribed.

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

#### **Section 49. Power to make rules to supplement this Chapter. -**

The Government may make rules -

- (a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be specified, any factory or class or description of factories from compliance with any of the provisions of this Chapter; and
- (b) requiring in any factory or class or description of factories that representatives of the workers employed in the factory shall be associated with the management of the welfare arrangements for the workers.

## CHAPTER VI.- WORKING HOURS OF ADULTS

### Section 50. Weekly hours. -

(1) No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in a week.

(2) Subject to the provisions of section 58, an adult worker may work for more than nine hours in a day or forty-eight hours in a week:

Provided that the total hours of an adult worker shall not exceed sixty hours in any week and on an average fifty-six hours per week in any year.

*Notes.-* Rule 4 of the Factories (Exemption) Rules provides that no adult worker exempted from the provisions of this section, other than an adult male worker employed under rule 6 on urgent repairs, shall be allowed to work for more than sixty hours in any week and on an average fifty-six hours per week in any year.

### Section 51. Weekly holidays. -

(1) No adult worker shall be required or allowed to work in any factory on a Sunday or a Friday as the case may be, unless -

- (a) he has had, or will have a holiday for a whole day, on one of the three days immediately before or after that Sunday or Friday, as the case may be; and
- (b) the manager of the factory has, before that Sunday or Friday, or the substituted day, whichever is earlier -
  - (i) given notice to the Inspector of his intention to require the worker to work on the Sunday or Friday as the case may be, and of the day which is to be substituted; and
  - (ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notice under sub-section (1) may be cancelled by a notice given to the Inspector and a notice displayed in the factory not later than the day before the Sunday or Friday, or the substituted day to be cancelled, whichever is earlier.

(3) Where, in accordance with the provision of sub-section (1) any worker works on a Sunday or Friday, and has had a holiday on one of the three days immediately before it, that Sunday or Friday, as the case may be, shall for the purpose of calculating his weekly hours of work, be included in the preceding week.

*Notes.-* According to Rule 7, the provisions of this section shall not apply to adult male workers engaged solely in the work of attending to boilers or prime movers, on condition that -



- (a) the manager of the factory shall classify all such workers into groups according to the nature of the work;
- (b) a notice showing the groups of workers working under the provisions of this rule shall be displayed, maintained in accordance with the provisions of sub-section (2) of section 109;
- (c) an attendance register for such workers is maintained in Form No.1 and in respect of each worker the time of commencement of each period of work be entered therein beforehand and the time of finishing each period of work be entered therein immediately after the period of work has been completed; and
- (d) no such worker be employed for more than fourteen consecutive days without a holiday for a whole day.

## **Section 52. Compensatory weekly holiday. -**

(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 51, a worker is deprived of any of the weekly holidays provided for in sub-section (1) of that section, he shall be allowed, as soon as circumstances permit, compensatory holidays of equal number to the holidays so deprived of.

(2) The Government may make rules prescribing the manner in which the compensatory holidays under sub-section (1) shall be allowed.

*Notes.-* Rule 5 provides for compensatory holidays: -

(1) Where, as a result of any of these rules exempting the workers in a factory from the operation of the provisions of section 51, a worker is deprived of any of the weekly holidays for which provision is made under sub-section (1) of section 52, he be allowed compensatory holidays of equal number to the holidays so lost in the manner prescribed by this rule.

(2) Every worker shall be allowed compensatory holidays to which he is entitled under sub-rule (1), as soon as the circumstances permit, either within the same month in which the holidays were due to him or within two months immediately following that month:

Provided that in the case of a seasonal factory, a worker shall be allowed the compensatory holidays before the close of the current session.

(3) All the workers may be allowed the compensatory holidays either simultaneously or by rotation as may be deemed expedient.

(4) Notwithstanding anything contained in the foregoing sub- rule, in the case of a seasonal factory having a continuous manufacturing process, a worker may, subject to the approval of the Chief Inspector, be allowed the compensatory holidays permissible under sub-rule (1) at the end of the current session at a time, commencing from a day

not later than the date immediately following the day on which the current season comes to a close, and such worker shall be paid the wages due for the number of compensatory holidays so allowed before he is discharged for the season.

### **Section 53. Daily hours. -**

No adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

Provided that, subject to the provisions of sections 50, 54, 55 and 58, an adult worker may work in a factory for more than nine hours, but not exceeding ten hours on any day.

### **Section 54. Intervals for rest or meals. -**

No adult worker in a factory shall be liable to work -

- (a) for more than six hours in any one day unless he has been allowed an interval of at least one hour during that day for rest or a meal;
- (b) for more than five hours in any one day unless he has been allowed an interval of at least half an hour during the day for rest or a meal; or
- (c) for more than eight and a half hours unless he has had an interval under clause (a) or two such intervals under clause (b) during that day for rest or meals.

### **Section 55. Spreadover. -**

The periods of work of an adult worker in a factory shall be so arranged that, inclusive of his interval for rest or a meal under section 54, it shall not spread over more than ten and a half hours or where the factory is declared to be a seasonal one, eleven and a half hours on any day, save with the permission of the Chief Inspector and subject to such conditions as he may impose, either generally or in the case of any particular factory.

### **Section 56. Night shift. -**

Where an adult worker in a factory works on a shift which extends beyond midnight, -

- (a) for the purposes of section 51 a holiday for a whole day shall mean in his case a period of twenty four consecutive hours beginning from the end of his shift; and
- (b) the following day for him shall be deemed to be the period of twenty-four consecutive hours beginning from the end of his shift and the hours he has worked after midnight shall be counted towards the previous day.

### **Section 57. Prohibition of over-lapping shifts. -**

(1) Work shall not be carried on in any factory by means of a system of so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The Government may make rules exempting, subject to such conditions as may be imposed, any factory or class or description of factories from the operation of the provisions of sub-section (1).

### **Section 58. Extra allowance for overtime. -**

(1) Where a worker works in a factory for more than nine hours on any day or more than forty eight hours in any week, he shall, in respect of overtime work, be entitled to an allowance at the rate of twice his ordinary rate of wages:

Provided that the ordinary rate of wages for calculating allowance for overtime work under this sub-section shall not include any bonus or any other additional payment in lieu of bonus.

(2) Where any workers in a factory are paid on a piece-rate basis, the Government, in consultation with the employer concerned and the representatives of the workers, may, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rates of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.

(3) The Government may prescribe the registers to be maintained in a factory for the purpose of securing compliance with the provisions of this section.

*Notes.-* As is evident, overtime is payable after nine hours of work in a day or forty eight hours of work in a week. For example:-

If a worker works for ten hours on Monday and seven hours daily from Tuesday till Saturday, his total weekly working hours would be forty five. He would still be paid one hour overtime for Monday because, on that day, his working hours exceeded nine hours notwithstanding the fact that he only worked forty five hours in the week.

### **Section 59. Restriction on double employment. -**

No adult worker shall be employed or allowed to be employed in more than one factory on any day, except with permission in writing from the Chief Inspector on such terms and conditions as he may impose.

### **Section 60. Notice of periods of work for adults and preparation thereof. -**

(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 109, a notice of periods of work for adults showing clearly the periods which adult workers may be required to work.

(2) The periods shown in the notice shall be fixed beforehand in accordance with the provisions of this section and shall be such that workers working during such periods would not be working in contravention of the provisions of sections 50, 51, 53, 54 and 55.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work, and indicate the number of workers in each group.

(5) For each group which is not required to work in a system of shifts, the manager of the factory shall fix the period during which the group may be required to work.

(6) Where any group is required to work on a system of shifts, and the relays are not or are not intended to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and relays are, or are intended to be, subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts, where under the periods during which any relay of the group may be required to work on the relay which will be working at any time of the day shall be known for any day.

(8) A copy of the notice shall be sent in duplicate to the Inspector within fourteen days after the commencement of this Act, or, if the factory begins work after the commencement of this Act, before the day on which it begins work, for approval of the periods of work by the Inspector.

The Inspector shall return a copy of the notice to the manager within one week of its receipt, indicating modifications, if any; the manager shall immediately comply with the modifications, if made and shall preserve the approval in the records of the factory.

(9) Any proposed change in the system of work in the factory which will necessitate a change in the notice shall be notified to the Inspector in duplicate before the change is made, and, except with the previous sanction of the Inspector, no such change shall be made.

(10) The Government may make rules prescribing the form and manner in which it shall be maintained.

*Note.* - It was observed in a case (reported in AIR 1943 Oudh, 308) that where, acting on the assurance of the authorities concerned, a factory doing urgent military orders works overtime fully believing that the necessary exemption would be given, the manager and the occupier of the factory cannot be convicted of offence since there is no deliberate breach of rules as set out in section 115.

## **Section 61. Register of adult workers and supply of ticket and cards. -**

(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, showing -

- (a) the name of each adult worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted; and
- (e) such other particulars as may be prescribed:

Provided that if the Inspector is of the opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of all or any of the workers in the factory, the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall, to the corresponding extent, be maintained in place of, and be treated as, the register of adult workers in that factory.

(2) The Government may make rules prescribing the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

(3) Tickets or cards shall be supplied to the workers by the occupier or the manager of a factory in the following manner:

- (a) every permanent worker shall be provided with a permanent Departmental ticket showing his number; (b) every 'badli' worker shall be provided with a 'badli' card' on which shall be entered the days on which he has worked and which shall be surrendered if he obtains permanent employment;
- (c) every temporary worker shall be provided with a 'temporary ticket' which shall be surrendered on his leaving the job or getting permanent employment;
- (d) every 'casual' worker will be provided with a 'casual card', on which shall be entered the days on which he has worked in the factory; and
- (e) every apprentice shall be provided with an 'apprentice card' which shall be surrendered if he obtains permanent employment or if he leaves his training.

*Explanation:-* The different classes of workers in this sub-section shall have the same meaning as in the Industrial and Commercial Employment (Standing Orders) Ordinance, 1960.

(4) Every worker shall, on being required to do so, by the Inspector or any person authorised by the occupier or manager of the factory, produce his ticket or card for inspection.

*Note.-* It was held that putting of ginned cotton into bales and having it pressed must be considered to be work connected with the manufacturing process within the meaning of section 2(h) of the Act and that the fact that the workers employed on the machine were employees of the person who owned the cotton and not of the factory, does not make any difference and the accused is guilty of an offence for failure to maintain a register of workers (1933, Nagpur 283).

## **Section 62. Hours of work to correspond with notice under section 60 and register under section 61. -**

No adult worker shall be required or allowed to work otherwise than in accordance with the notice under sub-section (1) of section 60 and the entries made beforehand against his name in the register maintained under section 61.

## **Section 63. Power to make rules exempting from restrictions. -**

(1) The Government may make rules specifying the persons who hold positions of supervision or management or are employed in work of a confidential nature in a factory, and the provisions of this Chapter except clause (b) of, and the proviso to sub-section (1) of section 65, shall not apply to any person so specified.

(2) The Government may make rules to exempt to such extent and subject to such conditions as may be specified, the adult workers -

- (a) engaged on urgent repairs, from the operation of provisions of sections 50, 51, 53, 54 and 55;
- (b) engaged in work of a preparatory or complimentary nature which must necessarily be carried on outside the limits laid down for the general working of the factory, from the operation of the provisions of sections 50, 53, 54 and 55;
- (c) engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required under section 54, from operation of provisions of sections 50, 53, 54 and 55;
- (d) engaged in any work which for technical reasons must be carried on continuously throughout the day, from the operation of the provisions of sections 50, 51, 53, 54 and 55;
- (e) engaged in making and supplying articles of prime necessity which must be made or supplied everyday from the operation of the provisions of section 51;
- (f) engaged in a manufacturing process which cannot be carried on except during fixed seasons from the operation of the provisions of section 51;
- (g) engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the operation of the provisions of sections 51 and 54;
- (h) engaged in engine rooms or boiler houses or in attending to power plants or transmission machinery from the operation of the provisions of section 51; and
- (i) engaged in the printing of newspapers, are held up on account of the breakdown of machinery from the operation of the provisions of sections 50, 53 and 55.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption subject to such conditions, as may be imposed from the operations of the provisions of section 60.

(4) In making rules under this section, the Government shall not exceed except,

in respect of clause (a) of sub-section (2), the following limits on work inclusive of overtime -

- (i) ten hours of work in any day;
- (ii) twelve hours of overtime work in any one week;
- (iii) twelve hours of spreadover, inclusive of intervals for rest or meal in any one day:

Provided that subject to the previous approval of the Chief Inspector the daily maximum specified in section 53 may be exceeded in order to facilitate the change of shifts.

(5) Rules made under this section shall remain in force for such period, not exceeding three years, as may be specified therein.

#### **Section 64. Power to make exemption order. -**

(1) Where the Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 60 in respect of such workers to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The Government or, subject to the control of the Government, the Chief Inspector, may by written order, exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory, or group, or class of factories from the operation of any or all of the provisions of sections 50, 51, 54 and 60 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 63.

(4) An order under sub-section (2) shall remain in force for such periods not exceeding two months from the date on which notice thereof is given to the manager of the factory:

Provided that if in the opinion of the Government, the public interest so requires, it may from time to time, by notification in the official Gazette, extend the operation of any such order for such further periods, not exceeding six months at any one time, as may be specified in the notification.

#### **Section 65. Further restrictions on the employment of women. -**

(1) The provisions of this Chapter, shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely -

- (a) no exemptions from the provisions of section 53 shall be granted in respect of any woman, and

- (b) no woman shall be allowed to work in a factory except between 7 a.m. and 8 p.m.:

Provided that the Government may, by notification in the official Gazette, in respect of any class or classes of factories and for the whole year or any part thereof, vary the limits laid down in clause (b) to any span of ten and a half hours between 5 a.m. and 8.30 p.m.

(2) The Government may make rules providing for the exemption from the above restrictions, to such extent and subject to such conditions as may be specified therein, of women working in fish-curing or fish-canning factories where the employment of women beyond the said hours is necessary to prevent damage to, or deterioration of, any raw materials.

(3) Rules made under sub-section (2) shall remain in force for such period, not exceeding three years, as may be specified therein.

### **Section 66. Prohibition of employment of children. -**

No child who has not completed fourteen years of age shall be required or allowed to work in any factory.

### **Section 67. Non-adult workers to carry tokens. -**

A child who has completed fourteen years of age or an adolescent shall not be required or allowed to work in any factory unless -

- (a) a certificate of fitness granted to him under section 68 is in the custody of the manager of the factory;
- (b) such child or adolescent carries while he is at work a token giving a reference to such certificate.

### **Section 68. Certificates 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 manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the manager of the factory in which such person wishes to work, examine such person and ascertain his fitness for work in such factory.

(2) The Certifying Surgeon may, after examination, grant to such young person in the prescribed form or renew -

- (a) a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his fourteenth year, has attained the prescribed physical standards and is fit for such work;
- (b) a certificate of fitness to work in a factory as an adult, if he is satisfied that the young person has completed his sixteenth year and is fit for a full day's work in a factory:

Provided that unless the Certifying Surgeon has personal knowledge of the



place where the young person proposes to work and of the manufacturing process in which he will be employed, he shall not grant or renew the certificate under this sub-section until he has examined such place.

(3) A certificate of fitness granted or renewed under sub- section (2) -

- (a) shall be valid only for the period of twelve months from the date thereof;
- (b) may be made subject to re-examination of the young persons before the expiry of a period of twelve months, or subject to conditions in regard to the nature of the work in which the young person may be employed.

(4) A Certifying Surgeon shall revoke any certificate granted or renewed under sub-section (2) if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory.

(5) Where a Certifying Surgeon refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate or the renewal therefor, state his reasons in writing for such refusal.

(6) Where a certificate under this section with reference to any young person is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (3), the young person shall not be required or allowed to work in any factory except in accordance with those conditions.

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

### **Section 69. Effect of certificate of fitness granted to adolescents. -**

(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub- section (2) of section 68, and who, while at work in the factory, carries a token giving reference to the certificate, shall, subject to the provisions of sub-section (1) of section 70, be deemed to be an adult for all purposes of Chapters VI and VIII.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under clause (b) of sub- section (2) of section 68, shall, notwithstanding his age, be deemed to be a child for the purposes of this Act.

### **Section 70. Working hours for children. -**

(1) No child or adolescent shall be required or allowed to work in any factory -

- (a) for more than five hours in any day; and
- (b) between the hours of 7 p.m. and 7 a.m.

(2) The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than seven and a half hours each.

(3) A child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(4) The provisions of section 51 shall apply also to child workers; no exemption from the provisions of that section shall be granted in respect of any child.

(5) No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

### **Section 71. Notice of periods of work for children. -**

(1) In every factory in which children are employed, there shall be displayed in the manner laid down in sub-section (2) of section 109, a notice of periods of work for children, showing clearly the periods within which children may be required or allowed to work.

(2) The periods shown in the notice under sub-section (1) shall be fixed beforehand in the manner laid down for adult workers in section 60 and shall be such that children working on those periods would not be working in contravention of section 70.

(3) The provisions of sub-sections (8), (9) and (10) of section 60 shall apply also to the notice under sub-section (1).

(4) The Government may make rules prescribing the form of the notice under sub-section (1) and the manner in which it shall be maintained.

### **Section 72. Register of child workers. -**

(1) The manager of every factory in which children are employed shall maintain a register of child workers to be available to the Inspector at all times during working hours showing -

- (a) the name and date of birth of each child and adolescent worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) the number of his certificate of fitness granted under section 68 and the date of its renewal; and
- (f) such other particulars as may be prescribed.

(2) The Government may make rules prescribing the form of the register of child workers, the manner in which it shall be maintained and the period for which it shall be preserved.

### **Section 73. Hours of work to correspond with notice under section 71 and register under section 72. -**

No child shall be required or allowed to work other than in accordance with the notice under sub-section (1) of section 71 and the entries made beforehand

against his name in the register maintained under section 72.

#### **Section 74. Power to require medical examination. -**

Where an Inspector is of the opinion -

- (a) that any person working in a factory without a certificate of fitness is a child or an adolescent, or
- (b) that a child or adolescent working in a factory with a certificate of fitness is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person or such child or adolescent, as the case may be, shall be examined by a Certifying Surgeon and such person, child or adolescent shall not, if the Inspector so directs, be allowed to work in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness as the case may be, under section 68 or has been certified by the Certifying Surgeon examining him not to be a child or adolescent.

#### **Section 75. Power to make rules. - The Government may make rules. -**

- (a) prescribing the form of certificates of fitness to be granted under section 68, providing for grant of duplicates in the event of loss of the original certificates and renewals thereof and fixing the fees which may be charged for such certificates and renewals thereof and such duplicates;
- (b) prescribing the physical standards to be attained by children and adolescents working in factories; and
- (c) regulating the procedure of the Certifying Surgeon under this Chapter and specifying other duties, which they may be required to perform in connection with the employment of children and adolescents in factories and fixing the fees which may be charged for such duties.

#### **Section 76. Provisions of this Chapter not in derogation of Act XXVI of 1938. -**

The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.

*Note.*- See the Employment of Children Act, 1938

### **CHAPTER VIII.- LEAVE AND HOLIDAYS WITH WAGES**

#### **Section 77. Application of the Chapter. -**

Nothing in this Chapter shall affect any right or privilege to which a worker has been entitled on the date this Act comes into force, under any existing law or under any award, agreement, settlement, contract, custom or usage, if such right or privilege is more favourable to him.

#### **Section 78. Annual leave with wages. -**

(1) Every worker who has completed one year of continuous service in a factory, shall be allowed during the subsequent period of twelve months, leave with wages for a number of days calculated at the rate of -

- (i) if an adult, one day for every twenty-two days of work performed by him during the previous period of twelve months;
- (ii) if a child, one day for every fifteen days of work performed by him during the previous period of twelve months:

Provided that a period of leave shall be inclusive of any holiday which may occur during such period.

(2) If a worker does not, in any such period of twelve months, take the leave to which he is entitled under sub-section (1), either in whole or in part, any such leave not 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:

Provided that a worker, if an adult, shall cease to earn any leave under this section when the earned leave due to him amounts to twenty days and if a child, shall cease to earn any such leave when the earned leave due to him amounts to thirty days:

Provided further that any leave applied for by a worker but refused by the occupier or manager or his authorised officer for any reason shall be added to the credit of such worker beyond the aforesaid limit.

(3) For the purpose of this section a worker shall be deemed to have completed a period of continuous service in an establishment notwithstanding any interruption in service during that period due to -

- (a) any holiday;
- (b) any leave with wages;
- (c) any leave with or without wages due to sickness or accident;
- (d) any maternity leave not exceeding twelve weeks;
- (e) any period of lay-off arising due to failure, refusal or inability of an employer on account of shortage of coal, power or raw material or the accumulation of stock or the breakdown of machinery or for any other reason, to give employment to a worker whose name is borne in the muster rolls of his factory;
- (f) a strike which is not illegal or a lock-out which is not legal.

*Notes.-* The employer cannot make payment in lieu of holidays. As provided in this section, a worker is not entitled to any holiday before completion of twelve months' continuous service as contemplated under this section. There is no consideration for unauthorised absence. So, unauthorised absence causes a break in continuous service. In such a case, the employer will be justified not to give any holiday to the worker.

## **Section 79. Festival holidays. -**

(1) Every worker shall be allowed at least ten days' festival holidays with

wages in a year. The days and dates for such festivals shall be fixed by the occupier or manager in such manner as may be prescribed.

(2) A worker may be required to work on any festival holiday, but two days' additional compensation holidays with full pay and a substitute holiday shall be provided to him in accordance with the provisions of section 51.

### **Section 80. Casual leave and sick leave. -**

(1) Every worker shall be entitled to casual leave with full wages for ten days in a year.

(2) Every worker shall be entitled to fourteen days' sick leave on half the average wages in a year:

Provided that sick leave or casual leave admissible under this section shall not be accumulated and carried forward to the succeeding year.

*Notes.-* The annual leave is based on the number of days actually worked. In the case of a worker who has availed himself of all kinds of leave during the previous year, the entitlement for annual leave in the subsequent year will be counted as follows:-

As per section 51, out of 365 days 52 weekly holidays are to be counted, while under section 79 festival holidays of 10 days are to be calculated, under sub-section (1) there will be ten days' casual leave, while under section 88(2) there will be fourteen days' sick leave and twelve days' annual leave will be available during the past year, which means ninety-eight days in all. If we divide the balance of 267 working days by 22 we find that only 12 days' annual leave can be given during the subsequent year. In the same way, a child will be entitled to 17 annual holidays.

### **Section 81. Wages during leave or holiday periods. -**

For the leave or holidays allowed to a worker under the provision of this Act, he shall be paid -

- (a) in case of leave with full wages, at the rate equal to the daily average of his full time earnings, including dearness allowance, if any, for the days on which he worked during the month immediately preceding his leave, but excluding any over-time earnings and bonus; and
- (b) in case of leave with half the average wages at the rate equal to half the daily average of his earnings calculated in the manner provided in clause (a).

### **Section 82. Payment in advance in certain cases. -**

Any worker who has been allowed leave for not less than four days in the case of an adult, and five days in the case of a child, under section 78 shall, before his leave begins, be paid the wages due for the period of the leave allowed.

**Section 83. Power of Inspector to act for workers. -**

Any Inspector may institute proceedings on behalf of any worker to recover any sum required to be, but has not been paid under this Chapter by an occupier or manager.

**Section 84. Power to make rules. -**

(1) The Government may make rules to carry into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may provide for maintaining by managers of factories of registers showing such particulars as may be specified and requiring such registers to be preserved and made available for examination by Inspectors.

**Section 85. Power to exempt factories. -**

Where the Government is satisfied that the leave rules applicable to the workers in a factory provide benefits which, in its opinion, are on the whole not less favourable than those provided for in this Chapter, it may, by order in writing, exempt a factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.

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**CHAPTER IX.- SPECIAL PROVISIONS****Section 86. Power to exempt public institutions. -**

The Government may exempt, subject to such conditions as it may impose, any workshop, or workplace where a manufacturing process is carried on, which is attached to a public institution and maintained for the purpose of education, training or reformation, from all or any of the provisions of this Act:

Provided that no exemption will be granted from the provisions relating to hours of work and holidays unless the person having the control of the institution submits for the approval of the Government, a scheme for the regulation of the hours of employment, intervals for rest and meals and holidays of the persons employed in or attending the institutions and the Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.

**Section 87. Dangerous operations. -**

Where the Government is satisfied that any operation carried on in a factory exposes any person employed in it to serious risk of bodily injury, poisoning or disease, it may make rules applicable to such factory or class of factories in which such operation is carried on -

- (a) specifying the operation and declaring it to be hazardous;
- (b) prohibiting or restricting the employment of women, adolescents or

children in the operation;

- (c) providing for the periodical medical examination of persons employed in the operation and prohibiting the employment of persons not certified as fit for such employment;
- (d) providing for the protection of all persons employed in the operation or in the vicinity of the places where it is carried on; and use of any specified materials or processes in connection with the operation.

### **Section 88. Notice of certain accidents. -**

Where in any factory an accident occurs which causes death, or which causes any bodily injury whereby any person injured is prevented from resuming his work in the factory during the forty-eight hours immediately following the accident or which is of such a nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to the Inspector in such form and within such time, as may be prescribed.

*Note.* - The manager has been made primarily responsible for notifying the accident though, as a matter of fact, both the occupier and the manager are jointly and severally responsible for contravening the provisions of the Act (see also section 93). It was held in a Madras case (A.I.R. 1942 Madras 34) that if an occupier, being an illiterate person, trusts his manager, it would not be a ground for acquitting him, but lesser punishment may be awarded to him.

### **Section 89. Notice of dangerous occurrences. -**

The Government may, by notification in the official Gazette, extend the provisions of section 88 to special classes of accidents, such as explosion, fire, collapse of buildings, accidents to machinery or plant occurring in a factory, although no death or bodily injury has been caused to any person.

### **Section 90. Notice of certain diseases. -**

(1) Where any worker in a factory contracts any disease specified in the [Schedule](#), the manager of the factory shall send notice thereof to the Inspector in such form and within such time as may be prescribed.

(2) If any medical practitioner attends on a person who is, or has been employed in a factory and who is, or is believed by such medical practitioner to be suffering from any disease specified in the Schedule, the medical practitioner shall, without delay, send a report in writing to the Chief Inspector stating -

- (a) the name and full postal address of the patient;
- (b) the disease from which he believes the patient to be suffering;
- (c) the name and address of the factory in which the patient is or was last employed.

(3) The Government may add to or subtract from the Schedule any disease by notification in the official Gazette.

*Notes.-* The Schedule referred to in this section and in section 91 lists the following diseases as notifiable:-

- 1. Lead poisoning
- 2. Lead teracthyl poisoning
- 3. Phosphorous poisoning
- 4. Mercury poisoning
- 5. Manganese poisoning
- 6. Arsenic poisoning
- 7. Poinsoning by nitrous fumes
- 8. Carbon bisulphide poisoning
- 9. Benzene poisoning including poisoning by any of its homologues
- 10. Chrome ulceration
- 11. Anthrax
- 12. Silicosis
- 13. Poisoning by halogens
- 14. Pathological manifestations due to
  - (a) radium or other radio active substance
  - (b) X-rays
- 15. Primary epithilmatus cancer of the skin
- 16. Toxic anaemia.

### **Section 91. Power of direct enquiry into cases of accident or disease. -**

(1) The Government may, if it considers it expedient so to do, appoint a competent person under intimation to all concerned to enquire into the causes of any accident occurring in a factory, or into any case where a disease specified in the Schedule has been, or is suspected to have been, contracted in a factory and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such enquiry.

(2) The person appointed to hold an enquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the enquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the enquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Penal Code, 1860 (as adapted).

(3) The person holding an enquiry under this section shall make a report to the Government stating the causes of the accident or disease, as the case may be, and any attendant circumstances, and adding thereto any observations which he, or any of the assessors, may think fit to make.

(4) The Government may, if it thinks fit, cause to be published any report made under this section or any extract therefrom.

(5) The Government may make rules for regulating the procedure of enquiries under this section.



## **Section 92. Power to take samples. -**

(1) An Inspector may, at any time during the normal working hours of a factory, after informing the occupier or the manager of the factory or other person for the time being purporting to be the manager of the factory, take, in the manner hereinafter provided, a sufficient sample of any substance used or intended to be used in the factory such use being, in the opinion of the Inspector -

- (a) in contravention of any of the provisions of this Act or the rules made thereunder, or
- (b) likely to cause bodily injury or injury to the health of workers in the factory.

(2) Where the Inspector takes a sample under sub-section (1), he shall, in the presence of the person informed under the sub-section unless such person wilfully absents himself, divide the sample into three portions and effectively seal and suitably mark them and shall permit such person to add his own seal and mark thereon.

(3) The person informed as aforesaid shall, if the Inspector so requires, provide the appliances for dividing, sealing and marking the sample taken under this section.

(4) The Inspector shall -

- (a) forthwith give one portion of the sample to the person informed under sub-section (1);
- (b) forthwith send the second portion to a Government analyst for analysis and report thereon; and
- (c) retain the third portion for production to the Court before which proceedings, if any, are instituted in respect of the substance.

(5) Any document, purporting to be a report under the hand of any Government analyst upon any substance submitted to him for analysis and report under this section, may be used as evidence in any proceedings instituted in respect of the substance.

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## **CHAPTER X.- PENALTIES AND PROCEDURE**

### **Section 93. General penalty for offences. -**

Save as is otherwise expressly provided in this Act and subject to the provisions of section 94, if in, or in respect of, any factory, there is any contravention of any of the provisions of this Act or any rules made thereunder, the occupier and the manager of the factory shall each be guilty of an offence punishable with a fine which may extend to Taka one thousand and, if the contravention is continued after conviction, with a further fine which may extend to Taka seventy-five for every day of the period during which the contravention continues.

*Notes.*- The question as to who is the occupier must depend, among others, upon three considerations, viz. -

- (a) who has the right of using the factory for purposes under which it is constructed.
- (b) who has the right of regulating and controlling it
- (c) who has the predominant possession or general superintendence over it

#### **Section 94. Liability of owner of premises in certain circumstances. -**

(1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

(2) The Chief Inspector shall have, subject to the control of the Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Where in any premises, independent or self-contained floors or flats are leased to different occupiers for use as different factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of -

- (i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;
- (ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;
- (iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;
- (iv) precautions in case of fire;
- (v) maintenance of hoists and lifts; and
- (vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section(3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories;

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the Government, the powers to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 45 or 47.

(7) Where, in any premises, portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the the provisions of -

- (i) Chapter III, except sections 15 and 16
- (ii) Chapter IV, except sections 24, 25, 29, 36, 37 and 41:

Provided that in respect of the provisions of sections 23, 26 and 34 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

- (iii) Section 43.

(8) The Chief Inspector shall have, subject to the control of the Government, power to issue orders to the owner of the premises in respect of carrying out the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.

### **Section 95. Enhanced penalty after previous convictions. -**

If any person, who has been convicted of any offence punishable under section 93 is again convicted of an offence involving contravention of the same provision, he shall be punished, on a subsequent conviction, with imprisonment for a term which may extend to six months, or with a fine which may extend to Taka one thousand 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 subsequent offence.

### **Section 96. Penalty for obstructing an Inspector. -**

Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by the Inspector any register or other document in his custody kept in pursuance of this Act or of any rules made thereunder, or conceals or prevents any worker in a factory from appearing before, or being examined by an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Taka five hundred or with both.

*Notes.* - If an Inspector asks the assistant manager of a factory to produce any register and the assistant manager fails to do so on the ground that the manager had locked the same in his room and left the office thereafter, the assistant manager is not liable to be convicted. The only person who can be made liable to be convicted

would be the one who failed to produce the register which was in his custody.

### **Section 97. Penalty for wrongful disclosure of information. -**

Whoever, except in so far as may be necessary for the purpose of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of any analysis made under section 92 shall be punishable with imprisonment for a term which may extend to three months, or with a fine which may extend to Taka five hundred or with both.

### **Section 98. Restriction on disclosure of information. -**

(1) No Inspector shall, while in service or after leaving the service, disclose other than in connection with the administration of this Act, any information relating to any manufacturing or commercial secret which may come to his knowledge in the course of his official duties.

(2) Nothing in sub-section (1) shall apply to any disclosure of information made with the previous consent in writing of the owner of such business or process or for the purposes of any legal proceeding (including arbitration) pursuant to this Act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

(3) If any Inspector contravenes the provisions of sub-section (1), he shall be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to Taka one thousand or with both.

### **Section 99. Offences by workers. -**

(1) Subject to the provisions of section 111, if any worker employed in any factory contravenes any provision of this Act or any rules or orders made thereunder imposing any duty or liability on workers, he shall be punishable with a fine which may extend to Taka fifty.

(2) Where a worker is convicted of an offence punishable under sub-section (1), the occupier or manager of the factory shall not be deemed to be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable measures for its prevention.

### **Section 100. Penalty for using false certificates of fitness. -**

Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 68, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or allows another person to attempt such a use, shall be punishable with imprisonment for a term which may extend to one month, or with a fine which may extend to Taka fifty or with both.

### **Section 101. Penalty for double employment of a child. -**

If a child works in a factory on any day on which he has already been working in another factory the parent or guardian of the child or the person having custody or control over him, or obtaining any direct benefit from his wages, shall be punishable with a fine which may extend to Taka fifty unless it appears to the Court that the child so worked without the consent, connivance or wilful default of such parent, or guardian or person.

## **Section 102. Offences by a firm, company, etc. -**

(1) Where a person guilty of an offence punishable under this Chapter for which the occupier of a factory is punishable-

- (a) is a firm or other body of individuals every partner or member thereof; or
- (b) is a company other than a private company every director thereof; or
- (c) is a private company, every shareholder thereof shall be deemed to be guilty of such offence:

Provided that where any such firm, body or company gives notice to the Inspector nominating one of its partners, members, directors or in the case of a private company, shareholder, who is a resident of Bangladesh to be the occupier of the factory for the purposes of this Chapter, such partner, member, director or shareholder, as the case may be, shall so long as he is so resident, be deemed to be such occupier until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner, member, director or shareholder.

(2) Where a person guilty of an offence punishable under section 94 for which the owner of a premises or building is punishable is a firm, body of individuals or company, reference in this section to an occupier shall be deemed to be a reference to an owner and the provisions of this section shall apply accordingly.

## **Section 103. Exemption of occupier or manager from liability in certain cases. -**

(1) Where the occupier or manager of a factory is charged with an offence under this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge.

*Note. -*

(1) Under this section, both the occupier and the manager can escape the liability provided that they can prove that there was no absence of due diligence on their part and the actual offender had committed the offence without their knowledge. In a Bombay case (A.I.R. 1940 Bom. 265) it was observed that the factory inspector should have a right to cross-examine the person whom he has charged if that person chooses to go into the witness box to set up statutory defence.

(2) If, after the commission of the offence has been proved, the occupier or manager of the factory, as the case may be, proves to the

satisfaction of the Court, that he has used due diligence to prevent the commission of the offence and that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be punished for the offence as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability for the offence.

(3) Where it is made to appear to the satisfaction of the Inspector at any time before the institution of proceedings for an offence under this Act -

- (a) that the occupier or manager of the factory has used all due diligence to prevent the commission of the offence;
- (b) that it has been committed without the knowledge, consent or connivance, and in contravention of the orders, of the occupier or manager; and
- (c) that it has been committed by any other person, the Inspector shall proceed against such other person who shall be punishable for the offence as if he were the occupier or manager.

#### **Section 104. Power of the Court to make orders. -**

(1) Where the occupier or manager of the factory is convicted of an offence punishable under this Act, the Court may, in addition to awarding any punishment, by order in writing require him, within a period specified in the order, which may, on application in that behalf be extended from time to time 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 occupier or manager of the factory, as the case may be, shall not, during the period specified therein or extended period, if any, be liable under this Act for continuation of the offence for which he has been convicted.

(3) If the order of the Court under sub-section (1) is not fully complied with during the aforesaid period, the occupier or manager, as the case may be, shall, on the expiry of such period, be deemed to have committed further offence punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to Taka one hundred for every day after the expiry of the said period during which the order has not been complied with, or with both.

#### **Section 105. Presumption as to employment.-**

Every person who is found in a factory at any time, except during intervals for meals or rest, when work is going on or the machinery is in motion, shall, until the contrary is proved, be deemed for the purposes of this Act and the rules thereunder, to be, at that time employed in the factory.

#### **Section 106. Onus as to age.-**

(1) When an act or omission would, if a person were under or over a certain

age, be an offence punishable under this Act, and such person is, in the opinion of the Court, apparently under or over such age, the burden of proving that such person is not under or over such age shall be on the accused.

(2) A declaration in writing by a Certifying Surgeon relating to a worker that he has personally examined and believes that he is under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the workers.

### **Section 107. Cognizance of offences. -**

(1) No Court shall take cognizance of an offence under this Act except upon complaint made by, or under the authority of or with the previous permission in writing, of an Inspector:

Provided that no case lying before a Court shall be withdrawn without the prior permission of the Chief Inspector of Factories.

(2) No Court inferior to that of a Magistrate of the First Class shall try an offence under this Act or any rules or order made thereunder.

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## **CHAPTER XI.- SUPPLEMENT**

### **Section 108. Appeals.-**

(1) Where an order in writing of an Inspector has been served under this Act on the manager of a factory, such manager or the occupier of the factory may, within thirty days of the serving of the order, appeal against it to the Appellate Authority which may, subject to rules made in this behalf, confirm, modify or reverse the order.

(2) Subject to rules made in this behalf, the Appellate Authority may, and, if the appellant so requires, shall, hear an appeal under sub-section (1) with the aid of two assessors, one of whom shall be appointed by the Appellate Authority and the other by such body representing the industry concerned as may be prescribed:

Provided that no assessor is appointed by such body, or if the assessor so appointed fails to attend at the time and place fixed for hearing the appeal, the Appellate Authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor or, if it thinks fit, without the aid of any assessor.

(3) Subject to such rules as the Government may make in this behalf and subject to such conditions as to partial compliance or the adoption of temporary measures as the Appellate Authority may, in any case think it fit to impose, the Appellate Authority may, if it thinks fit, suspend the order appealed against pending the decision of the appeal.

(4) The Government may make rules for the purpose of this section and such

rules may specify the classes of appeals which shall not be heard with the aid of assessors.

(5) In this section, 'Appellate Authority' means the Government or such Authority as the Government may appoint in this behalf.

### **Section 109. Display of notices. -**

(1) In addition to the notices required to be displayed in any factory by this Act or the rules made thereunder, there shall be displayed in every factory the official address of the Inspector and the Certifying Surgeon and a notice containing such abstracts of this Act and of the rules made thereunder as may be prescribed.

(2) All notices required to be displayed in a factory by or under this Act shall be -

- (a) written in Bengali, English and, where the mother tongue of the majority of the workers is other than Bengali, in Urdu;
- (b) displayed at a conspicuous and convenient place at or near the main entrance to the factory; and
- (c) maintained in a clean and legible condition.

(3) The Chief Inspector may, by order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health, safety or welfare of the workers in the factory.

### **Section 110. Service of notices and returns. -**

The Government may make rules -

- (a) prescribing the manner of the service of orders under this Act, and
- (b) requiring owners, occupiers or managers of factories to submit such return, occasional or periodical, as it may consider necessary for the purposes of this Act.

### **Section 111. Obligation of workers. -**

(1) No worker in a factory shall -

- (a) wilfully interfere with or misuse any appliance, convenience or other thing provided in a factory for the purposes of securing the health, safety or welfare of the workers therein;
- (b) wilfully and without reasonable cause do anything which is likely to endanger himself or others.
- (c) wilfully neglect to make use of any appliance or other things provided in the factory for the purposes of securing the health or safety of the workers therein.

(2) If any worker employed in a factory contravenes any provision of sub-section (1), he shall be punishable with imprisonment for a term which may extend to three months, or with a fine which may extend to Taka one hundred,



or with both.

## **Section 112. General power to make rules.-**

The Government may make rules providing for any matter which under any of the provisions of this Act is to be or may be prescribed or which may be considered expedient in order to give effect to purposes of this Act.

## **Section 113. No charge for facilities and convenience.-**

Subject to the provisions of section 45, no fee or charge shall be realised from any worker in respect of any arrangements or facilities to be provided or an equipment or appliances to be supplied by the occupier under this Act.

## **Section 114. Publication of rules. -**

(1) All rules made under this Act shall be subject to the condition of previous publication of the draft thereof with a notice specifying the date, not later than three months from the date of such publication on or after which the draft will be taken into consideration.

(2) All such rules will be published in the official Gazette and shall come into force on the date of such publication.

(3) Rules made under this Act may provide that a contravention thereof shall be punishable with a fine not exceeding Taka two hundred and fifty.

## **Section 115. Protection to persons acting under this Act. -**

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

## **Section 116. [Repealed]**

Repealed by the East Pakistan Repealing and Amending Ordinance, 1966. (E.P. Ord. XIII of 1966).

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## **The Schedule**

[\(See Sections 90 and 91\)](#)

### **List of notifiable diseases**

- 1. Lead poisoning including poisoning by any preparation or compound of lead or their sequelae.
- 2. Lead teracthyl poisoning
- 3. Phophorus poisoning or its sequelae
- 4. Mercury poisoning or its sequelae
- 5. Manganese poisoning or its sequelae
- 6. Arsenic poisoning or its sequelae
- 7. Poisoning by nitrous fumes

- 8. Carbon bisulphide poisoning
- 9. Benzene poisoning including poisoning by any of its homologues, their nitro or amido derivatives or its sequelae
- 10. Chrome alceration or its sequelae.
- 11. Anthrax
- 12. Silicosis
- 13. Poisoning by Halogens or Halogen derivatives of the Hydrocarbons of the aliphatic series.
- 14. Pathological manifestations due to -
  - (a) Radium or other radio-active substances.
  - (b) X-rays
- 15. Primary equithlimatous cancer of the skin
- 16. Toxic anaemia



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