

Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981

TAMILNADU

India

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Act 61 of 1981

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Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981(Tamil Nadu Act 61 of 1981)Statement of Objects and Reasons. - Handloom industry is a decentralised one and there is no protection to the Handloom weavers in regard to payment of wages, security of employment, working conditions, etc. As a result, the working conditions and the problems of handloom weavers who are under the control of master weavers and other intermediaries are unsatisfactory. Since the nature of the industry is similar to that of beedi manufacturing, it has been found almost impossible to enforce any of the existing labour enactments, except fixation of minimum wages under the Minimum Wages Act, 1948 (Central Act XI of 1948). In order to protect the interests of the handloom weavers, the Government constituted a Committee to study the working conditions of the workers engaged in the handloom industry, wages paid to him, security of employment and to evolve special proposals for the protection of handloom weavers. In its report, the Committee on Welfare of Handloom Weavers inter alia recommended that there should be a special legislation to regulate the conditions of work of the handloom weavers, licensing of premises for purposes of employment, fixing of hours of work, holidays, leave with wages and application of other enactments, so far as it could be beneficial to the handloom weavers, etc. The Government have accepted the recommendations of the Committee and have decided to introduce a special legislation so as to provide inter alia for the welfare of workers in the handloom industry and to regulate the conditions of their work and security of their employment, and for matters like health, hours of work, housing, medical and terminal facilities, etc.The Bill seeks to give effect to the above decision.Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 5th May 1981.Received the assent of the President on the 30th September 1981 and first published in the Tamil Nadu Government Gazette Extraordinary, dated 6th October 1981.An Act to provide for the welfare of the workers in the handloom industry and to regulate the conditions of their work and security of their employment and for certain other matters connected therewith.Be it enacted by the Legislature of the State of

Tamil Nadu in the Thirty-second Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force on such [date] [Enforced on 12.3.1982.] as the Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "adult" means a person who has completed eighteen years of age; (b) "child" means a person who has not completed sixteen years of age; (c) "competent authority" means any authority authorised by the Government by notification to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein; (d) "day" means a period of twenty-four hours beginning at mid-night; (e) "domestic weaver" means any person who gets the raw materials from a master weaver or employer and attends to any operation connected with handloom weaving, whether such operation is carried on in the home, in which such worker works or in any other place, but does not include an independent weaver; (f) "employee" means any person employed in any work connected with handloom industry under an employer and includes a domestic weaver, but excludes an independent weaver, to do any work skilled, unskilled, manual or clerical; (g) "employer" means a person who has the ultimate control over the affairs of any industrial premises or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any industrial premises and includes - (i) any other person to whom the affairs of any industrial premises are entrusted, whether such other person is called the managing agent, manager, superintendent or by any other name; and (ii) a president or a chief executive of any weavers co-operative society or a master weaver engaged in handloom industry; (h) "Government" means the State Government; (i) "handloom industry" means an industry which is engaged in the manufacture or production by a loom, other than a powerloom, of any cloth or fabric or product and includes any process or work pertaining to handloom weaving; (j) "independent weaver" means any person who carries on any weaving operation in his dwelling place, but does not include a domestic weaver; (k) "industrial premises" means any place or premises (not being a private dwelling house) including the precincts thereof, in which or in any part of which any type of work relating to handloom industry is carried on; (l) "Inspector" means the Inspector appointed under sub-section (1) of section 6; (m) "lay-off" means the failure, refusal or inability of an employer on account of shortage of raw materials or the accumulation of stock of finished products or the breakdown of any machinery to give employment to a person employed, who is a registered worker, but does not include retrenchment; (n) "master weaver" means and includes any person not being a co-operative

society, who supplies raw materials to any other person, whether or not the other person is a domestic weaver or an employee for the purpose of converting the same into finished product;(o)"powerloom" means a loom which is worked by power as defined in clause (g) of section 2 of the Factories Act, 1948 (Central Act LXII of 1948) and includes any automatic loom;(p)"private dwelling house" means a house in which persons engaged in any work connected with handloom industry, reside;(q)"retrenchment" means the termination by the employer of the service of an employee for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include -(i)voluntary retirement of the employee; or(ii)retirement of the employee on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or(iii)termination of the service of an employee on the ground of continued ill-health;(r)"week" means a period of seven days beginning at Mid-night on Saturday;(s)"young person" means a person who has completed sixteen years of age but has not completed eighteen years of age.

Chapter II

Licensing of Industrial Premises

3. Industrial premises to be licensed.

- Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid licence issued under this Act and no such premises shall be used except in accordance with the terms and conditions of such licence.

4. Licences.

(1)Any person who intends to use or allows to be used any place or premises as industrial premises shall make an application in writing to the competent authority, in such form and on payment of such fees as may be prescribed for a licence to use, or allow to be used, such premises as an industrial premises:Provided that nothing contained in this section shall apply to an independent weaver carrying on the weaving operation in his dwelling place assisted only by the other members of his family.(2)The application for a licence shall specify the number of employees proposed to be employed at any time of the day in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed.(3)The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters -(a)the suitability of the place or premises which is proposed to be used for the weaving operation;(b)the financial resources of the applicant including his financial capacity to meet the demands arising out of the provisions of this Act or of any other law for the time being in force relating to welfare of labour;(c)whether the application is made bona fide on behalf of the applicant himself or in benami of any other person;(d)the welfare of the labour in the locality, the interest of the general public and such other matters as may be prescribed.(4)(a)A licence granted under this section shall not be valid beyond the financial year in which it is granted, but may be renewed every year on payment of such fees as may be prescribed.(b)An application for renewal of a licence granted under this Act shall be made at least thirty days before the expiry of the period thereof, on payment of such fees as may be

prescribed and where such application has been made, the licence shall be deemed to continue, notwithstanding the expiry of the period thereof, until the renewal of the licence or the rejection of the application, as the case may be: Provided that if any application for a licence or for renewal of the licence is not made within thirty days of commencement of any process connected with weaving operation or before thirty days of expiry of any licence already issued, but is made after this period of thirty' days, a surcharge of 25 per cent of the fee to be prescribed for issue or renewal of the licence, as the case may be, shall be levied, subject, however, to the condition that such an option to get a licence or renewal with surcharge shall be allowed only upto a period of ninety days either after the commencement of any operation connected with the weaving process or after the expiry of the licence already issued, but not renewed under the foregoing provisions of this section. In that event, it shall be construed that the weaving operation is carried on without a valid licence, which shall in turn be a contravention of the provisions of this Act warranting penal action as prescribed. (c) The competent authority shall, in deciding whether to renew a licence or not, have regard to the matters specified in sub-section (3). (5) The competent authority may, after giving the holder of a licence an opportunity of being heard, cancel or suspend any licence granted or renewed under this Act, if it appears to such authority that such licence has been obtained by misrepresentation or fraud or that the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or any of the terms and conditions of the licence. (6) The Government may issue in writing to the competent authority such directions as the Government may consider necessary in respect of any matter relating to the grant or renewal of licences under this section. (7) Subject to the foregoing provisions of this section, the competent authority may grant or renew licences under this Act on such terms and conditions as it may determine and where the competent authority refuses to grant or renew any licence, it shall do so by an order in writing communicated to the applicant giving the reasons for such refusal within a reasonable time.

5. Appeals.

- Any person aggrieved by the decision or order of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence under section 4 may, within thirty days of receipt of the said order and on payment of such fees, not exceeding twenty rupees, as may be prescribed, appeal to such authority as the Government may, by notification, specify in this behalf, and such authority may, by an order in writing either confirm, modify or reverse any order refusing to grant or renew a licence or renew a licence or suspending or cancelling a licence. The order of such appellate authority shall be final and binding and shall not be questioned in any Court of Law.

Chapter III

Appointment of Inspectors, Etc.

6. Inspectors.

(1) The Government may, by notification, appoint such persons possessing the prescribed qualifications to be Inspectors for the purposes of this Act. The Government or such authority as may be prescribed may assign to the Inspectors the local limits within which they shall exercise their

functions under this Act.(2)The Government may, by notification, appoint any person possessing the prescribed qualifications to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

7. Inspectors, Chief Inspector, etc., to the public servants.

- Every Inspector, Chief Inspector, Authority and Appellate Authority appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

8. Powers of Inspectors.

(1)Subject to any rules made in this behalf by the Government, an Inspector may, within the local limits assigned to him-(a)make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with:Provided that no person shall be compelled under this section to answer any question or to give any evidence which may tend to incriminate himself;(b)require the production of any prescribed register or form and any other document required to be maintained by him, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;(c)enter at all times any industrial premises, with such assistants as he thinks fit, if he has reason to believe that such industrial premises is being used for carrying on handloom industry or any other operation connected with hand-loom industry;(d)exercise such other powers as may be prescribed for carrying out the purposes of this Act.(2)If an Inspector has reasonable grounds for suspecting that any handloom industry is being carried on in any industrial premises in contravention of the provisions of this Act, he may, after giving due notice to the employer or in the absence of the employer to the occupier, enter such industrial premises with such assistants, if any, as he may think fit.(3)Every employer or occupier shall afford to every Inspector all reasonable facilities in the discharge of his duties under this Act.

Chapter IV

Health and Welfare

9. Cleanliness.

- Every industrial premises or any place, excepting the dwelling place of a weaver, wherein any handloom industry or any other operation connected with handloom industry is ordinarily carried on, shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall also maintain such standard of cleanliness including white washing, colour washing, varnishing or painting as may be prescribed.

10. Ventilation.

(1)For the purpose of preventing injury to the health of the persons working therein, every industrial premises shall maintain such standards of ventilation as may be prescribed.(2)Wherever dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the employees in any industrial premises or weaving centre is given off by reason of the manufacturing process carried on in such premises or weaving centre, the competent authority may require the employer to take such effective measures as may prevent the inhalation of such fume or dust or other impurity and accumulation thereof in any work room.Explanation. - For the purpose of this section "manufacturing process" means any process for, or incidental to, making, finishing or packing or otherwise, treating any article or substance with a view to its use, sale, transport, delivery or disposal as handloom fabric.

11. Lighting.

(1)In every industrial premises where employees are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial or both.(2)In every industrial premises, all glazed windows and sky-lights used for the lighting of any work room shall be kept clean on both the inner and outer surface.

12. Over-crowding.

(1)No room in any industrial premises shall be overcrowded to an extent injurious to the health of the employees therein.(2)Without prejudice to the generality of sub-section (1), there shall be in any work room of any such industrial premises at least 4 1/4 cubic metres of space for every employee therein, and for the purposes of this sub-section, no account shall be taken of any space which is more than 3 metres above the level of the floor of the work room.

13. Drinking water.

(1)The employer shall make, in every industrial premises, effective arrangements to provide and maintain, at suitable points conveniently situated for all employees therein, a sufficient supply of wholesome drinking water.(2)All such points shall be legibly marked "Drinking Water" in Tamil and no such point shall be situated within 6 metres of any washing place, urinal or latrine except with the prior approval in writing of the competent authority.

14. Latrines and urinals.

(1)In every industrial premises, sufficient latrine and urinal accommodation of such types as may be prescribed, shall be provided and shall be so conveniently situated as may be easily accessible to all the employees at all time while they are in the industrial premises.(2)Separate enclosed accommodation shall be provided for male and female employees.(3)All such accommodation shall be maintained in a clean and sanitary condition at all times.

15. Washing facilities.

- In every industrial premises wherein any item of work relating to bleaching or dyeing or finishing is carried on, the employer shall provide such washing facilities for the use of the employees as may be prescribed.

16. Creches.

- In every industrial premises, wherein fifty or more female employees are ordinarily employed on any day in a year, there shall be provided and maintained a suitable room or rooms for the use of the children under the age of six years of such female employees and the Government may make rules relating to maintenance of such creches.

17. First-aid.

- Every industrial premises shall provide such first-aid facilities as may be prescribed.

Chapter V

Working Hours

18. Working hours.

- No adult employee shall be required or allowed to work in any industrial premises for more than eight hours in any day or for more than forty-eight hours in any week: Provided that any adult employee may be allowed to work in such industrial premises for any period in excess of the limit fixed under this section subject to the payment of overtime wages if the period of work including overtime work, does not exceed ten hours in any day and in the aggregate fifty four hours in any week.

19. Wages for overtime work.

(1) Where any employee employed in any industrial premises is required to work overtime, he shall be entitled in respect of such overtime work, to wages at the rate of twice his ordinary rate of wages. (2) Where the employees in an industrial premises are paid on a piece-rate basis, the overtime rate shall be calculated, for the purposes of this section, at the time rates which shall be as nearly as possible equivalent to the daily average of their full-time earnings for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done. (3) For the purpose of this section, "ordinary rate of wages" means the basic wages plus such allowance including the cash equivalent of the advantage accruing through the concessional sale to the employees of food grains and other articles as the employee is, for the time being entitled to, but does not include bonus or wages for over-time work. (4) The cash equivalent of the advantage accruing through the concessional sale to an employee of food grains and other

articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food grains and other articles admissible to a standard family. Explanation I. - "Standard family" means a family consisting of the employee, his or her spouse and two children requiring in all three adult consumption units. Explanation II. - "Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.

20. Interval for rest.

- The periods of work for employees in an industrial premises each day shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before he has had an interval for rest of at least half an hour.

21. Spread-over.

- The periods of work of an employee in an industrial premises shall be so arranged that inclusive of his intervals for rest under section 20, they shall not spread over more than eleven hours in any day.

22. Weekly holidays.

(1) Every industrial premises shall remain entirely closed on any one day in the week to be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more than once in three months and except with the previous written permission of the Inspector having jurisdiction over the industrial premises concerned. (2) For a holiday under this section, an employee shall be paid, notwithstanding any contract to the contrary, at the rate equal to the daily average of his total full time earnings during the week immediately preceding the holiday exclusive of any overtime wages or bonus, but inclusive of other allowances, if any: Provided that nothing contained in this sub-section shall apply to any employee whose total period of employment in the week including any day spent on authorised leave or holiday or lay-off is less than six days.

23. Notice of periods of work.

(1) In every industrial premises, a notice of periods of work shall be displayed and correctly maintained in such form and in such manner as may be prescribed, showing clearly for every day the periods during which the employees may be required to work. (2) (a) A copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector having jurisdiction over the industrial premises within two weeks from the date of the grant of a licence for the first time under this Act, in the case of any industrial premises carrying on work at the commencement of this Act, and in the case of any industrial premises work after such commencement, before the day on which any work connected with the handloom industry or any other operation connected with the handloom industry is begun in the industrial premises. (b) Any proposed change in the system of work which

will necessitate change in the notice referred to in sub-section (1) 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 until one week has elapsed since the last change.

24. Hours of work to correspond with notice under section 23.

- No employee shall be employed in any industrial premises otherwise than in accordance with the notice of work displayed in the premises under section 23.

25. Prohibition of employment of children.

- No child shall be required or allowed to work in any industrial premises.

26. Prohibition of employment of women or young persons during certain hours.

- No woman or young person shall be required or allowed to work in any industrial premises except between 6 a.m. and 7 p.m.

27. Restriction on double employment.

- Save as otherwise provided for in the rules, no employee shall be required or allowed to work in any industrial premises on any day on which he has already worked in any other industrial premises.

28. Application of the Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, 1958.

(1)Notwithstanding anything contained in the Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, 1958 (Tamil Nadu Act XXXIII of 1958) (hereinafter in this section referred to as the said Act), the Government may, by notification, direct that subject to the provisions of sub-section (2), the said Act or any of the provisions thereof or the rules made thereunder shall apply to all or any class of employees to which this Act applies.(2)On the application of the provisions of the said Act to any industrial premises under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.(3)The Government may by a like notification, cancel or vary any notification issued under sub-section (1).

29. Annual leave with wages.

(1)Every employee shall be allowed in a calendar year leave with wages,-(i)in the case of an adult, at the rate of one day for every twenty days of work performed by him during the previous calendar year;(ii)in the case of a young person at the rate of one day for every fifteen days of work performed

by him during the previous calendar year. Explanation. - The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during, or at the beginning or at the end of, the period of leave. (2) If an employee is discharged or dismissed from service or quits employment during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1). (3) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted. (4) If any employee does not, in any calendar year, take the whole of the leave allowed to him under sub-section (1), the leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year. (5) An application of an employee for the whole or any portion of the leave allowed under sub-section (1) shall be in writing and ordinarily shall have to be made sufficiently in advance of the day on which he wishes the leave to begin. (6) If the employment of an employee who is entitled to leave under sub-section (1) is terminated by the employer, before he has taken the entire leave to which he is entitled, or if having applied for leave, he has not been granted such leave, or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 30, in respect of leave not taken and such payment shall be made where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day. (7) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

30. Wages during leave period.

(1) For the leave allowed to him under section 29, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the month immediately preceding his leave exclusive of any overtime earnings and bonus, but inclusive of dearness and other allowances. Explanation I. - In this sub-section, the expression "total full time earnings" includes the cash equivalent of the advantages accruing through the concessional sale to employees of food grains and other articles, as the employee is for the time being entitled to, but does not include bonus. Explanation II. - For the purpose of determining the wages payable to a domestic weaver during leave period or for the purpose of payment of maternity benefit to a woman domestic worker, "day" shall mean any period during which such domestic worker was employed during a period of twenty-four hours commencing midnight for making the handloom fabric. (2) An employee 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 young person, shall, before his leave begins, be paid wages for the period of the leave allowed.

31. Special casual leave for family planning operation.

(1) Every employee who undergoes family planning operation shall be entitled to special casual leave with wages for a period not exceeding-(a) six days in the case of a male employee; (b) fourteen days in the case of a female employee; with effect from the day on which he or she had undergone such operation. (2) If an employee who has undergone family planning operation is discharged by his or her employer during the period specified in sub-section (1), the employer shall pay such employee

the amount payable under section 30 in respect of the period of the special casual leave to which the employee was entitled at the time of discharge.

Chapter VI

Industrial Relations

32. Refusal of supply of raw materials.

- No employer shall refuse to supply raw materials to any of his employees. Any such refusal shall be a valid disability giving rise to a dispute.

33. Rejection of finished goods.

- No employer shall ordinarily reject the finished goods produced by his employee without sufficient reason to be shown by the employer to the employee. Any such rejection shall be a valid disability giving rise to a dispute.

34. Deduction in wages.

- No employer shall effect any deduction from the earned wages of any employee excepting the deductions authorised under section 7 of the Payment of Wages Act, 1936 (Central Act IV of 1936). Any such unauthorised deduction shall be a valid disability giving rise to a dispute.

35. Reduction in wages.

- No employer shall reduce or make short payment of the wages earned by any employee for the reason of the finished product alleged to be defective unless the reason for deduction in wages is explained in writing to the employee concerned and a copy of such written explanation communicated to the Inspector having jurisdiction. Any such reduction in wages or refusal to pay the earned wages shall be a valid disability giving rise to a dispute.

36. Termination of service.

- No employer shall dispense with the services of any employee who has been employed for a period of six months or more except for a reasonable cause and without giving such employee at least one month's notice in writing for wages in lieu of such notice: Provided that no such notice shall be necessary if the services of such employee is dispensed with on a charge of misconduct supported by satisfactory evidence recorded in an enquiry held by the employer for that purpose.

37. Appeal.

(1) Any employee whose services have either been terminated or dispensed with may prefer an appeal to such authority and within such time as may be prescribed questioning the validity of such order either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct alleged to have been committed by him and as held by the employer or on the ground that the punishment awarded was so severe that it was not in proportion to the misconduct alleged to have been committed. (2) The appellate authority prescribed under sub-section (1), may, after giving notice in the prescribed manner to the appellant and his respondent, direct the reinstatement of the appellant with or without back wages for the period of non-employment or direct payment of compensation to the appellant by the respondent instead of reinstatement or order re-employment with or without wages for the period of non-employment or grant such other relief as it deems fit in the circumstances of the case in order to meet the ends of justice or dismiss the appeal. (3) The decision of the appellate authority shall be final and binding on both the parties and cannot be questioned in a Court of Law and shall be given effect to within such time as may be specified in its order.

38. Appeal against lay-off.

(1) Any employee laid-off by his employer, if aggrieved or affected by such lay-off, may prefer an appeal to such authority within such time and in such manner as may be prescribed. (2) The prescribed authority shall, after giving an opportunity to the parties concerned, hear the appeal and pass an order in the manner prescribed determining the quantum of relief to which the employee may be entitled. (3) The order passed by the prescribed authority under sub-section (2) shall be final and binding on both the parties and shall not be questioned in a Court of Law.

39. Redressal of disabilities.

(1) Any employee aggrieved or having suffered from any of the disabilities mentioned in this Chapter, shall have a right to raise a valid dispute before such authority as may be specified by the Government by rules made in this behalf for redressal. (2) The procedure relating to the redressal by the authority mentioned under sub-section (1) and other details relating to redressal including appeals from the order of the authority shall be such as may be prescribed.

Chapter VII

Penalties and Procedure

40. General penalty for offences.

(1) Save as otherwise expressly provided in this act, any person who contravenes any of the provisions of this act or of any rules made thereunder, or fails to pay wages or compensation in accordance with any order of the appellate authority passed under sub-section (2) of section 37 of

this act, shall be punishable, for the first offence with fine which may extend to fifty rupees and for a second or any subsequent offence with imprisonment for a term which may extend to three months or with fine which shall not be less than two hundred rupees or more than five hundred rupees or with both.(2)(a)Any employer who fails to reinstate or re-employ any employee in accordance with the order of the appellate authority passed under sub-section (2) of section 37 of this Act, shall be punishable with fine which shall not be less than two hundred rupees.(b)Any employer, who, after having been convicted under clause (a) continues, after the date of such conviction, to fail to reinstate or re-employ an employee in accordance with the order mentioned in that clause shall be punishable for each day of such default, with fine which may extend to twenty-five rupees.(c)Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine, if realised, shall be paid by way of compensation, to the person, who in its opinion, has been affected by such failure.(3)Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936), with regard to the definition of wages, any compensation required to be paid by an employer under the provisions of this Act, but not paid by him shall be recoverable as delayed wages under the provisions of the said Act.(4)It shall be no defence in a prosecution of any person for the contravention of the provisions of section 3 that any item of work relating to handloom weaving operation was carried on by such person himself or any member of his family or by any other person living with or dependant on such person.

41. Penalty for obstructing Inspector.

- Whoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act or fails to produce on demand by the Chief Inspector or an Inspector any register or other document kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any employee in any industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both:Provided that such fine shall not be less than two hundred rupees.

42. Indemnity.

(1)No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith, done or intended to be done under this Act or any rule or order made thereunder.(2)No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order, made thereunder.

43. Restriction on disclosure of information.

(1)No Inspector shall, while in service or after leaving the service, disclose otherwise than in connection with the execution or for the purposes of this Act any information relating to any commercial business or any working process 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 proceeding which may be taken whether pursuant to this Act or otherwise or for the purpose of any report of such proceeding 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 three months or with fine, which may extend to five hundred rupees or with both.

44. Cognizance of offences.

(1)No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector:Provided that where the offence consists of disobeying a written order made by the competent authority, appellate authority, the Chief Inspector or an Inspector, complaint thereof may be made within six months from the date on which the offence is alleged to have been committed.(2)No Court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class shall try any offence punishable under this Act.

45. Offences by companies.

(1)Where an offence under this Act has been committed by a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section -(a)"company" means any body corporate and includes firm or other association of individuals; and(b)"director" in relation to a firm, means a partner in the firm.

46. Onus as to age.

(1)When any act or omission would, if a person were under a certain age, be an offence punishable under this Act and such person is in the opinion of the Court, prima facie under such age, the burden shall be on the accused to prove that such person is not under such age.(2)A declaration in writing by a medical officer not below the rank of a civil assistant surgeon relating to an employee that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that employee.

Chapter VIII

Miscellaneous

47. Regulation of housing, medical, educational and terminal facilities, etc., by the Government.

- The Government may, by rules made in this behalf, regulate-(a)the provision of house-sites or houses to the employees;(b)the provision of medical facilities to the employees by creating a welfare fund;(c)the provision of the grant-in-aid including scholarships for higher education to the children of the employees from the welfare fund specified in clause (b);(d)the formation of Family Benefit Fund Scheme to the employees.

48. Exemption from the provisions of the Factories Act, 1948 (Central Act LXIII of 1948).

- Subject to the provisions of section 49, nothing contained in the Factories Act, 1948 (Central Act LXIII of 1948) shall apply to an industrial premises under this Act.

49. Application of the Factories Act, 1948 to industrial premises.

(1)Notwithstanding anything contained in section 48, the Government may, by notification, declare that all or any of the provisions of the Factories Act, 1948 (Central Act LXIII of 1948) shall apply to all or any classes of industrial premises under this Act.(2)The Government may make rules providing for the measures for securing the safety of persons employed in the industrial premises to which the provisions of the Factories Act, 1948 (Central Act LXIII of 1948) have been made applicable under sub-section (1).

50. Application of the Payment of Wages Act, 1936.

(1)Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936) (hereinafter in this section referred to as the said Act), the Government may, by notification, direct that, subject to the provisions of sub-section (2), the said Act or any of the provisions thereof or the rules made thereunder shall apply to all or any class of employees to which this Act applies.(2)On the application of the provisions of the said Act under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.(3)The Government may, by a like notification, cancel or vary any notification issued under sub-section (1).

51. Application of the Industrial Employment (Standing Orders) Act, 1946 and the Maternity Benefit Act, 1961.

(1)The provisions of the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946), shall apply to every industrial premises wherein fifty or more persons are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied, by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises was a workman within the meaning of that Act.(2)Notwithstanding anything contained in sub-section (1), the Government may, after giving not less than two months notice of their intention so to do, by notification, apply all or any of the provisions of the Industrial Employment (Standing Orders) Act, 1946 (Central Act XX of 1946), to any industrial premises wherein less than fifty persons are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises was a workman within the meaning of that Act.(3)Notwithstanding anything contained in the Maternity Benefit Act, 1961 (Central Act 53 of 1961), the provisions of that Act shall apply to every industrial premises as if such industrial premises were an establishment to which that Act has been applied by a notification under sub-section (1) of section 2 thereof:Provided that the said Act shall, in its application to a domestic weaver, apply, subject to the following modifications, namely:-(a)in section 5, in the Explanation to sub-section (1), the words "or one rupee a day, whichever is higher" shall be omitted; and(b)sections 8 and 10 shall be omitted.

52. Application of the Industrial Disputes Act, 1947.

- The provisions of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), shall apply to matters arising between employer and employees under this Act as they apply to matters arising between employer and workmen under the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

53. Effect of laws and agreements inconsistent with this Act.

(1)The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act:Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Act the employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.(2)Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act.

54. Power to exempt.

- The Government may, by notification exempt, subject to such conditions and restrictions as they may impose, any class of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rule made thereunder:Provided that nothing in this section shall

be construed as empowering the Government to grant any exemption in respect of any female employee from any of the provisions of this Act or any rules made thereunder relating to the provisions of Chapters IV and V of this Act.

55. Act not to apply to self employed persons in private dwelling houses.

- Nothing contained in this Act shall apply to the owner or occupier of a private dwelling house who carries on any weaving operation or any item of work incidental to such weaving operation in such private dwelling house with the assistance of the member of his family living with him in such dwelling house and dependent on him: Provided that the owner or occupier thereof is not an employee of an employer to whom this Act applies. Explanation. - For the purposes of this section, "family" means the spouse and children of the owner or occupier.

56. Registration of employees and employer.

(1) The Government may frame rules providing for the scheme of registration. (2) The scheme referred to in sub-section (1) may provide for the registration of employees and employer and the terms and conditions subject to which such registration may be made.

57. Power to make rules.

(1) The Government may make rules for carrying out all or any of the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a) the terms and conditions subject to which a licence may be granted or renewed under this Act and the fees to be paid in respect of such licence; (b) the form of application for a licence under this Act and the documents and plans to be submitted together with such application; (c) other matters which are to be taken into consideration by the competent authority for granting or refusing a licence; (d) the time within which, the fees on payment of which and the authority to which, appeals may be preferred against any orders granting or refusing to grant a licence; (e) the powers which may be conferred on the Inspectors under this Act; (f) the standards of cleanliness required to be maintained under this Act; (g) the standards of lighting, ventilation and temperature required to be maintained under this Act; (h) the types of urinals and latrines required to be provided under this Act; (i) the washing facilities which are to be provided under this Act; (j) the form and manner of notice regarding the periods of work; (k) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee; (l) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed; (m) the records and registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this Act and the rules made thereunder; (n) the maintenance of first-aid boxes or cup-boards and the contents thereof and the persons in whose charge such boxes shall be placed; (o) the scheme of registration of employees and the employer and the terms and conditions subject to which such registration may be made; (p) any other matter which is to be, or may be, provided for by rules under this Act. (3) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and, unless they are expressed to come into force on a

particular day, shall come into force on the day on which they are so published.(b)All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.(4)Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of [the Legislative Assembly] [Substituted for the expression 'both Houses of Legislature' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.], and if, before the expiry of the session in which it is so placed or the next session, [the Legislative Assembly agrees] [Substituted for the expression 'both Houses agree' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] in making any modification in any such rule or notification or [Legislative Assembly agrees] [Substituted for the expression 'both Houses agree' by paragraph 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.] that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Notifications
Authorisation of Certain Officers as Competent Authority[G. O. Ms. No. 268, Handlooms, Handicrafts, Textiles and Khadi (E2), dated 9th October 1998][No. II (2)/HHTK/1962/98.] [Published in Part 11-Section 2 of the Tamil Nadu Government Gazette, dated the 18th November 1998.] - Under clause (c) of section 2 of the Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981 (Tamil Nadu Act 61 of 1981) and in supersession of the Labour Department Notification No. II (2)/LAB/3357/88, published at page 434 of Part 11-Section 2 of the Tamil Nadu Government Gazette, dated the 8th June 1988, the Governor of Tamil Nadu hereby authorises the officers not below the rank of an Assistant Director of Handlooms and Textiles having territorial jurisdiction over the circle to perform all or any of the functions of the competent authority under the said Act.

Specification of Certain Official as Appellate Authority[G. O. Ms. No. 258, Handlooms, Handicrafts, Textiles and Khadi (E2), dated the 9th October 1998][No. II (2)/HHTK/1963/98.] [Published in Part II-Section 2 of the Tamil Nadu Government Gazette, dated the 18th November 1998.] - Under section 5 of the Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981 (Tamil Nadu Act 61 of 1981) and in supersession of the Labour Department Notification No. II(2)/LAB/3358/88, published at page 434 of Part 11-Section 2 of the Tamil Nadu Government Gazette, dated the 8th June 1988, the Governor of Tamil Nadu hereby specifies the Director of Handlooms and Textiles to be the appellate authority to whom appeals under the said section lie.

Appointment of Certain Officials as Inspector and his Jurisdiction[G.O. Ms. No. 258, Handlooms, Handicrafts, Textiles and Khadi (E2), dated the 9th October 1998][No. II (2)/HHTK/1964/98.] [Published in Part II-Section 2 of the Tamil Nadu Government Gazette, dated the 18th November 1998.] - In exercise of the powers of conferred by sub-section (1) of section 6 of the Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981 (Tamil Nadu Act 61 of 1981) and in supersession of the Labour Department Notification No. II (2)/LAB/3359/88, published at page 434 of Part II-Section 2 of the Tamil Nadu Government Gazette, dated the 8th June 1988, the Governor of Tamil Nadu hereby appoints the Textile Control Officer to be the Inspector for the purposes of the said Act, within their respective areas of their jurisdiction.

Appointment of Certain Official as Chief Inspector to Exercise Powers of an Inspector Throughout the State[G. O. Ms. No. 258, Handlooms, Handicrafts, Textiles and Khadi (E2), dated the 9th October 1998][No. II (2)/HHTK/1965/98.] [Published in Part II-Section 2 of the Tamil Nadu Government Gazette, dated the 18th November 1998.] - In exercise of the powers conferred by

sub-section (2) of section 6 of the Tamil Nadu Handloom Workers (Conditions of Employment and Miscellaneous Provisions) Act, 1981 (Tamil Nadu Act 61 of 1981) and in supersession of the Labour Department Notification No. 11(2)/ LAB/3360/88, published at page 434 of Part 11-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 8th June 1988, the Governor of Tamil Nadu hereby appoints the Joint Director of Handlooms and Textiles (Handlooms), to be the Chief Inspector who shall exercise the powers of and Inspector throughout the State under the said Act.