

# L.A. Bill 54 of 2017

## MAHARASHTRA SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) BILL, 2017

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**L.A. BILL 54 OF 2017**

[ MAHARASHTRA SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) BILL, 2017 ]

*A Bill to provide for the regulation of conditions of employment and other conditions of service of workers employed in shops, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith or incidental thereto.*

WHEREAS it is expedient to provide for the regulation of employment and other conditions of service of workers employed in shops, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-eighth Year of the Republic of India as follows :—

**CHAPTER I**  
**PRELIMINARY**

**1 Short title, extent, application and commencement**

(1) This Act may be called the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017.

(2) It extends to the whole of the State of Maharashtra.

(3) The provisions of this Act, except section 7, shall apply to the establishments employing ten or more workers and the provisions of section 7 shall apply to the establishments employing less than ten workers.

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

**2 Definitions**

In this Act, unless the context otherwise requires,

(1) “Chief Facilitator” means the Chief Facilitator appointed as such under section 28 of this Act;

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

(3) “employer” means a person owning or having ultimate control over the affairs of an establishment, and includes,—

(a) in the case of a firm or association of individuals, a partner or members of the firm or association;

(b) in the case of a company, a director of the company;

(c) in the case of an establishment owned or controlled by the Central Government or a State Government or any local authority, the person or persons appointed to manage the affairs of such establishment by the Central Government or the State Government or the local authority, as the case may be;

- 35 (4) “establishment” means an establishment which carries on, any business, trade, manufacture or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or produce exchange or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession or manufacture; and includes establishment of any medical practitioner (including hospital, dispensary, clinic, polyclinic, 40 maternity home and such others), architect, engineer, accountant, tax consultant or any other technical or professional consultant; and also includes a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession or work in connection with or incidental or ancillary thereto; and includes shop, residential 45 hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; to whom the provisions of the Factories Act, 1948 does not apply ; and includes such other establishment as the State Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act;
- (5) “Facilitator” means a Facilitator appointed under section 28 of this Act;
- 50 (6) “Factory” means any premises which is a factory within the meaning of clause (m) of section 2 of the Factories Act, 1948 or which is deemed to be a factory under section 85 of the said Act;
- (7) “holiday” means a day on which a worker shall be given a weekly off under the provisions of this Act;
- 55 (8) “leave” means a leave provided for in Chapter IV of this Act;
- (9) “local area” means any area or combination of areas to which this Act applies;
- (10) “local authority” means the Municipal Corporation of Brihan Mumbai constituted or deemed to have been constituted under the Mumbai Municipal Corporation Act, Corporations constituted or deemed to have been constituted under the Maharashtra Municipal Corporations Act and the Municipal Councils constituted or deemed to have been 60 constituted under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, and includes any other body which the State Government may, by notification in the Official Gazette, declares to be a local authority for the purposes of this Act;
- 65 (11) “Manager” means a person mentioned in the application under section 6 of this Act ;
- (12) “member of the family of an employer” means the wife, husband, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;
- (13) “opened” means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any worker of or connected with the 70 establishment;
- (14) “period of work” means the time during which a worker is at the disposal of the employer;
- (15) “prescribed” means prescribed by rules made under this Act;
- (16) “prescribed authority” means the Commissioner of Labour for the purposes of this Act;

- 75 (17) “register of establishment” means a register maintained for the registration of establishments under this Act, either manually or in electronic format;
- (18) “registration certificate” means a certificate of the registration of an establishment;
- (19) “residential hotel” means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes residential club;
- 80 (20) “restaurant or eating house” means any premises, in which, wholly or principally the business of the supply of meal or refreshments to the public or a class of the public for consumption on the premises is carried on;
- 85 (21) “shop” means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, godown, warehouse or work place, whether in the same premises or otherwise, mainly used in connection with such trade or business, but does not include a factory;
- (22) “spread over” means the period between the commencement and the termination of the work of a worker on any day;
- 90 (23) “theatre” includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;
- (24) “wages” means wages as defined in the Payment of Wages Act, 1936;
- (25) “week” means the period of seven days beginning at midnight of Saturday;
- 95 (26) “worker” means any person (except an apprentice under the Apprentices Act, 1961) employed to do any manual, unskilled, skilled technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied.

### 3 Act not to apply to certain establishments and persons

The provisions of this Act shall not apply to,

- (1) Establishments of the Central and State Government;
- (2) Establishments of Local Authorities;
- 100 (3) Establishment of Mumbai Port Trust;
- (4) Establishment of Railway Administration;
- (5) Offices of Reserve Bank of India;
- (6) Offices of the Trade Commissioner and of Consular officers and other Diplomatic representatives of Foreign Government;
- 105 (7) Offices of Air Service Companies;
- (8) Establishments used for treatment or care of infirm, destitute or mentally unfit;

(9) Establishments pertaining to any kind of educational activities (excepting those where coaching or tuition classes are conducted by individual persons or any institutions other than those,-

(a) affiliated to any university established by law, or

(b) recognised by the Divisional Boards under the Maharashtra Secondary and Higher Secondary Education Boards Act, 1965, or

(c) recognised by the Directorate of Education or the Directorate of Technical Education as a private secondary or technical high school, Industrial Training Institute (I.T.I.), Polytechnic, Engineering Colleges or other technical institutions conducting courses recognised by Government) ;

(10) High Court Law Libraries and other Courts Law Libraries;

(11) A worker occupying position of confidential, managerial or supervisory character in an establishment, a list of which shall be displayed on the website of establishments and in absence of the website at a conspicuous place in the establishment and a copy thereof shall be sent to the Facilitator;

(12) A worker whose work is inherently intermittent;

(13) A member of the family of an employer.

#### 4 Application of Act to other establishments and workers

(1) Notwithstanding anything contained in this Act, the State Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any worker or person or class of workers or persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a worker or a person or class of workers or persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the State Government be necessary shall apply from such date as may be specified in the notification.

(2) On such declaration under sub-section (1), any such establishment or class of establishments or such worker or person or class of workers or

#### 5 Suspension of all or any of provisions of this Act

The State Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions

### CHAPTER II

#### REGISTRATION OF ESTABLISHMENTS

#### 6 Registration of establishments

(1) Within a period of sixty days from the date of commencement of this Act or the date on which establishment commences its business, the employer of every establishment employing ten or more workers shall submit application online in a prescribed form for registration to the Facilitator of the local area concerned, together with such fees and such self-declaration and self-certified documents as may be prescribed, containing—

- (a) the name of the employer and the manager, if any;
- (b) the postal address of the establishment;
- (c) the name, if any, of the establishment;
- 150 (d) the actual nature of the business of the establishment; and
- (e) such other particulars as may be prescribed:

Provided that, nothing contained hereinabove shall apply to the establishments already having valid registration or renewal under the Maharashtra Shops and Establishments Act<sup>1</sup> until expiry of their registration or renewal.

- 155 (2) On receipt of the application along with documents and the fees online, the Facilitator shall, register the establishment in the register of establishments in such manner as may be prescribed and shall issue online, in a prescribed form, a registration certificate along with the Labour Identification Number (LIN) to the employer within the prescribed time limit. The Facilitator shall verify the correctness of the application and documents at-  
160 tached thereto within such time as may be prescribed. The registration certificate shall be produced whenever it is demanded by the Facilitator.

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<sup>1</sup> Mah. 79 of 1948.





**STATEMENT OF OBJECTS AND REASONS**

1. The Maharashtra Shops and Establishments Act (LXXIX of 1948) is enacted to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.
2. The recent information and technology have revolutionized the mode of trading whereby it is possible to sell goods and services online without any physical, and geographical limitations and time limitations being available for twenty-four hours. Therefore, the provisions of the said Act of keeping a shop or establishment closed for a business on one day of the week and to restrict the opening and closing hours of establishments have become obsolete. It has become necessary to provide even platform for offline business to compete with online business and to permit to operate shops and establishments for twenty-four hours and all days in a week. It will help employment generation at large and to increase Gross Domestic Product.
3. In line with the “ease of doing business” policy of the Government, it is necessary that the marginal and small establishments engaging less than ten employees need to be liberalized from registration under the Act and to provide all the services under the Act online based on self-declaration and self-certified documents. It is also necessary that the employees in the shops and establishments should have uniform working conditions. All the welfare measures should be applicable to workers so as to improve their health and well being which in turn will increase their productivity. Also due to the increase in the literacy percentage of women, numerous avenues for job and employment for women workers are available. Allowing them to work in night shift on par with that of men workers subject to certain reasonable terms and conditions particularly regarding their health, safety and honour will increase their earning capacity resulting in their empowerment.
4. The Central Government has also circulated a model Shops and Establishments (Regulation of Employment and Conditions of Service) Bill, 2016, which has been finalised after detailed deliberations and consultation process, to all the State Governments for consideration.
5. In view of the above, the Government of Maharashtra considered it expedient to enact a new law, on the lines of the model Bill circulated by the Central Government, for regulation of conditions of employment and other conditions of service of workers employed in various establishments by repealing the existing Maharashtra Shops and Establishments Act.
6. The Bill seeks to achieve the above objectives.

Mumbai  
3rd August 2017

Shri Sambhaji Patil Nilangekar  
Minister for Labour



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

The Bill involves the following proposals for delegation of legislative powers, namely:—

*Section 1* (4) Under this clause, power is taken to the State Government to bring the Act into force, by notification in the *Official Gazette*, appoint.

*Section 2* Under this clause,—

- (i) under sub-clause (4), power is taken to the State Government to declare any other establishment as an establishment for the purposes of the Act, by notification in the *Official Gazette*.
- (ii) under sub-clause (10), power is taken to the State Government to declare any authority as local authority for the purposes of the Act, by notification in the *Official Gazette*.

*Section 5*.— Under this clause, power is taken to the State Government to suspend the operation of all or any of the provisions of the Act for such period and conditions on account of holidays or occasion, by notification in the *Official Gazette*.

*Section 6*.— Under this clause,—

- (i) under sub-clause (1), power is taken to the State Government to prescribe the form of application for registration of establishments, fees therefor and self-declaration and self-certified documents to be submitted along with application;
- (ii) under sub-clause (2), power is taken to the State Government to prescribe the manner of registration of establishment, form of registration certificate and time within which the registration certificate is to be granted;
- (iii) under sub-clause (3), power is taken to the State Government to prescribe the fee and form of renewed registration certificate.

*Section 7*.— Under this clause,—

- (i) under sub-clause (1), power is taken to the State Government to prescribe the form of application for intimation of establishments and self-declaration and self-certified documents to be submitted along with application and form of register of such intimation;
- (ii) under sub-clause (2), power is taken to the State Government to prescribe the manner and form in which the employer shall notify to the Facilitator closing of establishment.

*Section 9*.— Under this clause, power is taken to the State Government to prescribe the form and the period within which intimation of change in any of the particular contained in registration application is to be notified to the Facilitator and fees therefor.

The above proposals for delegation of legislative powers are of a normal character.

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