

Delhi Shops and Establishments Act, 1954

7 of 1954

[19th June, 1954]

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SCHEDULE 1 :- Exemptions

Delhi Shops and Establishments Act, 1954

7 of 1954

[19th June, 1954]

An Act to amend to consolidate the law relating to the regulation of hours of work, payment of wages, leave, holidays, terms of service and other conditions of work of persons employed in shops, commercial establishments for public entertainment or amusement and other establishments and to provide for certain matters connected therewith. It is hereby enacted as follows

1. Short title, extent, commencement and application :-

(1) This Act be called the Delhi Shops and Establishments Act, 1954.

(2) It extends to the whole of Union Territory of Delhi.

(3) It shall come into force on such ¹date as Government may, by notification in Official Gazette, appoint in this behalf.

(4) It shall apply in the first instance only to the municipal areas, Notified Areas and Cantonment limits of Delhi, New Delhi, Shahdara, Civil Lines, Mehrauli, Red Fort and Delhi Cantonment but Government may, ² [by notification in the Official Gazette,] direct that it shall come into force in any other local area or areas or shall apply to such shops or establishments or class of shops and establishments in such other areas as may be specified in the

notification.

1. 1st February 1955, vide Notification No. F23(5)/51-1 and L, dated 17.1.1955.
2. Subs. by Delhi Act No. 6 of 1955, "by notification".

2. Definitions :-

In this Act, unless the context otherwise requires

(1) "adult" means a person who has completed his eighteenth year of age;

¹(1A) "Apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment".

(2) "child" means a person who has not completed his twelfth year of age;

(3) "close day" means the day of the week on which a shop or commercial establishment remains closed;

(4) "closing hour" means the hour at which a shop or commercial establishment closes;

(5) "commercial establishment" means any premises wherein any trade, business or profession or any work in connection with, or incidental or ancillary thereto is carried on and includes a society registered under the Societies Registration Act, 1860 (21 of 1860) and charitable or other trust, whether registered or not, which carries on any business, trade or profession or work in connection with or incidental or ancillary thereto, journalistic and printing establishments, contractors and auditors establishments, quarries and mines not governed by the [²Mines Act, 1952/(53 of 1952)] educational or other institutions run for private gain and premises in which business of banking, insurance, stocks and shares, brokerage or produce exchange is carried on, but does not include a shop or a factory registered under the Factories Act, 1948 63 of 1948) or theatres, cinemas, restaurants, eating houses, residential hotels, clubs or other places of public amusement or entertainment.

(6) "day" means a period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of

midnight;

3(7) "employee" means a person wholly or principally employed whether directly or otherwise and whether for wages (payable on permanent periodical contract, piece-rate or commission basis) or other consideration, about the business of an establishment and includes an apprentice and any person employed in a factory but not governed by the Factories Act, 1948 (63 of 1948) and, for the purpose of any matter regulated by this Act, also includes a person discharged or dismissed whose claims have not been settled in accordance with this Act."

(8) "employer" means the owner of any establishment about the business of which persons are employed, and where the business of such establishment is not directly managed by the owner, means the manager, agent, or representative of such owner in the said business;

(9) "establishment" means a shop, a commercial establishment; residential hotel, restaurant, eating house, theatre or other places of public amusement or entertainment to which this Act applies and includes such other establishment as Government may by notification in the Official Gazette, declare to be an establishment for the purpose of this Act;

(10) "factory" means a factory as declared or registered under the Factories Act, 1948 (63 of 1948);

(11) "family" means the husband, wife, son, daughter, father, mother, brother, sister or grand-son of an employer, living with and wholly dependent on such employer;

(12) "Government" means the Chief Commissioner of Delhi;

(13) "holiday" means a day on which an establishment shall remain closed, or on which an employee shall be given a holiday under the provisions of this Act;

(14) "hours of work" or "working hours" means the time during which the persons employed are at the disposal of the employer exclusive of any interval allowed for rest and meals; and "hours worked" has a corresponding meaning;

(15) "Inspector" means an Inspector appointed under section 36 of the Act;

- (16) "leave" means leave as provided for under this Act;
- (17) "occupier" means a person owning or having charge or control of the establishment and includes the manager, agent or representative of such occupier;
- (18) "opening hour" means the hour at which ⁴[a shop or commercial establishment] opens for the service of a customer;
- (19) "prescribed" means prescribed by rules made under this Act;
- (20) "Register of Establishment" means a register maintained for the registration of establishments under this Act;
- (21) "Registration Certificate" means a certificate showing the registration of an establishment;
- (22) "religious festival" means any festival which the Government may ⁵ [by notification in the Official Gazette] declare to be a religious festival for the purposes of this Act;
- (23) "residential hotel" means any premises in which business is carried on for the supply of dwelling accommodation and meals on payment of a sum of money by a traveller or any member of the public or class of the public and includes a club;
- (24) "restaurant" or "eating-house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshment to the public or a class of the public for consumption on the premises;
- (25) "retail trade or business" includes the business of a barber or hair-dresser, the sale of refreshment or intoxicating liquors, and retail sales by auction;
- (26) "schedule" means a schedule appended to this Act;
- (27) "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 workhouse or work place, whether in the same premises or otherwise, used in connection with such trade or business but does not include a factory or commercial establishment;
- (28) "spread over" means the period between the commencement and the termination of the work of an employee on any day;

(29) "summer" means the period covering the months of April, May, June, July, August and September;

(30) "wages" means wages as defined in section 2 of the Minimum Wages Act, 1948 (11 of 1948);

(31) "week" means a period of seven days beginning at midnight on Saturday;

(32) "winter" means the period covering the months of October, November, December, January, February and March;

(33) "year" means the calendar year;

(34) "young person" means a person who is not a child and has not completed his eighteenth year of age.

1. Ins. by Act No. 33 of 1970.

2. Subs, by Delhi Act No. 6 of 1955.

3. Subs, by Act No. 33 of 1970.

4. Subs, by Central Act No. 21 of 1961.

5. Subs, by Delhi Act No. 6 of 1955, for "by notification".

3. Rights and Privileges under other law etc., not affected :-

Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force under any other law, contract, custom or usage applicable to such establishment or an award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

4. Exemption :-

Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of the Schedule shall not apply to the establishment, employees and other persons mentioned against them in the second column of the said schedule;

Provided that the Government may, by notification published in the Official Gazette, add to, omit or alter any of the entries of the said schedule, and on the publication of such notification the entries in either column of the said schedule shall be deemed to be amended accordingly.

5. Registration of establishments :-

(1) ¹[Within the period specified in sub-section (5)], the occupier of

every establishment shall send to the Chief Inspector a statement in a prescribed form, together with such fees 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;
- (d) the category of the establishment, i.e., whether it is a shop, commercial establishment, residential hotel, restaurant, eating theatre or other place of public amusement or entertainment.
- (e) ²[the number] of employees working about the business of the establishment; and
- (f) such other particulars as may be prescribed;

(2) On receipt of the statement and the fees, the Chief Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the Register of Establishments in such manner as may be prescribed and shall issue, in a prescribed form a registration certificate to the occupier;

(3) The registration certificate shall be prominently displayed at the establishment and shall be renewed at such intervals as may be prescribed in this respect;

(4) In the event of any doubt or difference of opinion between an occupier and the Chief Inspector as to the category to which an establishment should belong, the Chief Inspector shall refer the matter to the Government which shall after such enquiry, as it may think proper, decide the category of each establishment and the decision thereto shall be final for the purpose of this Act.

³ [(5) Within ninety days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Chief Inspector under sub-section (1)

Table 1

| | Establishments | Date from which the period of 90 days is to commence |
|------------|---|---|
| | 1 | 2 |
| (i) | Establishments existing in municipal areas, notified areas, | The date on which this Act comes into force. |

| | | |
|-------|---|--|
| | and cantonment limits of Delhi, New Delhi, Shahdara, Civil Lines, Mehrauli, Red Fort and Delhi Cantonment on the date on which this Act comes into force. | |
| (ii) | Establishments existing in local areas in which this Act is brought into force by notification under sub-section (4) of section 1 . | The date on which this Act comes into force in the local area concerned. |
| (iii) | New establishments in areas mentioned in clauses (i) and (ii) of this sub-section. | The date on which the establishment commences its work. |

1. Subs, by Delhi Act No. 6 of 1955, for the words "Within 30 days from the date on which this Act comes into force."
2. Subs, by Delhi Act No. 6 of 1955, for the word "number".
3. Ins. by Delhi Act No. 6 of 1955.

6. Change to be communicated to the Chief Inspector :-

It shall be the duty of the occupier to notify to the Chief Inspector, on a prescribed form, any change in respect of any information contained in his statement under sub-section (1) of Section 5 within ¹ [thirty] days after the change has taken place. The Chief Inspector shall on the receipt of such notice and the prescribed fee and on being satisfied about its correctness make the change in the register of establishments in accordance with such notice and shall amend the registration certificate, or issue a fresh registration certificate, if necessary.

1. Subs. by Act No. 33 of 1970.

7. Closing of an establishment to be communicated to the Chief Inspector :-

The occupier shall within fifteen days of his closing the establishment, notify to the Chief Inspector in writing accordingly. The Chief Inspector shall on receiving the information and being satisfied about the nature of closure remove such establishment from the register of establishments and cancel the registration certificate :

Provided that the Chief Inspector may not, if satisfied that the establishment is likely to re-start within a period of six months, remove it from the Register of Establishments and cancel the registration certificate.

8. Employment of adults-hours of work :-

No adult shall be employed or allowed to work about the business

of an establishment for more than nine hours on any day or 48 hours in any week and the occupier shall fix the daily periods of work accordingly :

Provided that during any period of stock taking or making of accounts or any other purpose as may be prescribed, any adult employee may be allowed or required to work for more than the hours fixed in this section, but not exceeding 54 hours in any week subject to the conditions that the aggregate hours so worked shall not exceed 150 hours in a year,

Provided further that advance intimation of at least three days in this respect has been given in the prescribed manner to the Chief Inspector and that any person employed on overtime shall be entitled to remuneration for such overtime work at twice the rate of his normal remuneration calculated by the hours.

Explanation For the purpose of calculating the normal hourly wage the day shall be reckoned as consisting of eight hours.

9. Restriction on double employment :-

No person shall work about the business of an establishment or two or more establishments or an establishment and a factory in excess of the period during which he may be lawfully employed under this Act.

10. Interval for rest and meals :-

1 .

(1) The period of work of an adult employee in an establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest and meals of at least half an hour.

(2) The time for such interval shall be fixed by the employer and intimated to the Chief Inspector a week before such fixation and shall remain operative for a period of not less than three months.]

1. Subs, by Act No. 33 of 1970.

11. Spread over :-

The periods of work on any day of an adult person shall be so arranged that inclusive of his interval for rest or meals as required under section 10, they shall not spread over for more than ten and a half hours in any commercial establishment or for more than

twelve hours in any shop.

12. Prohibition of employment of children :-

No child shall be required or allowed to work whether as an employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

13. Employment of young persons-hours of work :-

(1) No young person shall be required or allowed to work about the business of an establishment for more than six hours a day.

(2) No young person shall be employed continuously for more than three and a half hours without an interval of at least half an hour or rest for meals and the spread over shall not exceed eight hours on any day.

14. Young persons and women to work during day time :-

No young person, or woman shall be allowed or required to work whether as an employee or otherwise in any establishment between 9 p.m. and 7 a.m. during the summer season and between 8 p.m. and 8 a.m. during the winter season.

15. Opening and closing hours of shops and commercial establishments :-

1

(1) No shop or commercial establishment shall on any day, be opened earlier than such hour or closed later than such hour, as may be fixed by the Government by general or special order made in that behalf:

Provided that any customer who was being served or was waiting to be served in any shop or commercial establishment at the closing hour so fixed may be served during the period of fifteen minutes immediately following such hour.

(2) Before making an order under sub-section (1), the Government shall hold an inquiry in such manner as may be prescribed.

(3) The Government may, for the purposes of this section, fix different opening hours and different closing hours for different classes of shops or commercial establishments or for different areas or for different times of the year].

1. Subs, by Central Act No. 21 of 1961.

16. Close day :-

(1) Every shop and commercial establishment shall remain closed on a close day,

(2) In addition to the close day every shop and commercial establishment shall remain closed on three of the National holidays each year as the Government may ¹ [by notification in the Official Gazette] specify.

(3)

(i) The Government may, by notification in the Official Gazette, specify a close day for the purposes of this section and different days may be specified for different classes of shops or commercial establishments or for different areas",

(ii) Notwithstanding anything contained in sub-section (1), the occupier of any shop or a commercial establishment may open his shop or commercial establishment on a close day, if such a day happens to coincide with a religious festival, 'or the Mahurat day', (the day of the commencement of the financial year of the establishment concerned), provided a notice to this effect has been given to the Chief Inspector at least twenty-four hours before the close day and that in lieu thereof the shop or the commercial establishment is closed on either of the two days immediately preceding or following that close day.

1. Ins. by Act No.33 of 1970.

17. Close day :-

18. Wages for the holiday :-

No deduction shall be made from the wages of any employee on account of the close day under section 16 or a holiday granted under section 17 of this Act. If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday and where an employee is paid on piece rates, he shall receive the average of the wages received during the week.

19. Time and conditions of payment of wages :-

(1) Every employer or his agent or the Manager of any establishment shall fix periods in respect of which wages to the employee shall be payable and such person shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act;

- (2) No wage period so fixed, shall exceed one month;
- (3) The wages of every employee in any shop or establishment shall be paid on a working day before the expiry of the seventh day of the wage period in respect of which the wages are payable;
- (4) All wages shall be paid in cash;
- (5) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.

20. Deductions which may be made from wages :-

- (1) The wages of an employed person shall be paid to him without deduction of any kind except those specified in sub- section (2).

Explanation Every payment made by the employed person to the employer or his agent or the manager shall for the purpose of this Act be defined to be a deduction from wages.

- (2) Deduction from the wages of an employee shall be of one or more of the following kinds, namely

- (i) Fines;

- (ii) Deductions for absence from duty;

- (iii) Deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

- (iv) Deductions for house accommodation supplied by the employer;

- (v) Deduction for such amenities and services supplied by the employer as the Government may by general or special order authorise;

Explanation The words 'amenities and services' in this clause do not include the supply of tools and protectives required for the purpose of employment.

- (vi) Deductions for the recovery of advances or for adjustment of over-payments of wages, provided that such advances do not exceed an amount equal to wages for two calendar months of the

employed person and, in no case, shall the monthly instalment of deduction exceed one-fourth of the wages earned in that month;

(vii) Deduction of Income-Tax payable by the employed person;

(viii) Deductions required to be made by order of a court or other competent authority;

(ix) Deductions for subscription to, and for repayment of advances from any provident fund to which the Provident Fund Act, 1925 (19 of 1925) applies or any recognised provident fund as defined in section 58A of the Indian Income Tax Act, 1922 (11 of 1922) or any provident fund approved in this behalf by the Government during the continuance of such approval;

(x) Deductions for payment to co-operative societies or to a scheme of insurance approved by the Government.

(3) Any employer desiring to impose a fine on an employed person or to make a deduction for damage or loss caused by him shall explain to him personally and also in writing the act or omission or the damage or loss, in respect of which the fine or deduction is proposed to be imposed or made and give him an opportunity to offer any explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him.

(4) The amount of fine or deduction mentioned in sub-section (3) shall be such as may be specified by the Government. All such deductions and realizations thereof shall be recorded in a register maintained in a form as may be prescribed.

(5) The amount of fine imposed under sub-section (3) shall be utilised in accordance with the directions of the Government.

(6) Nothing in this section shall be deemed to affect the provisions of the Payment of Wages Act, 1936 (4 of 1936).

21. Claims relating to wages :-

(1) The Government may by notification in the Official Gazette, appoint any Commissioner for Workmen's Compensation Act or other officer with experience as a Judge of a Civil Court or as a Stipendiary Magistrate to be the authority to hear and decide all claims arising out of delayed payment or non-payment of earned wages of an employee employed in any establishment;

(2) application for any such claim may be made to the authority

appointed under sub- section (1) by the employee himself ¹[or any official of a registered trade Union authorised in writing to act on his behalf] or any legal practitioner or the Chief Inspector for a direction under sub-section (3):

Provided that every such application should be presented within ¹[one year] from the date the claim for such wages has become payable under this Act:

Provided further that an application may be admitted after the said period of ¹ [one year] when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer, or give them an opportunity of being heard and after such further enquiry, if any, as it may consider necessary may, without prejudice to any other penalty to which employer may be liable under this Act, direct the payment to the employee of the amount due to him together with the payment of such compensation as the authority may think fit, not exceeding half the amount so due or Rs. 100 whichever is less.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding hundred rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered

(a) if the authority is a magistrate, by the authority as if it was a fine imposed by the authority as a magistrate, or

(b) if, the authority is not a magistrate, by any magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such magistrate.

(6) Every direction of the authority under this section be final.

(7) Every authority appointed under sub-section (1) shall have all powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil

Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

1. Ins. by Act No.33 of 1970.

22. Leave :-

1 . "

(1) Every person employed in an establishment shall be entitled

(a) after every twelve months' continuous employment, to privilege leave for a total period of not less than fifteen days.

(b) in every year, to sickness or casual leave for a total period of not less than twelve days;

Provided that

(i) an employee who has completed a period of four months in continuous employment, shall be entitled to not less than five days' privilege leave every such completed period; and

(ii) an employee who has completed a period of, one month in continuous employment, shall be entitled to not less than one day" casual leave for every month;

Provided further that a watchman or caretaker who has completed a period of twelve months in continuous employment and to whom the provisions of sections 8, 10, 11, Band 17 do not apply by virtue of an exemption granted under section 4, shall be entitled to not less than thirty days' privilege leave.

(1A)

(i) Privilege leave to which an employee is entitled under clause (a) of sub-section (1) or under any such law, contract, custom or usage, award, settlement or agreement as is referred to in section 3, or any part of such leave, if not availed of by such employee, shall be added to the privilege leave in respect of any succeeding period to which he is so entitled, so however, that the total period of such privilege leave which may be accumulated by such employee shall not at any one time exceed three times the period of privilege leave to which he is entitled after every twelve months' employment under that clause or under such law, contract, custom or usage, award, settlement or agreement.

(ii) Leave admissible under clause (b) of sub-section (1) shall not

be accumulated."]

(2) If an employee entitled to leave under clause (a) of sub-section (1) of this section is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him full wage for the period of leave due to him.

1. Subs. by Act No. 33 of 1970.

23. Wages during leave :-

Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime but inclusive of dearness allowance.

24. Contracting out :-

¹ Any contract or agreement whether made before or after the commencement of the Delhi Shops and Establishment (Amendment) Act, 1970, whereby an employee relinquishes any right conferred by this Act, shall be null and void in so far as it purports to deprive him of such right.]

1. Subs. by Act No. 33 of 1970.

25. Cleanliness :-

The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting and disinfecting.

26. Lighting and Ventilation :-

(1) The premises of every establishment shall be kept sufficiently lighted and ventilated during all working hours.

(2) Suitable arrangements shall be made for supply of drinking water to the employees.

27. Power to enforce cleanliness, etc. :-

If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, cleaned or ventilated, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and

requiring them to be carried out before a date specified in the order. The Government may prescribe standards in respect of any of these matters.

28. Precautions against fire :-

In every establishment except such establishments or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

29. Accidents :-

The provisions of Workmen's Compensation Act, 1923 (8 of 1923) and of rules made thereunder, shall apply mutatis mutandis to every employee of an establishment.

30. Notice of dismissal :-

(1) No employer shall dispense with the services of an employee who has been in his continuous employment for not less than three months, without giving such person at least one month's notice in writing or wages in lieu of such notice :

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct, after giving him an opportunity to explain the charge or charges alleged against him in writing.

(2) No employee who has put in 3 months' continuous service shall terminate his employment unless he has given to his employer a notice of at least one month, in writing. In case he fails to give one month's notice he will be released from his employment on payment of an amount equal to one month's pay.

(3) In any case instituted for a contravention of the provisions of sub-section (1), if a Magistrate is satisfied that an employee had been dismissed without any reasonable cause or discharged without proper notice or pay in lieu of notice, the Magistrate may, for reasons to be recorded in writing, award, in addition to one month's salary compensation to the employee as follows

(a) Where immediately before his discharge or dismissal, the employee was in receipt of a salary not exceeding Rs. 100 per month such amount of compensation not exceeding his month's salary, as the Magistrate may direct.

(b) When immediately before his dismissal or discharge the employee was in receipt of a salary exceeding hundred rupees per

ensem, such amount of compensation not exceeding hundred rupees as the Magistrate may direct.

(4) The amount payable as compensation under this section shall be in addition to any fine payable under section 40.

(5) No person who has been awarded compensation under this section shall be at liberty to bring a civil suit in respect of the same claim.

31. Provisions in respect of shops and commercial establishments where more than one business is carried on :-

Where any retail trade or business which is exempted from all or any of the provisions of the Act, is carried on along with other retail trade or business, the exemption shall not apply to that part of trade or business which is not exempted from the provisions of the Act.

32. Provisions to trading elsewhere than in shops :-

No person shall carry on any retail trade or business of any class near any shop or commercial establishment at any time before the opening and after the closing hours and on the close day, and if any person carries on any such trade or business in contravention of this section, this Act shall apply as if he were the occupier of the shop or commercial establishment which was being kept open in contravention of this Act.

33. Records :-

(1) The occupier of every shop or commercial establishment, shall, in the prescribed form and in the prescribed manner, keep exhibited in the shop or establishment a notice setting forth the close day.

(2) The occupier of any shop or establishment about the business of which persons are employed, shall in the prescribed form and in the prescribed manner keep a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to every person employed about the business of the shop or establishment, and particulars of all employment overtime shall be separately entered in the record.

(3) The occupier of any shop or establishment about the business of which persons are employed shall in the prescribed form and in

the prescribed manner keep exhibited in the shop or establishment notices setting forth the number of hours in the week during which persons may in accordance with the provisions of this Act be employed about the business of a shop or establishment and such other particulars as may be prescribed.

(4) The occupier of every shop or establishment shall for the purpose of this Act maintain such other records and registers and display such other notices as may be prescribed.

34. Employer to furnish letters of appointment to employees :-

The employer shall furnish every employee with a letter or appointing. Such letters of appointment shall contain the following and such other particulars as may be prescribed, namely

- (a) The name of employer.
- (b) The name, if any, and the postal address of the establishment.
- (c) The name, father's name and the age of the employee.
- (d) The hours of work.
- (e) Date of appointment.

35. Inspection of registers and calling for information :-

It shall be the duty of every occupier of a shop or establishment to produce for inspection of an Inspector, all accounts or records required to be kept for the purpose of this Act, and to give any other information in connection therewith as may be required.

36. Appointment of Inspectors :-

The Government shall appoint a Chief Inspector and such Inspectors as may be necessary for the purpose of carrying out the provisions of this Act. The Chief Inspector and the Inspectors so appointed shall carry identity cards.

37. Powers and duties of the Inspector :-

Subject to any rules made by the Government in this behalf, the Chief Inspector or an Inspector may

- (a) enter at all reasonable times with such assistance as may be necessary any place which is, or, which is being used as an establishment;
- (b) make such examination of the premises and of any prescribed

registers, records and notices and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purpose of this Act;

(c) make copies of or take extracts from any book, registers or other documents maintained for the purpose of this Act;

(d) exercise such other powers as may be necessary for carrying out the purpose of this Act:

Provided that no one shall be required under this section to answer any question or, to give any evidence tending to incriminate himself.

38. Inspectors to be public servants :-

The Chief Inspector and every Inspector appointed under section 36 shall be deemed a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

39. Protection to persons acting under this Act :-

No suit, prosecution, or other legal proceeding shall be brought against any public servant or any other person in the service of this Union territory acting under the direction of any such public servant for anything in good faith done, or intended to be done in pursuance of the provisions of this Act or any rule or order made thereunder.

40. Penalties :-

(1) If in any shop or establishment there is any contravention of any of the provisions of this Act, or any rule or order made thereunder except sections 33, 41, 42 the proprietor, the employer or the manager thereof, as the case may be, shall on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

(2) If any person contravenes the provisions of section 33, he shall be liable, on conviction, to a fine of Rs. 5 for every day on which the contravention occurs or continues.

41. Wilfully making false entries :-

If any person with intent to deceive makes or causes or allows to be made in any record, register, or notice prescribed under section 33 an entry which is to his knowledge false in any material particular, or wilfully omits or causes or allows to be omitted from any such record, register or notice an entry required to be made therein, he shall be liable on conviction to an imprisonment for a

term not exceeding three months or to a fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees or to both.

42. Penalty for obstructing Inspector :-

Whoever wilfully obstructs an Inspector in the exercise of any power under section 37 or conceals any employee in an establishment from appearing before or being examined by an Inspector shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees.

43. Determination of employer for the purpose of this Act :-

(1) Where the owner of an establishment is a firm or other association of individuals, any one of the individual parents or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the Union Territory to be the employer for the purposes of this Act and such individual shall so long as he is so resident, be deemed to be the employer for the purposes of this Act until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the employer in the establishment is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director or, in the case of a private company, a shareholder who is resident in the Union Territory to be the employer in the establishment for the purposes of this Act, and such director or shareholder shall so long as he is so resident be deemed to be the occupier in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

44. Exemption of occupier from liability in certain cases :-

Where the occupier of a shop or commercial establishment is charged with an offence against this Act or ¹[the rules or order] made thereunder, he shall be entitled, upon complaint duly made by him to have his agent or servant whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the court

(a) that he had used due diligence to enforce the execution of this Act and ¹ [the rules or order] made thereunder; and

(b) that the said agent or servant committed the offence in question without his knowledge, consent or connivance, or wilful neglect, or default, that agent or servant shall be convicted of the offence and shall be liable to the like fine as if he were the occupier, and the occupier shall be discharged from any liability for the offence.

1. Subs. by Delhi Act No. 6 of 1955, for the word "rules".

45. Cognizance of offence :-

(1) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by or with the previous sanction of the Chief Inspector appointed under the Act.

(2) No court inferior to that of ¹ [Magistrate of the first class] shall try any offence under this Act or any rule or order made thereunder.

1. Subs. by Delhi Act No. 6 of 1955, for the words "Magistrate first class".

46. Savings :-

Nothing in this Act shall apply to

(a) any office of or under the Central Government, or Delhi Administration;

(b) ¹[any office of any local authority, any Railway Administration, the Reserve Bank of India, ² [the Delhi Development Authority, the Delhi water supply and sewage Disposal undertaking, the Delhi Electric Supply undertaking and the Delhi

(c) any telegraph, telephone or postal service.

1. Subs. by Delhi Act No. 6 of 1955.

2. Subs. by Delhi Act No. 21 of 1961.

47. Power to make rules :-

1.

(1) The Government may, after previous publication make, by notification in the Official Gazette, rules to carry out 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 manner and form in which the registers shall be kept;

(b) the manner and form in which any notice required by this Act shall be given;

(c) the conditions subject to which any exemption under this Act may be granted;

²[(cc) the manner in which inquiry under sub-section (2) of section 15 shall be held];

(d) the manner in which the occupier of a shop or a commercial establishment shall keep exhibited in the premises the notice of close day, closing and opening hours and such other particulars as may be prescribed;

(e) deductions that may be made from the wages of the employee;

(f) fines and dismissals;

(g) the form of submitting a statement, the fees and other particulars under sub-section (1) of section 5, the manner in which the registration of establishment is to be made and the form of registration certificate under sub-section (2) of section 5, and form for notifying a change and the fees under section 5;

(h) further particulars to be prescribed for the letter of appointment under section 34;

(i) fixing time and method for cleaning the establishment under section 25 and prescribing such establishments as are to be exempted from the provisions of and precautions against fire to be taken under section 28;

(j) qualifications of ³[Chief Inspector and Inspectors] appointed under section 36 and their powers and duties;

(k) any other matter which is or may be prescribed.

⁴ [(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.]

1. Subs. by Delhi Act No. 21 of 1961.

2. . Subs. by Delhi Act No. 21 of 1961.

3. Ins. by Delhi Act No. 6 of 1955.

4. Subs. by Delhi Act No. 6 of 1955, for the word "Inspectors".

48. Repeal of Punjab Trade Employees Act, 1940 as extended to the 4[Union Territory of Delhi :-

] On and from the date of the commencement of this Act, the Punjab Trade Employees Act, 1940 Punjab Act 10 of 1940 as extended to Union Territory of Delhi shall be repealed :

Provided that -

(a) every appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act;

(b) any proceedings relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but and continued in operation and penalty imposed on such proceedings shall be recovered under the Act so repealed.

49. Application of General Clauses Act, 1897 :-

The provisions of General Clauses Act, 1897 (10 of 1897) shall apply for the interpretation of this Act as they apply for the interpretation of a Central Act.]

SCHEDULE 1
Exemptions