

Orissa Shops And Commercial Establishments Act, 1956

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions
3. Exemptions

CHAPTER 2 :- REGISTRATION OF ESTABLISHMENTS

4. Registration Of Establishment
5. Change In Statement Under Section 4 To Be Communicated To Inspector
6. Closing Of Establishment To Be Communicated To Inspector

CHAPTER 3 :- HOURS OF WORK

7. Daily And Weekly Hours
8. Extra Wages For Overtime Work
9. Interval For Rest
10. Spread-Over
11. Opening And Closing Hours
12. Weekly Holidays

CHAPTER 4 :- ANNUAL LEAVE WITH WAGES

13. Section 13
14. Annual Leave With Wages
15. Wages During Leave Period
16. Payment Of Advance In Certain Cases
17. Mode Of Recovery Of Unpaid Wages
18. Power To Make Rules
19. Power To Exempt Establishment

CHAPTER 5 :- WAGES

20. Application And Amendment Of The Payment Of Wages Act, 1936
21. Gratuity

CHAPTER 6 :- EMPLOYMENT OF CHILDREN AND WOMEN

22. Prohibition Of Employment Of Children
23. Prohibition Of Employment Of Women Or Children During Night
24. Prohibition Of Employment During Certain Periods

- 25. Notice Of Presence Of Pregnancy
- 26. Maternity Leave
- 27. Maternity Benefit
- 28. Intervals For Nursing The Child
- 29. Prohibition Of Dismissal During Or On Account Of Absence From Work Owing To Confinement

CHAPTER 7 :-APPOINTMENT,POWERS AND DUTIES OF CHIEF INSPECTOR AND INSPECTORS

- 30. Appointment Of Chief Inspector And Inspectors
- 31. Powers And Duties Of Inspectors
- 32. Chief Inspector And Inspectors To Be Public Servants
- 33. Employer To Produce Registers, Records, Etc., For Inspection
- 34. Delegation Of Power

CHAPTER 8 :- OFFENCES, PENALTIES AND PROCEDURE

- 35. Section 35
- 36. Procedure
- 37. Section 37
- 38. Maintenance Of Registers And Records And Display Of Notices
- 39. Saving Of Certain Rights And Privileges
- 40. Application Of The Workmans Compensation Act, 1923
- 41. Protection Of Action Taken In Good Faith
- 42. Power To Make Rules
- 43. Repeal

Orissa Shops And Commercial Establishments Act, 1956

An Act to regulate the conditions of work and employment in shops and commercial establishments in the State of Orissa Whereas it is expedient to regulate the conditions of work and employment in shops and commercial establishments in the State of Orissa; It is hereby enacted by the Legislature of the State of Orissa in the Seventh Year of the Republic of India as follows : *. Published vide Orissa Act No. 30 of 1956. For Statement of Objects and Reasons, see Orissa Gazette, Ext. 5.9.1956, p. 25; for Report of Select Committee, see ibid dated 27th September, 1956. p. 3.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Orissa Shops and Commercial Establishments Act, 1956.
- (2) It extends to the whole of the State of Orissa.
- (3) This section shall come into force at once.
- (4) The remaining sections shall come into force in the first instance

in such areas and on such date as the State Government may specify by notification in this behalf.

(5) The State Government may, after giving ninety days notice of its intention of so doing, by notification bring into force the remaining provisions of this Act to such other area or areas and on such date or dates as may be appointed in this behalf.

2. Definitions :-

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

(1) "apprentice" means a person, aged not less than twelve years, 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) "Chief Inspector" means the Chief Inspector appointed to function as the chief executive authority under this Act;

(3) "closed" means not open for the service of any customer or for any business connected with the establishment;

(4) "commercial establishment" means a commercial or trading or banking or Insurance establishment, an establishment or administrative service in which the persons employed are mainly engaged in official work, hotel, restaurant, boarding, or eating house, cafe or any other refreshment house, theatre or any other place of public amusement or entertainment and includes such establishment as the State Government may, by notification, declare to be a commercial establishment for the purposes of this Act;

(5) "day" means the 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 hour beginning from the time when such employment commences irrespective of midnight

(6) "employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice, but does not include a member of the employers family. It also includes any clerical or other staff of a factory or industrial establishment who falls outside the coverage of the Factories Act, 1948 (LXIII of 1948);

(7) "employer" means a person having charge of, or owning or having ultimate control over the affairs of an establishment and

includes the manager, agent or other person acting in the general management or control of an establishment;

(8) "establishment" means a shop or a commercial establishment,

(9) "family" in relation to an employer means the husband or wife, son, daughter, father, mother, brother or sister of such employer who lives with and is dependent on him;

(10) "Inspector" means an Inspector appointed under this Act;

(11) "leave" means leave provided for in Chapter IV of this Act;

(12) "night" means a period of at least twelve consecutive hours which shall include the interval between 10 p.m. and 6 a.m.;

(13) "opened" means opened for the service of any customer or for any business connected with the establishment;

(14) "period of work" means the time during which an employee is at the disposal of the employer;

(15) "prescribed" means prescribed by rules under this Act;

(16) "prescribed authority" means the authority prescribed under the rules made under this Act;

(17) "register of establishment" means a register maintained for the registration of establishments under this Act;

(18) "registration certificate" means a certificate showing the registration of establishment;

(19) "shop" means any premises where any trade or business is carried on or where service are rendered to customers and includes offices, store rooms, godowns or warehouses, whether in the same premises or otherwise, used in connection with such trade or business but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948 (LXIII of 1948);

(20) "spread over" means the period between the commencement and the termination of the work of an employee on any day;

(21) "week" means the period of seven days beginning at midnight of Saturday or such other night as may be approved in writing for a particular area by the prescribed authority.

3. Exemptions :-

- (1) Nothing in this Act shall apply to -
- (a) offices of, or under the Central or State Government or local authorities;
 - (b) offices under the Reserve Bank of India;
 - (c) establishments run by the owners themselves without

employing any employee or establishments in which only members of employers family are employed;

(d) establishments for the treatment or care of the sick, infirm, destitute, mental unfit persons;

(e) persons occupying positions of management or employed in confidential capacity;

(f) persons whose work is inherently intermittent such as travellers or care-takers;

(g) persons directly engaged in preparatory or complementary work such as clearing or forwarding clerks responsible for the despatch of goods;

(h) fairs, or bazars for the sale of work for charitable or other purposes for which no private profit is derived; and

(i) libraries at which the business of lending books or periodicals is not carried on for purposes of gain other than that of making profits for charitable, philanthropic, religious or educational objects.

(2) The State Government may, by notification exempt either permanently or for any specified period, any establishment or class of establishments or persons or class of persons, to which or to whom this Act applies, from all or any of its provisions subject to such conditions as they may deem fit.

CHAPTER 2 REGISTRATION OF ESTABLISHMENTS

4. Registration Of Establishment :-

(1) Within the period specified in Sub-section (4), the employer of every establishment shall send to the Inspector of the area concerned, a statement in the 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, that is whether it be a shop, commercial establishment, hotel, restaurant, cafe, boarding or eating house, theatre or other place of public amusement or entertainment; and

(e) such other particulars as may be prescribed.

(2) On receipt of the statement and the fees, the 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 prescribed form a registration certificate to the employer. The registration certificate shall be

prominently displayed at the establishment.

(3) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the Chief Inspector who shall, after such enquiry as may be prescribed, decide the category of such establishment and his decision shall be final for the purpose of this Act.

(4) Within thirty 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 Inspector under Sub-section (1)-

Establishment

(1) Date from which the period of 30 days to commence

(2)

(i) Establishment existing on the date

on which this Act comes into force The date on which this Act comes into force.

(ii) New establishments The date on which the establishment commences its work.

5. Change In Statement Under Section 4 To Be Communicated To Inspector :-

It shall be the duty of an employer to notify to the Inspector, in the prescribed form, any change in respect of any information contained in his statement under Section 4 within seven days after the change has taken place. The Inspector shall on receiving such notice 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.

6. Closing Of Establishment To Be Communicated To Inspector :-

The employer shall, within ten days of his closing the establishment, notify to the Inspector in writing about the said closure. The inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate.

CHAPTER 3 HOURS OF WORK

7. Daily And Weekly Hours :-

(1) No employee in any establishment shall be required or allowed to work for more than nine hours in, any day and forty-eight hours in any week :

Provided that-the total number of hours of work including overtime shall not exceed ten hours in any day except on days of stocktaking and preparation of accounts :

Provided further that the total number of overtime hours worked by an employee does not exceed fifty during a period of three months.

(2) No child between the ages of twelve and fifteen shall be allowed to work in any employment for more than five hours in a day.

8. Extra Wages For Overtime Work :-

(1) Where an employee works in any establishment for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of such overtime work be entitled to double the ordinary rate of wages.

(2) For the purpose of this section, "ordinary rates of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food-grains and other articles as the worker is for the time being entitled to but does not include a bonus.

(3) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation 1- "Standard family" means a family consisting of the employee, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2-"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 below the age of fourteen years shall be calculated at the rates of 0.8 and 0.6 respectively of one adult consumption unit.

(4) The State Government may make rules providing-

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food-grains and other articles shall be computed; and

(b) the registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this section.

9. Interval For Rest :-

The period of work of an employee in an establishment each day shall be so fixed that no period shall exceed five hours and that no such person shall work for more than five hours before he had an interval for rest of at least half an hour.

10. Spread-Over :-

The spread-over of an employee in an establishment inclusive of the interval for rest shall not exceed twelve hours in any day.

11. Opening And Closing Hours :-

(1) No establishment shall, on any day, be opened earlier than and closed later than such hour as may be fixed by a general order of the State Government made under Sub-section (2).

(2) The State Government may, after making an enquiry in the prescribed manner, by general or special order, fix the time at which any establishment or class of such establishments shall be opened or closed in any local area.

12. Weekly Holidays :-

(1) Every establishment shall remain closed for one day in the week. The employer shall fix such day at the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. The employer shall not alter such day more often than once in three months, shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.

(2) Every employee in an establishment shall be given at least one whole day in a week as a holiday for rest. This is without prejudice to the existing practice in establishments which allow one and a half days rest.

(3) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his establishment or any other place for any work in connection with the business of his establishment on a weekly holiday or on a day on which such establishment remains

closed:

Provided that if local custom so requires, an establishment may remain open for business on any such holiday or on a day on which such establishment remains closed in which event every employee thereof shall be given equivalent leave in lieu of such holiday or holidays within that year.

(4) Notwithstanding anything contained in Sub-section (1) the State Government may allow an establishment to remain open through out the week if they are satisfied that the establishment employs additional staff for the purpose of working on weekly holidays or on a day on which such establishment remain closed.

(5) No deductions shall be made from the wages of any employee in any establishment on account of the holiday given to him under Sub-section (1). If any employee is employed on daily wages he shall nonetheless be paid his wages for the weekly holiday :

Provided that nothing in this sub-section shall apply to any person, who is employed on daily wages and whose total period of continuous employment in a week, including any days spent on leave admissible under the Act, is less than six days.

CHAPTER 4 ANNUAL LEAVE WITH WAGES

13. Section 13 :-

1. Omitted vide Orissa Act No. 2 of 1966 dated 24.5.1966.

14. Annual Leave With Wages :-

(1) Every employee who has worked for a period not less than two hundred and forty days in an establishment during a year shall be allowed during the subsequent year, leave with wages for a number of days calculated at the rate of-

(i) if an adult, one day for every twenty days of work performed by him during the previous year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous year.

Explanation 1-For the purpose of this sub-section-

(a) any days of lay-off, by agreement of contract or as permissible under the standing orders of an employer;

(b) in the case of a female employee, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned during the year prior to that in which the leave is enjoyed;

shall be deemed to be days on which the employee has worked in an establishment for the purpose of computation of the period of not less than two hundred and forty days but he shall not earn for these days.

Explanation 2-The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) An employee, whose service commences otherwise than on the first day of January of a year, shall be entitled to leave with wages at the rate laid down in Clause (i) or, as the case may be, Clause (ii) of Sub-section (1) if he worked for two-thirds of the total number of days in the remainder of the year.

(3) In addition to any leave that may be given under Sub-section (1) every employee shall be entitled also during any year to sickness leave not exceeding fifteen days :

Provided that sickness leave shall be admissible only after continuous employment for a period of one year :

Provided further that the granting of sickness leave shall be subject to such condition as may be prescribed.

(4) If an employee is discharged or dismissed from service during the course of a year, he shall be entitled to leave with wages at the rate laid down in Sub-section (1) even if he has not worked for the entire period specified in Sub-section (1) or Sub-section (2) entitling him to earn leave.

(4-A) The services of an employee shall not be terminated unless a notice of thirty days for such termination has been given to him or unless, in lieu of notice, the employer has paid to the employee wages for one month calculated at the rate payable on the date of the notice of termination of service :

Provided that no such notice or payment of wages in lieu of such notice shall be necessary if the termination of service is made as a measure of punishment or if the termination is under an agreement between the employer and employee concerned, which specifies a date for the termination of service.

(5) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full days leave, and fraction of less than half a day shall be omitted.

(6) If an employer does not in any year take the whole of the leave allowed to him under Sub-section (1) or Sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding year :

Provided that the total number of days of leave that may be carried

forward to a succeeding year shall not exceed thirty in the case of adult or forty in the case of a child :

Provided further that an employee who has applied for leave with wages but has not been allowed such leave in pursuance of any scheme laid down in Sub-section (9) or (10) shall be entitled to carry forward the unavailed leave without any such limit.

(7) An employee may at any time apply in writing to the manager of an establishment not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowed to him during a year :

Provided that the number of times leave may be taken during any year shall not exceed three.

(8) If an employee wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in Sub-section (7), and in such case, wages as admissible under Section 16 shall be paid not later than fifteen days from the date the leave is availed of.

(9) For the purpose of ensuring continuity of work in an establishment, the employer in agreement with the representatives of the employees therein chosen in the prescribed manner, may formulate a scheme in writing whereby the leave allowable under this section, may be regulated.

(10) The scheme formulated under Sub-section (9) shall be posted in convenient places in the premises of the establishment and shall remain in force for a period of twelve months and may thereafter be renewed, with or without modification, for a further period of twelve months at a time by the employer in agreement with the representatives of the employees as specified in Sub-section (9).

(11) An application for leave which does not contravene the provisions of Sub-section (7) shall not be refused, unless refusal is in accordance with the scheme for the time being in force under Sub-sections (9) and (10).

(12) If the employment of an employee who is entitled to leave under Sub-section (1) or Sub-section (2), as the case may be, is terminated by the employer before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under Section 15 in respect of the 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 any employee quits his employment, on or before the next pay day.

(13) The unavailed leave of an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge, or dismissal.

(14) No employee shall be entitled to terminate his employment unless he has given to the employer a notice of not less than thirty days.

(15) Where an employee contravenes the provisions of Sub-section (14) he shall be liable to forfeiture of any unpaid wages payable by the employer for a period not exceeding fifteen days.

15. Wages During Leave Period :-

(1) For the leave allowed to him under Section 14, an employee shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowances and the cash equivalent of the advantage accruing through the concessional sale to the employee of foodgrains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the employee of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family as hereinbefore referred to in the Explanations to Sub-section (3) of Section 8.

(3) For the purpose of this section the provisions of Sub-section (4) of Section 8 shall apply mutatis mutandis.

16. Payment Of Advance In Certain Cases :-

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 child shall, before his leave begins, be paid the wages due for the period of leave allowed.

17. Mode Of Recovery Of Unpaid Wages :-

Any sum required to be paid by an employer under this Chapter but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (IV of 1936).

18. Power To Make Rules :-

The State Government may make rules directing employers to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by the Inspector of the area concerned and the Chief Inspector.

19. Power To Exempt Establishment :-

Where the State Government are satisfied that the leave rules applicable to employees in an establishment provide benefits which in their opinion are not less favourable than those for which this Chapter makes provision, they may, by written order, exempt the establishment from all or any of the provisions of this Chapter, subject to such conditions as may be specified in the order.

CHAPTER 5 WAGES

20. Application And Amendment Of The Payment Of Wages Act, 1936 :-

(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (herein referred to as "the said Act"), the State Government may, by notification, direct that subject to the provisions of Sub-section (2). The said Act or any of the provisions thereof shall apply to all or any class of employees in any establishment to which this Act applies.

(2) On the application of the provisions of the said Act to any establishment under Sub-section (1), the Inspector or the Chief Inspector appointed under this Act shall be deemed to be the Inspector for the purposes of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

21. Gratuity :-

An employee who has completed ten or more years of continuous service with full wages shall, on quitting the service for reasons that may be prescribed or on his death, his legal heir be entitled to a gratuity equivalent to fifteen days wages last drawn for each year of service.

CHAPTER 6 EMPLOYMENT OF CHILDREN AND WOMEN

22. Prohibition Of Employment Of Children :-

No child who has not completed the age of twelve shall be required

or allowed to work in any establishment.

23. Prohibition Of Employment Of Women Or Children During Night :-

No woman or a child between the ages of twelve and fifteen shall be required or allowed to work whether as an employee of otherwise in any establishment during night.

24. Prohibition Of Employment During Certain Periods :-

No woman shall engage herself in employment in any establishment during the six weeks following the day on which she is delivered of a child and no owner or manager of an establishment shall knowingly employ such woman.

25. Notice Of Presence Of Pregnancy :-

(1) If any woman employed in an establishment is pregnant and gives notice in writing in the prescribed form to the employer that she expects to be delivered of a child within six weeks from the date of such notice, the employer shall permit her, if, she so desires, to absent herself from work up to the day of her delivery : Provided that before granting such permission the employer may, at his own cost require the woman to be examined by a qualified medical practitioner or midwife, and if the woman refuses to submit herself to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within six weeks, he may refuse such permission.

(2) The examination referred to in the proviso to Sub-section (1) shall, if the woman so desires, be carried out by a midwife.

26. Maternity Leave :-

The absence of a woman during the period she is entitled to maternity benefit under this Act or, due to illness medically certified to arise out of pregnancy or confinement, shall be treated as authorised absence on leave.

27. Maternity Benefit :-

(1) Every woman employed in an establishment who has been continuously employed in such establishment or in establishments belonging to the owner of such establishment for a period of not

less than six months preceding the date of her delivery, shall be entitled to receive and the employer shall be liable to make to her, a payment of a maternity benefit at a rate for every day during the six weeks immediately preceding and including the day of her delivery and for each day of the six weeks following her delivery as may be prescribed by the State Government :

Provided that no such payment shall be made for any day on which she attends work and receives payment there for during the six weeks preceding her delivery.

(2) The manner in which the maternity benefit shall be payable may be prescribed by the State Government.

28. Intervals For Nursing The Child :-

Any woman employed in an establishment, who is delivered of a child, shall while she is nursing such child, be allowed half-an-hour twice a day during her working hours, for purposes of such nursing in addition to regular intervals for rest.

29. Prohibition Of Dismissal During Or On Account Of Absence From Work Owing To Confinement :-

(1) When a woman absents herself from work under Section 26 it shall be unlawful for the employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman, but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of such maternity benefit if the Inspector is satisfied that her dismissal was without sufficient cause.

CHAPTER 7 APPOINTMENT, POWERS AND DUTIES OF CHIEF INSPECTOR AND INSPECTORS

30. Appointment Of Chief Inspector And Inspectors :-

(1) The State Government may by notification appoint a Chief Inspector who shall be the Chief Executive Authority for the purposes of carrying out the provisions of this Act.

(2) The State Government shall by notification appoint such persons or such class of persons as they think fit to be Inspectors for the purposes of this Act, within such local limits as they may

assign to them.

(3) In addition to any power conferred on the Chief Inspector by this Act, the Chief Inspector may exercise all the powers of an Inspector.

31. Powers And Duties Of Inspectors :-

Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed-

(a) enter, at all reasonable times and with such assistants, if any being persons in the service of the Government or of any Local authority as he thinks fit, any place which is or which he has reason to believe is 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 purposes of this Act; and

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

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

32. Chief Inspector And Inspectors To Be Public Servants :-

The Chief Inspector and every Inspector appointed under Section 30 shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

33. Employer To Produce Registers, Records, Etc., For Inspection :-

Every employer shall, on demand, produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act.

34. Delegation Of Power :-

The State Government may by order direct that any of their functions under any of the provisions of this Act shall, in such circumstances and subject to such condition, if any, as may be specified in the order, be exercised or discharged by local authorities generally or by any particular local authority.

CHAPTER 8 OFFENCES, PENALTIES AND PROCEDURE

35. Section 35 :-

1[(1) Whoever contravenes any of the provisions of Sections 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 24, 25, 26, 27 and 29 shall on conviction, be punishable with fine which for the first offence shall not be less than twenty-five rupees and may extend to two hundred and fifty rupees and for the second or subsequent offence shall-not be less than fifty rupees and may extend to five hundred rupees.

(2) Whoever contravenes any of the provisions of Sections 8, 16, 22, 23, 28, 33 and 38 shall on conviction be punishable with fine which shall not be less than fifteen rupees and may extend to fifty rupees.]

1. Substituted vide Orissa Act No. 2 of 1966.

36. Procedure :-

(1) No prosecution under this Act or the rules or orders made there under shall be instituted except by the Chief Inspector or an Inspector appointed under Section 30 or except with the previous sanction of the State Government or the local authority as the case may be.

(2) No Court interior to that of a Magistrate of the second class shall try any offence punishable under this Act or any rules or orders made there under.

37. Section 37 :-

1. Omitted vide Orissa Act No. 2 of 1966.

38. Maintenance Of Registers And Records And Display Of Notices :-

Subject to the general or special order of the State Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

39. Saving Of Certain Rights And Privileges :-

Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to under any other law, contract, custom or u-sage applicable to such establishment or any

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.

1. Omitted vide Orissa Act No. 2 of 1966.

40. Application Of The Workmans Compensation Act, 1923

:-

The provisions of the Workmens Compensation Act, 1923 (VIM of 1923) and the rules made there under shall, mutatis mutandis, apply to every employee of a shop or commercial establishment.

41. Protection Of Action Taken In Good Faith :-

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.

42. Power To Make Rules :-

(1) The State Government may make rules for the purposes of carrying into effect the provisions of this Act and also with reference to all matters expressly required or allowed by this Act to be prescribed.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide in respect of the health, safety and welfare of employees.

(3) In making rules under this section, the State Government may provide that a contravention of the rules shall be punishable with fine which may extend to fifty rupees.

(4) The rules made under this section shall be subject to the conditions of previous publication, and when so made, shall be deemed to be part of this Act.

43. Repeal :-

On and from the date of the commencement of this Act in respect of an establishment the Weekly Holidays Act, 1942 (XVIII of 1943) shall cease to apply to such establishment :

Provided that-

(a) every appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under the provisions of the Act so ceasing to apply shall, in so far as it is not inconsistent with the

provisions of this Act, be deemed to have been made, issue or given under the provisions of this Act, unless and until supersede by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act;

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