

The Model Shops and Establishments (Regulation of Employment
and Conditions of Service) Bill, 2016

THE ---- (*Name of State*) SHOPS AND ESTABLISHMENTS (REGULATION
OF EMPLOYMENT AND CONDITIONS OF SERVICE) BILL, 2016

A

Bill

*to amend and consolidate the laws relating to regulation of employment and other
conditions of service of workers employed in shops and establishments and
for matters connected therewith or incidental thereto.*

BE it enacted by the Legislature of the State of the ----- (*Name of State*) in
the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1.(1) This Act may be called the ---- (*Name of State*) Shops and
Establishments (Regulation of Employment and Conditions of Service) Act, 2016.

Short title,
application and
commencement.

(2) It shall apply to the shops and establishments employing ten or more
workers.

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

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Chief Facilitator” means the Chief Facilitator appointed as such
under sub-section (1) of section 17;

(b) “day” means a period of twenty-four hours beginning at mid night;

(c) “employer” means an owner or a person who has ultimate control
over the affairs of a shop or an establishment, and includes—

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

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

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

(d) "establishment" means any premises, not being the premises of a factory or a shop,—

(i) wherein any trade, business, manufacture, or any work in connection with, or incidental or ancillary thereto, or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or produce exchange, is carried on; or

(ii) which is used as theatre, cinema, or for any other public amusement or entertainment,

to whom the provisions of the Factories Act, 1948 does not apply;

63 of 1948.

(e) "notification" means a notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "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, go-down, warehouse or workhouse or work place for distribution or packaging or repackaging or finished goods is carried on; but does not include a shop attached to a factory where persons employed in such shop are allowed the benefits provided under the Factories Act, 1948;

63 of 1948.

(h) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(i) any remuneration payable under any award or settlement between the parties or under any order of a court or tribunal;

(ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

(iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

(iv) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions;

(v) any sum to which the person employed is entitled under any scheme framed under any law, for the time being in force; and

(vi) house rent allowance,

but does not include—

(A) any bonus, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or under any order of a court;

(B) the value of any accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;

(C) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(D) any travelling allowance or the value of any travelling concession;

(E) any sum paid to the employed person to defray special expenses entailed to him by the nature of his employment; or

(F) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv);

(i) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Facilitator;

(j) "worker" means any person (except an apprentice under the Apprentice 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.

52 of 1961.

3. (1) The provisions of this Act shall not apply to—

(a) a worker occupying position of confidential, managerial or supervisory character in a shop or in an establishment;

(b) a worker whose work is inherently intermittent;

(c) any office of the Government or the local authority;

(d) any office of the Reserve Bank of India;

(e) an establishment used for the treatment or care of the sick, infirm, destitute or mentally unfit; and

(f) a member of the family of an employer.

Act not to apply to certain persons and premises.

(2) A list of the workers referred to in clause (a) of sub-section (1) shall be displayed on the website of the shop or establishment and in absence of the website at a conspicuous place in the shop or establishment and a copy thereof shall be sent to the Facilitator.