

Passed on 05-12-18

THE KERALA SHOPS AND COMMERCIAL  
ESTABLISHMENTS (AMENDMENT)  
BILL, 2018

(As passed by the Assembly)

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BILL

*further to amend the Kerala Shops and Commercial Establishments Act, 1960.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960), for the purposes hereinafter appearing;

BE it enacted in the Sixty-ninth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called The Kerala Shops and Commercial Establishments (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 4th day of October, 2018.

2. *Amendment of section 2.*—In The Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960), (hereinafter referred to as the principal Act), for clause (6) of section 2, the following clause shall be substituted, namely:—

“(6) “employee” means a person wholly or principally employed in, and in connection with any establishment and includes an apprentice or any class of persons as the Government may, by notification in the Gazette, declare to be an employee for the purposes of this Act;”

3. *Substitution of new section for section 11.*—For section 11 of the principal Act, the following section shall be substituted, namely:—

“11. *Grant of weekly holidays.*—(1) Every person employed in a shop or a commercial establishment shall be allowed in each week a holiday of one whole day:

Provided that nothing in this sub-section shall apply to any person whose total period of employment in the week including any days spent on authorised leave, is less than six days.

(2) No deduction shall be made from the wages of any employee in an establishment on account of any day on which a holiday has been allowed in accordance with this section and if such person is employed on the basis that he would not ordinarily receive wages for such day, he shall nonetheless be paid for such day the wages he would have drawn had the holiday not been allowed on that day.”

4. *Amendment of section 20.*—In section 20 of the principal Act,—

(i) for the figure and letters “7 P.M.” the figure and letters “9 P.M.” shall be substituted;

(ii) the following proviso shall be added, namely:—

“Provided that an employer may employ women employees between 9 P.M. and 6.00 A.M., after obtaining the consent of such women employees and ensuring that no female employee is employed between those hours other than in groups consisting of at least five employees having a minimum of two female employees and adequate protection of their dignity, honour and safety, protection from sexual harassment and facility for transportation from the shop or establishment to the doorstep of their residence.”

5. *Insertion of new section 21B.*—After section 21A of the principal Act, the following section shall be inserted, namely:—

“21B. *Seating facilities.*—In every shop and establishment suitable arrangements for sitting shall be provided for all employees so as to avoid ‘on their toes’ situation throughout the duty time, so that they may take advantage of any opportunity to sit which may occur in the course of their work.”

6. *Amendment of section 29.*—In section 29 of the principal Act,—

(1) in sub-section (1A),—

(a) after the figure and letter “21A”, the figure and letter “21B” shall be inserted;

(b) for the words "five thousand rupees", the words "one lakh rupees" shall be substituted;

(c) for the words "ten thousand rupees", the words "two lakh rupees" shall be substituted;

(2) after sub-section (1A), the following proviso shall be inserted, namely:—

"Provided that the amount of fine for contravention of any of the provisions shall not exceed two thousand and five hundred rupees per employee employed."

(3) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) Whoever contravenes any of the provision of sections 7, 19, 20, 28 and 30 shall, on conviction, be punishable with fine which may extend to fifty thousand rupees:

Provided that the amount of fine for contravention of any of the provisions shall not exceed two thousand rupees per employee employed."

(4) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Whoever, wilfully obstructs an Inspector in exercising all or any of the powers conferred upon him by or under this Act or the rules made thereunder or refuses or wilfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, enquiry or investigation authorised by or under this Act or the rules made thereunder, in relation to a shop or establishment shall be punishable with fine which may extend to one lakh rupees."

(5) after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (2) of section 29 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) a Judicial Magistrate of the First Class shall be empowered to impose a fine which may extend to two lakh rupees for the offences punishable under this Act."

7. *Amendment of section 30.*—The following provisos shall be added, to section 30 of the principal Act, namely:—

“Provided that the registers and records may be maintained electronically in such form and manner, as may be prescribed:

Provided further that at the time of inspection, a hardcopy of such registers and records, if demanded, shall be submitted to the Inspector duly signed by the employer.”.

8. *Repeal and savings.*—(1) The Kerala Shops and Commercial Establishments (Amendment) Ordinance, 2018 (50 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

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