

Bill No. 216 of 2016

THE FACTORIES (AMENDMENT) BILL, 2016

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BILL

further to amend the Factories Act, 1948.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Factories (Amendment) Act, 2016.

Short title
and
commencement.

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

63 of 1948.

2. In the Factories Act, 1948 (hereinafter referred to as the principal Act), in section 2, in clause (p), for the words "State Government", the words "Central Government or, as the case may be, the State Government" shall be substituted.

Amendment
of section 2.

3. In section 64 of the principal Act,—

Amendment of
section 64.

10 (a) for the words "State Government" wherever they occur, the words "Central Government or, as the case may be, the State Government" shall be substituted;

(b) in sub-section (4), in clause (iv), for the word "fifty", the words "one hundred" shall be substituted;

(c) in sub-section (5), for the words "Rules made", the words, brackets and figures "Rules made before the commencement of the Factories (Amendment) Act, 2016" shall be substituted.

Amendment of
section 65.

4. In section 65 of the principal Act,—

(a) for the words "State Government" wherever they occur, the words "Central Government or, as the case may be, the State Government" shall be substituted; 5

(b) in sub-section (3), in clause (iv), for the word "seventy-five", the words "one hundred and fifteen" shall be substituted;

(c) after sub-section (3) and before the *Explanation*, the following proviso shall be inserted, namely:— 10

"Provided that the Central Government or the State Government or the Chief Inspector with the prior approval of the State Government, as the case may be, may, by order, further extend the total number of hours of overtime work in any quarter up to one hundred and twenty-five in the public interest."

Amendment of
section 115.

5. In section 115 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— 15

"(2) Every rule made by the Central Government or the State Government under this Act shall be laid, as soon as may be after it is made, before Parliament or, as the case may be, the State Legislature."

STATEMENT OF OBJECTS AND REASONS

The Factories Act was enacted in 1948. It's main object is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. The Act has been amended the years 1949, 1950, 1951, 1954, 1970 and 1976. The last amendment to the Factories Act, 1948 was made in the year 1987, wherein a separate Chapter was inserted relating to hazardous process.

2. There have been several developments over the last twenty years every since the last amendment was made. These include changes in the manufacturing practices and emergence of new technologies, ratification of ILO Conventions, Judicial decisions, recommendations of the Committees and decisions taken in the Conferences of Chief Inspectors of Factories. In order to give effect to those changes, a comprehensive Factories (Amendment) Bill, 2014 including the amendments presently proposed to sections 64 and 65 of the said Act, was introduced in Lok Sabha on 7th August, 2014. The said Bill was referred to the Department-related Parliamentary Standing Committee on Labour for examination and report, which presented its Report on the said Bill on 22nd December, 2014 to Parliament, which is under examination.

3. Since consideration and passing of the aforesaid Bill in Parliament may take some more time, with a view to boost the manufacturing sector and to facilitate ease of doing business so as to enhance employment opportunities, it has been decided to amend sections 64 and 65 of the Factories Act, 1948 urgently to extend the total number of hours of work on overtime. The salient features of the Factories (Amendment) Bill, 2016 *inter alia*, are to—

(a) enhance the limit of overtime hours from the present limit of fifty hours *per* quarter to one hundred hours *per* quarter under section 64;

(b) further increase the limit of overtime hours to maximum of one hundred and twenty-five hours *per* quarter in public interest under section 65;

(c) empower the Central Government, in addition to the State Governments, to make exempting rules and exempting orders in respect of total number of hours of work on overtime in a quarter, which would ensure uniformity in its application by various State Governments and Union territories.

4. The need for increasing the total number of hours of work on overtime in quarter is based on the demand from industries so that factories can carry out the work on urgent basis.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 18th August, 2016

BANDARU DATTATREYA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 and 3 of the Bill empower the Central Government, in addition to the State Government, to make exempting rules and exempting orders provided under section 64 and section 65 of the Act regarding permitting workers to work on overtime subject to certain conditions.

2. The matters in respect of which rules and orders may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE FACTORIES ACT, 1948

(63 OF 1948)

* * * * *
2. In this Act, unless there is anything repugnant in the subject of context,— Interpretation.
* * * * *

(p) "prescribed" means prescribed by rules made by the State Government under this Act;

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64. (1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed, and the provisions of this Chapter, other than the provisions of clause (b) of sub-section (1) of section 66 and of the proviso to that sub-section, shall not apply to any person so defined or declared: Power to make exempting rules.

Provided that any person so defined or declared shall, where the ordinary rate of wages of such person does not exceed the wage limit specified in sub-section (6) of section 1 of the Payment of Wages Act, 1936, as amended from time to time, be entitled to extra wages in respect of overtime work under section 59.

4 of 1936.

(2) The State Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed—

(a) of workers engaged on urgent repairs, from the provisions of sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;

(c) of workers engaged in work which is necessary so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56;

(d) of workers engaged in any work which for technical reasons must be carried on continuously from the provisions of sections 51, 52, 54, 55 and 56;

(e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day, from the provisions of section 51 and section 52;

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of section 51, section 52 and section 54;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of sections 52 and 55;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power-plant or transmission machinery, from the provisions of section 51 and section 52;

(i) of workers engaged in the printing of newspapers, who are held up of account of the breakdown of machinery, from the provisions of sections 51, 54 and 56.

Explanation.—In this clause the expression "newspapers" has the meaning assigned to it in the Press and Registration of Books Act, 1867;

25 of 1867.

(j) of workers engaged in the loading or unloading of railway wagons or lorries or trucks, from the provisions of sections 51, 52, 54, 55 and 56;

(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of section 61 which the State Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under clause (a) of sub-section (2), the following limits of work inclusive of overtime:—

* * * * *

(iv) the total number of hours of overtime shall not exceed fifty for any one quarter.

Explanation.—"Quarter" means a period of three consecutive months beginning on the 1st of January, the 1st of April, the 1st of July or the 1st of October.

(5) Rules made under this section shall remain in force for not more than five year.

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Power to make exempting orders.

65. (1) Where the State Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:—

* * * * *

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation.—In this sub-section "quarter" has the meaning as in sub-section (4) of section 64.

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Publication of rules.

115. (1) * * * * *

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the state Legislature.

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further to amend the Factories Act, 1948.

*[Shri Bandaru Dattatreya, Minister of State (Independent Charge) Labour and
Employment]*