

THE SHOPS AND ESTABLISHMENTS ACT, 1953

Objectives

To provide statutory obligation and rights to employees and employers in the unorganized sector of employment, i.e., shops and establishments.

To regulate the conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres and other places of public entertainment.

Scope and Coverage

- ✓ A state legislation; each state has framed its own rules for the Act.
- ✓ Applicable to all persons employed in an establishment with or without wages, except members of the employer's family.
- ✓ State government can exempt, either permanently or for a specified period, any establishments from all or any provisions of the Act.

Main Provisions

- ✓ Compulsory registration of shop/establishment thirty days of commencement of work.
- ✓ Communications of closure of the establishment within 15 days from the closing of the establishment.
- ✓ Lays down the hours of work per day and week.
- ✓ Lays down guidelines for spread-over, rest interval, opening and closing hours, closed days, national and religious holidays, overtime work.
- ✓ Rules for employment of children, young persons and women
- ✓ Lays down the minimum wages to be paid.

- ✓ Rules for annual leave, maternity leave, sickness and leave, etc.
- ✓ Rules for employment and termination of service.
- ✓ Maintenance of registers and records and display of notices.
- ✓ Obligations of employers.
- ✓ Obligations of employees.



Registration of Establishment

- Employers must send a statement in prescribed form with prescribed fee to Inspector of local area, within of the commencement of the establishment.
- The statement 'd contain, i) name of employer or manager; ii) the postal address of the establishment; iii) capacity of the establishment; iv) any other particulars as may be prescribed.
- The establishment may then be registered if the Inspector is satisfied with the correctness of the statement and then a Certificate of Registration is issued.
- Certificate of Registration 'd be prominently displayed on the premises of the establishment.

- Any change in the statement submitted to the Inspector must be notified in prescribed form within prescribed time.
- Closing of the establishment must also be notified to the Inspector within 10 days where upon such establishment may be removed from the registration of establishments and the registration certificate is cancelled.



Opening and Closing Time

Opening and closing time prescribed under the act are as follows-

- Shops dealing wholly in milks, vegetables, fruits, fish, bread etc
 - Opening : NBF 5.00am Closing: NLT 8.30 pm
- Shops dealing in goods other than those prescribed
 - Opening : NBF 7.00am Closing: NLT 11.00pm
- Commercial Establishments
 - Opening : NBF 8.30am Closing: NLT 8.30pm
- Customer who is being served or waiting to be served after closing time may be served within 15 min.



Working Hours

- No employee is allowed to work MT 9hrs in a day or 48 hrs in a week
- An employee may be allowed to work upto 3 hrs a week over and above this limit and upto 26 hrs or NMT 26 hrs in a year for purposes of making of accounts, stock settlements or prescribed occasions.
- No employee is allowed to work for more than 5 hrs stretch unless he is given rest for half an hour if in a commercial establishment engaged in manufacturing process, and 1 hr in any other cases.
- The spread over of an employee in shop 'd not exceed 8 hrs on any day.



Closing Day

- Every shop or commercial establishment 'd remain on any one day of the week. The list of closing day notified to the Inspector and displayed in the premises of the establishment.
- A shop or establishment may remain open on the closing day provided it remains closed on any other day of the week and this change 'd be notified to the Inspector at least a week in advance.
- Pharmacists, Chemists and Druggists shops are exempted from these provisions relating to closing day.



Employment of Children, Young persons and Women

- No Child (LT 14 yrs of age) may be allowed to work in any establishment
- No young person (LT 17 yrs) is allowed to work in any establishment for MT 3 hrs in any day unless he has an interval of rest of at least half an hour.
- No young person or women is allowed to work before 1.00am and after 7.00 pm in any establishment and perform any such work as may be declared by the Govt. to be involving danger of life, health or morals.

Health and Safety

- Premises 'd be 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 described which may include, lime washing, color washing, painting, varnishing, disinfecting and deodorizing.
- Every establishment 'd be well lighted and 'd also provide prescribed precautions against fire.
- A first aid box 'd be maintained at every establishment where manufacturing process is carried out.



Leave

- An employee who has worked for NLT 3 months in is allowed for leave NLT 5 days for every 60 days on he has worked and for a period of NLT 21 days for 240 days on which he works during an year. Such leave be accumulated for a maximum of 63 days.
- In addition every employee is entitled to:
 - i) casual leave for 7 days a year;
 - ii) medical leave for 7 days a year;
 - iii) leave for NMT 4 days a year on any of national festival holidays as specified by State Govt. These are with wages.



Wages

- The provisions of payment of Wages Act, 1936 and Workmen's compensation Act, 1932 are applicable regarding the payment of wages of employees.
- The wages payment period 'd be fixed by every employer and 'd not exceed one month.
- All wages 'd be paid in cash within 7 days of expiry of wage day.
- Due wages of an employee terminated by an employer 'd be paid within a day of the termination.



- Following deductions are allowed from the wages of the employees
 - Absence from duty
 - Fines
 - Advance or overpayment of wages
 - House accommodation and other amenities & services provided by the employer
 - Loss or damage of goods due to negligence of employee
 - Deductions to an insurance scheme appointed by Govt or for payment of Cooperative society.
 - Income tax deduction
 - Deduction required to be made by an order of the court or any other competent agency

Enforcement and Inspection

- Enforcement of the provisions of this Act is the responsibility of local authorities in their respective jurisdiction and State Govt. in respective areas.
- Local authority or state Govt. may appoint necessary number of inspectors for the purpose of this Act. An Inspector must possess the prescribed qualifications.
- An Inspector may-
 - Enter at all reasonable times with such assistants in a building in which he has reason to believe is an establishment.
 - Make examination of premises and of any prescribed records and notices and take on spot or otherwise evidence as he may deem necessary
 - Exercise such other powers as may be necessary for carrying out the purpose of Act

Offences and Penalties

Offenses	Penalties
Failing to send statement to Inspector within specified period	Employer and manager can be punished with fine of Rs. 25 to 250
<ul style="list-style-type: none"> Failing to apply for renewal of registration certificate Failing to notify change within specified period Failing to notify closing of establishment Contravention in provisions relating to opening and closing Holidays in a week Cleanliness, ventilation, lighting, precautions against fire Daily and weekly hours of work 	<p>If contravention relating to registration is continued, after 14th day after conviction, employer shall be punishable with a further fine upto Rs. 500 for each day of contravention. An enhanced penalty of Rs. 50 to 500 for second conviction and Rs. 750 for third conviction</p> <p>In exceptional cases, small firms</p>



Offenses	Penalties
<ul style="list-style-type: none">• Employment of Children, young persons and women• Not providing registers and records• Not maintaining registers and records• Knowingly permitting double employment or in a holiday during a leave	

Miscellaneous

- As per order of State Govt. an employer must maintain proper records and registers and this must be kept on the premises of the establishment.
- Employers of any residential hotel, restaurant or eating house etc as notified by State Govt. 'd issue identity cards for employees.
- When an employee is required to work in excess of the normal hours of work, he shall be entitled to wages at the rate of one and a half times his ordinary rate of wages.
- If an employee has been in continuous employment for one year, employer can dispense his services only by giving a minimum of 30 days notice in writing or wages in lieu of notice.