

ASSAM SHOPS AND ESTABLISHMENTS ACT, 1948

ASS'ÄM ACT XIII OF 1948 THE ASSAM SHOPS AND ESTABLISHMENTS ACT 4. 1948 (Received the assent of the Governor on the 17th June 1948) Preamble Short title, commerce- ment and application, [Published in the Assam Gazette of the 30th June, 1948] An Act To provide for and regulate the holidays, pay- ment of wages and leave of persons employed in shops, commercial establishments and establish- ments for public entertainment or amusement, and the hours of work of persons so employed. WHEREAS it is expedient to provide for and regulate the holidays, payment of wages and leave of persons employed in shops, commercial establishments and establishments for public entertainment or amusement, and the hours of work of persons so employed; It is hereby enacted as follows :— (I) This Act may be called the Assam Shops 1. and Establishments Act, 1948. (2) It shall come into force on such date J as the [Stater Government may, Ly notification, appoint. (3) It shall apply in the first instance to the Municipalities of Dhubri, Gauhati, Tezpur, Nowgong, Jorhat, Dibrugarh and Silchar as declared or consti- tuted under the provisions of the Assam Municipal Act, 1923, and to [the area for the time being comprised within the Cantonment and Municipality of Shillong but excluding so much of its area as forms part of the Ut:ited Khasi and Jaintia Hills ; and thereafter it shall apply to such other areas, or to such shops, commercial establishments or establish- ments for public entertainment or amusement in such other areas as the [State] Government may, by notifi- cation, specify. Assam Act 1 of 1923

1. Came into force from 16th Mays 1949—See Notification No.GGN,57143/79, dated the 16th May, 1949

2. Substituted by A.O., 1950 for "Provincial"

3. Substituted by A.O , 1950 for "the Domirion of India portion of the Khasi and Jaintia -Hills District other than that declared to Le a Partially Excluded Areas by the Government of India (Excluded and Excluded Areas) Order, 1936" Price 0.25 paise or 6d. per copiee. Definitions

2. In this Act, unless there is anything repugnant in the subject or context—(1) "Child" means a person who has not com- pleted his twelfth year of age ; (2) "Closed" means not open for the service of any customer ; (3) "commercial establishment" means an establishment in which there is conducted the business of advertising, commission, forwarding or commercial agency, a department of a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, cleric al department of any industrial or commer- Cial undertaking including one of public (ransport, an insurance company, joiqt stock company, broker's office, or exchange, or such other establishment or class thereof as the State Government rnav, by notifi- cation, declare to be a commercial establishtnent for the purposes of this Act, but does not include a shop or an establishment for public entertainment or amusement • (4) G'day3' means a period of twenty-f)ur hours beginning at midnight ; (5) "employer" means a person owning or having charge of the business of a commercial establish- ment or establishment for public entertainment or amusement, and includes an agent or manager of, and any other person acting on behalf such person in the general manag ement or control of such establishment ; (6) uegstablishment for public entertainment or amusement" means a restaurant, eating-house, cafe, cinema, theatre and such other est blishment or class thereof as the State 1 Government may, by notification, declare to be, for the purposes of this Act, an establish* ment for public entertainment or amusement, b it does not include a shop or a commercial establishment; (7) ' 'factory" means a factory as defined in, Act XXV of or declared to be a factory under, the Factories Act, 193 L 1934 ; (8) ' 'Half day" means a period of six consecutive hours between the hours of half past seven o'clock ante meridiem and seven o'clock post meridiem ; l. Substitweci by O. 1950 for €4ProvinciÄP'. 3 (9) "notification" means a notification published in the official Gazette ; (10) "person employed" means— (i) in the case ofa shop, a person wholly or principally employed in the shop in con- nection with the business of the shop, (ii) in the case of a commercial establishment, a person wholly or principally employed in connection with the businesS of the establishment, or in the case of a factory, a person eiLployed in a clei ical capacity in any room or place where no manu- facturing process is being carried on, (ii) in the case of an establishment for public entertainment or amusement, a person wholly or principally employed in the preparation or serving of food, or drink, or in attendance upon customers, or in cleaning any part of the establishment, or the utensils

used therein, or as attend- a:t, cashier, clerk, doorkeeper, operator c ther similar or usher, or in some capacity, but does not include a shop-keeper or employer child, father, or the husband, wife, mother brother or sister of a shop-keeper or employer who lives with, and is depen- dent on, such shop-keeper or employer ; (12) "prescribed" means pcscribed by rules ; (12) "rules" (neans rales made under this Act ; (13) ' 'shop" means any premises used wholly or in part for the wholesale or retail sale of commodities or articles, either for cash or on credit, and such other premises as the i StatelGovernment may, by notifica- tion, declare to be a shop for the purposes of this Act, but does not include a commercial establishment or an establishment for public entertainment or amusement ; (14) "shop-keeper" means a person owning or having charge of the business of a shop, and inclucles an agent or manager of, and any other person acting on behalf of, such person in the general management or control of a shop • (15) "week" means a period of seven days begin- ning at midnight on Saturday ; and (16) "year" means the period beginning on January the first, and ending on December 31st. ! • Substituted by Ae O. 1950 for "Provinciali". Reiércnce to 3. References to the time of day in this Act shall time of day be deemed to be references to Indian Standard Time, or any alternative time that the State Government may prescribe as Stan -lard time for Assam. Powers of 4. (1) The State I Government may for the purposes the State x of all or any of the provisions of this Act, by Government notification declare— (a) to be a shop, any premises which are not premises of a com mercial establishment or cf an establishment for public enterte tainment or amusement, (b) to be a commercial establish ment, any establishment which is not a shop or an establishment for public entertainment or amusement, and (c) to be an establishment for public enter- tainment or amusement, any establish- ment which is not a shop or a commercial establishment, (2) The provisions of this Act specified in a noti- shall apply to any fication under sub-section (1) premises cr establishment which, under the provisions of that sub-section, has been declared to be a shop or a commercial establishment or an establishment for public entertainment or amusement, as the case may be. (3) The State Government may, by notification on account of such holiday or other occasion as may be prescribed, suspend the operation of all or any of the provisions of this Act in respect of any shop or commercial establishment, or establishment for public entertainment or amusement, or of any class of shops or establishments as aforesaid for such period and subject to such conditions as it thinks fit. Act not ap- 5. (1) Nothing in this Act shall apply to— plica ble to certain estab- lishments, shops and persons. (a) offices of or under the Central cr State 1 Government, the Reserve Bank of India or any other bank, any railway adminis- tration 2 or any local authority ; (b) any railway service, water transport service, tramway or motor service, postal, telegraph or telephone service, any system of public conservancy or sanitation, any industry, business or undertaking which supplies power, light or water to the public and such other public utility companies or associations or classes thereof as the State Government may, by notification, exempt from the operation of this Act ; 1. Substituted by A. O. , 1950 for 'c Provincial" 2, Substituted 'by A. O.) 1950 -'Caray Federal Railway" (c) Clubs, residential hotels and boarding-houses; (d) stalls and refreshment rooms at railway stations, docks, wharves and airports ; (e' establishments for the treatment or care of the sick, infirm, destitute or mentally unfit ; (f) shops or classes of shops, dealing mainly in vegetables, meat³ fish, dairy produce, bread, pastries, sweetmeats, flowets so far as the retail sale Of these articles is con- (erned ; (g) pharmacies or shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites, so far as the sale of these articles is concerned • (h) shops dealing in aricles required for funerals, burials or cremations so far as the sale of. these articles is concerned ; (i) shops dealing in tobacco, cigars> cheeroots, cigarettes, biris, pan, liquid refreshments sold retail for consumption on the pre- mises, ice, newspapers or periodicals, so far as the sale of these articles is con- cerned ; (j) shops dealing in supplies, stotes or other articles necessary for ships, so far as the sale of these articles for ships is concern- ed ; (k) shops or stalls in any public exhibition or show, so far as such shops or stalls deal in J etail trade which is solely subsidiary or ancillary to the main purposes of such exhibition or show ; (l) shops or stalls in any public fair or bazar held for a charitable purpose ; (m) barber's and hairdresser's shops • (n) shops dealing in petroleum products or spare parts for motor vehicles or cycles (o) excise shops ; (p) any person employed in a managerial or confidential capacity, or as a traveller, canvasser, messenger, watch•rnan or care- taker, or exclusively in connection with the collection, despatch, delivery, and • conve- yance or customs formalities of goods ; li Substituted by A. O. , 1 950 for f Provincial". (q) (r) 6 such seasonal commercfial eslab'lishmentg engaged in the purchase of raw jute or cotton or in cotton ginning or cotton or jute pressing, and the clerical departments of such seasonal factories, as the Statel Government

may, by notification, exempt from the operation of this Act ; such other establishments, shops or persons or classes of establishments, shops or persons, as the State Government may, by notification, - exempt from the operation of all or any of the provisions of this Act. (2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification, declare that any shop, establishment or person specified in that sub-section shall not be exempt from the operation of such provisions of this Act as may be specified in the notification and that the provisions of this Act specified in such notification shall apply to such shop, establishment or person.

Exemption 6. No child shall be employed in any shop, commercial establishment, or establishment for public entertainment or amusement.

Closing Of 7, (1) Every shop shall be closed on one day in each week. (2) The State Government may, by notification, require in respect of every shop, or of any specified class of shops that they shall be closed at such hour as may be specified in the afternoon of one specified day in each week, in addition to the day referred to in sub-section (1) : Provided that, when there are conducted in a shop two or more trades or businesses, any of which is of such a character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that shop, such shop shall, so far as the conduct of that trade or business is concerned, be exempt from the operation of this sub-section, and of sub-section (1). (3) No deduction on account of any closure of a shop under the provisions of sub-section (1) or sub-section (2) shall be made from the wages of any person employed in such shop. (4) The day on which a shop shall be closed in each week under the provisions of sub-section (1) shall be such day as may be specified by the shop-keeper in a notice, which shall be displayed in a conspicuous place in the shop : Substituted by A. O., 1950 for S 'Provincial' 7 Provided that no shop-keeper shall, more often than once in every three months alter the day so specified.

Hours of 8. (1) No shop shall remain open after the hour of work in seven o'clock post meridiem ; but any customer who shop was being, or was waiting in the shop to be, served at such hour may be served during the period of thirty minutes immediately following such hour . Provided that when there are conducted in a shop two or more trades or businesses, any of which is of such a character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that shop, such shop shall, so far as the conduct of that trade or business is concerned, be exempt from the operation of this sub-section. (2) No person employed in a shop shall be required or permitted to work in such shop for more than nine hours in any one day, and for more than forty eight hours in any one week, and after the hour of seven o'clock post meridiem. (3) No person employed in a shop shall be required or permitted to work in such shop for more than seven hours in any one day, unless he has been allowed an interval for rest of at least one hour during that day, such interval to occur after the first four hours' continuous work. (4) The periods of work and intervals for rest of each person employed in a shop shall be arranged by the employer so that together they do not more than twelve hours in any one day.

Holidays in 9. (1) Every person employed in a commercial establishment shall be allowed as holidays at least one and a half days in each week : Provided that, when there are conducted in a commercial establishment two or more trades or businesses, any of which is of such a character that, if it was the sole trade or business therein conducted the provisions of this Act would not apply to that commercial establishment such commercial establishment shall, so far as the conduct of that trade or business is concerned, be exempt from the operation of this sub-section. (2) No deduction on account of any holiday allowed under the provisions of sub-section (1) shall be made from the wages of any person employed in such commercial establishment.

10. (1) Notwithstanding anything contained in the Holidays in Establishments Act, 1942, every person employed in an establishment for public entertainment or amusement shall be allowed as holidays at least one and a half days in each week : ment 2. Substituted for 'Fifty I x;vrs' by the amendment Act XI of 1964 Act XVIII of 1942. 8 Provided that, when there are conducted in an establishment for public entertainment or amusement two or more trades or businesses, any of which is of such a character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that establishment, such establishment shall, so far as the conduct of that trade or business is concerned, be exempt from the operation of this sub-section, (2) No deduction on account of any holiday allowed under the provisions of sub-section (1) shall be made from the wages of any person employed in such establishment for public entertainment or amusement.

Hour of (1) No person employed in an establishment for public entertainment or amusement shall be required or permitted to work in such establishment for more than ten hours

in any one day. ment or amusement, (2) No person employed in an establishment for public entertainment or amusement shall be required or permitted to work in such establishment— (a) for more than eight hours in any one day unless he has been allowed an interval for rest of at least one hour during that day, and (b) for more than six hours in any one day unless he has been allowed an interval for rest of at least half an hour during that day. (3) The periods of work and intervals for rest of each person employed in an establishment for Public entertainment or amusement shall be arranged by the employer of such persons so that together they do not extend over more than fourteen hours in any one day. i 2. All wages payable to any person employed in a Payment of wages. Leave. shop, commercial establishment or establishment for public entertainment or amusement shall be payable not later than the tenth day of the month immediately succeeding that in respect of which such wages are payable

13. Every person employed in a shop, commercial establishment or establishment for public entertainment or amusement shall be entitled—(a) after every twelve months' continuous employment, to privilege leave on full pay for a total period not exceeding sixteen days, (b) in every year, to casual leave on full pay for a total period not exceeding ten days, and (c) after every twelve - months' continuous employment, to leave on medical certificate on half pay for a period not exceeding one month, such certificate to be provided by a registered practitioner as defined in Assam Act I clause (b) of section 2 of Assam Medical of 1916. Act, 1916: Provided that neither privilege leave admissible under clause (a) nor casual leave admissible under clause (b) shall be accumulated. Holidays for 14. Every person employed in a shop, commercial religious establishment or establishment for public entertainment - purposes. ment or amusement shall be entitled to leave of absence for any days he may select, not exceeding three in number in any one year, for the purpose of attending ceremonies or performing functions or duties connected with or enjoined by his religion. Maintenance- 15. (1) Every shop-keeper and employer of an establishment for public entertainment or amusement, registers and notices. ment shall for the purposes of this Act maintain such records and registers, and display such notices, as may be prescribed. (2) Every employer of a commercial establishment shall for the purposes of this Act maintain such records and registers as may be prescribed. 16. (1) The State Government may, by notification, appoint such persons or such class of persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively. (2) After Inspectors appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860. Act XLV et Powers of 17, Subject as may be prescribed, an Inspector 1860' Inspectors. appointed under section 16 may, for the purposes of this Act and within the local limits for which he is appointed, at all reasonable times enter into any place which is, or which he has reason to believe is, a shop or a commercial establishment or an establishment for public entertainment or amusement, with such assistants, being public servants, as may be prescribed, and make such examination of that place and of any record, register or notice maintained there: (i) in under the provisions of section 15 and may require such explanation of any such record, register or notice as he may consider necessary for the purposes of this Act : 1. Substituted by A. O. , 1950 for < 'Provincial'. Penalties. 10 Provided that no person shall be required under this section to answer any question or give any evidence tending to criminate himself. (1) Whoever, being an employer or shop-keeper, contravenes any of the provisions of sections 7, 8, 9, 10 or 11 shall, on conviction, be punishable with fine which, for a first offence, may extend to two hundred and fifty rupees and, for a second or any subsequent offence, may extend to five hundred rupees. (2) Whoever, being an employer or shop-keeper, contravenes any of the provisions of sections 6, 12, 13, 14 or 15 and whoever, having custody of any record, register or notice maintained under the provisions of section 15, refuses or, without sufficient cause, fails to produce it on being so required by an Inspector under the provisions of section 17, shall, on conviction; be punishable with fine which may extend to fifty rupees, 19. (1) No Court inferior to a Magistrate of the First Class shall try an offence punishable under this Act. Indemnity. (2) No Court shall take cognizance of an offence punishable under this Act except upon complaint made by an Inspector appointed under section 16

20. No suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything in good faith done or intended to be done under this Act or the rules

21. Nothing in this Act shall affect any right or Saving of certain privilege to which any person employed in any shop, rights and commercial establishment or establishment for public privileges.entertainment or amusement is entitled at the date of the commencement of this Act under any

other law for the - time being in force or under any contract, custom or usage which is in force on that date, if such right or privilege is more favourable to him than any right or privilege conferred upon him by this Act.- Power to 22. (1) The State Government may, after previous make publication, make rules for carrying out the purposes of this Act. (2) In making any rule under this section the Statel Government may direct that any person committing a breach thereof shall, on conviction, be punishable with fine, which may extend to fifty rupees, and where the breahh is a continuing one, with a further fine which may extend to ten rupees for every day, after the first, during which the breach continues. 10 Substituted by A, 0., 1950 for "Provincial". AGP (Leg)

