

CHHATTISGARH SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 2017

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30. CHAPTER - V WELFARE PROVISIONS Drinking water.Latrines and urinals. Creche facility. First-Aid. Canteen. CHAPTER - VI FACILITATORS AND THEIR POW ERS AND FUNCTIONS Appointment of Chief Facilitator, Facilitators and their powers. CHAPTER - VII RECORDS AND RETURNS Maintenance of register and records. Annual return. CHAPTER - OFFENCES AND PENALTIES Penalty for contravention of provisions of this Act. Penalty for contravention of provisions of this Act which resulted in accident. Penalty for obstruction, refusal to provide register, etc. Cognizance of offences. Compounding of offences. CHAPTER - IX MISCELLANEOUS Protection of action taking in good faith. Power to grant exemption. Application of other laws not barred. Power to make rules. Power to remove difficulties. Repeal and saving. 614 (16) 23 2018 CHHATTISGARH ACT (No. 21 of 2018) THE CHHATTISGARH SHOPS AND ESTABLISHMENTS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT. 2017 An Act to consolidate and amend the lavvs relating to regulation of employment and other service conditions of workers employed in shops and establishments and for matters connected therewith or incidental thereto. Be it enacted by the Chhattisgarh Legislature in the Sixty-eighth Year of the Republic of India, as follows:- Short title, extent. application and commencement. Definitions. 1. 2. (l) (2) (3) (4) (a) (b) (c) (d) CHAPTER - 1 PRELIMINARY This Act may be called the Chhattisgarh Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017. It shall extend to the whole State of ChB attisgarh. It shall apply to the shops and

establishments employing ten or more workers. It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint. In this Act, unless the context otherwise requires,- Chief Facilitator" means the Chief Facilitator appointed under sub-section (1) of Section 17; Day" means a period of twenty-four hours beginning at mid night; Employer" means an owner or a person who has ultimate control over the affairs of a shop or an establishment, and includes,- (i) (ii) (iii) in the case of a firm or association of individuals, a partner or member of the firm or association; in the case of a company, a director of the company; in the case of a shop or an establishment owned or controlled by the Central Government or the 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; "Establishment" means any premises, not being the premises of a factory or a shop,- (i) (ii) 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 which is used as theater, cinema or for any other public amusement or entertainment, to whom the provisions of the Factories Act, 1948 (No. 63 of 1948) does not apply; "Notification" means a notification published in the Official Gazette; (17) (f) (g) (h) (i) "Prescribed" means prescribed by rules made under this Act; "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, godown, warehouse or workhouse or work place for distribution or packing or repacking of 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 (No. 63 of 1948); 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) (ii) (iii) (iv) (v) (vi) any remuneration payable under any award or settlement between the parties or under any order of a court or tribunal; any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period; any additional remuneration payable under the terms of employment (whether called a bonus or by any other name); 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; any sum to which the person employed is entitled under any scheme framed under any law, for the time being in force; and house rent allowance, but does not include,- (B) (C) (D) (E) 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; 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; any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon; any travelling allowance or the value of any travelling concession; any sum paid to the employed person to defray special expenses entailed to him by the nature of his employment; or any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv); 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; (18) Act not to apply to certain persons and premises. Certain rights and privileges not to be affected. Registration of shops and establishment and issue of Labour identification Number. Prohibition on discrimination against women workers. 3. 4. 5. 6. (j) (1) (2) (1) (2) (3) (4) (1) •Worker" means any person (except an apprentice under the Apprentice Act, 1961 (No. 52 of 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. The provisions of this Act shall not apply to,- (a) (b) (c) (d) (e) a worker occupying a position of confidential, managerial or supervisory character in a shop or in an establishment; a worker whose work is inherently intermittent; any office of the Government or the Local Authority; any office of the Reserve Bank of India; an establishment used for the care and treatment of the sick, infirm, destitute or mentally unfit; and a member of the family of an employer. 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. Nothing contained in this Act shall

adversely affect any right or privilege to which any worker is entitled, under any law, award, agreement, contract, custom or usage for the time being in force.

CHAPTER-11 REGISTRATION AND ISSUE OF LABOUR IDENTIFICATION NUMBER. On the commencement of this Act, every shop and establishment, employing ten or more workers, shall apply for registration within a period of six months from the date of such commencement or the date on which such shop or establishment comes into existence and obtain a Labour Identification Number. Every shop and establishment, employing ten or more workers, shall make an application for registration to such authority and in such form and manner as may be prescribed. The authority referred to in sub-section (2) shall, on receipt of an application under sub-section (2), register the shop or establishment and issue a Labour Identification Number in such form as may be prescribed. Notwithstanding anything contained in this section, the shops and establishments registered under the provisions of the Employees State Insurance Act, 1948 (No. 34 of 1948) or the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (No. 19 of 1952) or any rules, regulations or schemes made thereunder shall be deemed to be registered for the purposes of this Act: Provided that such shops and establishments shall, within a period of six months from the commencement of this Act, obtain a Labour Identification Number in such manner as may be prescribed.

CHAPTER-III DUTIES OF EMPLOYER No woman worker shall be discriminated against in matters concerning recruitment, training, transfers, promotions or wages.

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No woman shall be required or allowed to work in a shop or establishment except between 6 a.m. and 9 p.m.: Provided that, where the State Government or any person, authorized by it in this behalf, is satisfied that the provision of shelter, rest room, night crèche, ladies' toilet, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the shop or establishment to the door step of their residence exists in such shop or establishment, it may, by notification, after obtaining the consent of the woman worker, allow her to work between 9 p.m. and 6 a.m., subject to such conditions as may be specified in the notification. Every employer shall take such measures relating to the health and safety (including cleanliness, lighting, ventilation and prevention of fire) of the workers as may be prescribed. Every employer shall be responsible for providing constant and adequate provisions relating to the health and safety of the workers employed in such shop or establishment and to ensure necessary steps given under sub-section (1) is taken to prevent the happening of any kind of accident. No adult worker shall be required or allowed to work continuously in a shop or establishment for more than forty-eight hours in a week and nine hours in a day, unless he has been given a break of not less than half an hour after every five hours: Provided that, the working hours or weekly rest may be relaxed in case of work of urgent nature and with the previous permission of the Facilitator. The total number of hours of work in a shift including the rest interval shall not exceed ten and half hours in any shop or establishment and in case a worker is entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours. Any working hour beyond nine hours a day or forty-eight hours a week shall be treated as overtime and the total number of overtime hours shall not exceed one hundred and twenty-five hours in period of three months. The State Government shall make rules,-

614 (19) Health and safety of workers. Working hours. (a) (b) subject to sub-section (1), for fixing the number of hours of work which shall constitute a normal working day for the workers employed in the shop or establishment, inclusive of one or more specified intervals; for providing a day of rest in every period of seven days which shall be allowed to all the workers employed in the shop or establishment and for the payment of remuneration in respect of such days of rest. The provisions of sub-sections (1) and (2) shall, in relation to the following class of workers employed in such shop or establishment, apply only to such extent, and subject to such conditions, as may be prescribed, namely (a) workers engaged on urgent work or in any emergency which could not have been foreseen or prevented; (b) workers engaged in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules; 614 (20) 9. Wages for overtime. Shifts and period of rest. Annual, casual and 11. sick leave and other holidays. (c) (d) workers engaged in any work which for technical reasons has to be completed before the day is over: workers engaged in a work which cannot be carried on except at times dependent on the irregular action of natural forces; and highly skilled workers (such as workers working in the establishments of Information Technology, Bio-Technology and Research and Development Divisions). (1) (2) (3) (4) (5) (1) (2) (3) (4) (5) Where any worker is required to work on any day in excess of nine hours and forty-eight hours in a week, shall be entitled to wages at the rate of

twice his ordinary rate of wages or such higher amount, as may be prescribed. A department or any section of a department of the Shop or Establishment may work in more than one shift and the worker may be required to work in any shift at the discretion of the employer. A shop or an establishment may work on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least twenty-four consecutive hours of rest. If a worker is denied weekly holiday, the compensatory leave in lieu thereof shall be given within two months of such weekly holiday. The period and hours of work in a week for all classes of workers in such shift shall be informed to all workers in writing and shall be sent to the Facilitator electronically or otherwise. Where a worker is required to work on a day of rest, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

CHAPTER-IV LEAVE AND HOLIDAYS. Every worker shall be allowed a weekly holiday with wages: Provided that the State Government may, by notification, fix different days as weekly holiday for different class of shops and establishments of an area. Every worker shall be entitled to eight days' casual leave with wages in every calendar year which shall be credited into the account of the worker on a quarterly basis. Every worker who has worked for a period of two hundred and forty days or more in a shop or establishment during a calendar year, shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year. Every worker shall be permitted to accumulate the earned leave upto a maximum of forty-five days. Where the employer refuses to sanction the leave due when applied fifteen days in advance, then the worker shall have a right to encash the leave in excess of forty-five days: Provided that if a worker is entitled to leave under this section, is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his (6) (7) (8) 2018 employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him. A worker shall be entitled to eight paid festival holidays in a calendar year, namely, the Independence Day, Republic Day and Gandhi Jayanti and five such other festival holidays as may be agreed between the employer and the workers, before the commencement of the year. For the purposes of sub-section (3),- (a) (b) (c) (d) any day of lay-off, by agreement or contract or as permissible under the standing order certified under the Industrial Employment (Standing Orders) Act, 1946 (No. 20 of 1946); in the case of a female worker, the maternity leave under the provisions of the Maternity Benefit Act, 1961 (No. 53 of 1961); the leave earned in the year prior to that in which the leave is availed; or the absence of the worker due to temporary disablement caused by accident arising out of and in the course of his employment,- shall be deemed to be days on which the worker has worked in a shop or establishment for the purpose of computation of the period of two hundred and forty days or more, but shall not earn leave for these days. 12. 13

14. The leave admissible under sub-section (3) shall be exclusive of all holidays, whether occurring during or at either end of the period of leave

CHAPTER-V WELFARE PROVISIONS Every employer shall make sufficient arrangements to provide and maintain at suitable points, conveniently situated for all persons employed in the shop or establishment, a sufficient supply of wholesome drinking water. Every employer shall provide sufficient latrine and urinal facilities for male and female as may be prescribed, which shall be so conveniently situated as may be accessible for the workers employed in the shop or establishment: Provided that several employers may provide common facilities, in case it is not possible in a shop or establishment due to constraint in space or otherwise. In every shop or establishment wherein thirty or more woman workers are employed or fifty or more workers are ordinarily employed, employer shall provide and maintain a suitable room or rooms as creche for the use of children of such woman workers: Provided that if a group of shops or establishments, so decide to provide a common creche within a radius of one kilometer, then, the same shall be permitted by the Chief Facilitator, by an order, subject to such conditions as may be specified in the order. 614 (21) Drinking water. Latrines and urinals. Creche facility. 614 (22) First-Aid. Canteen. 15. 16. 23 2018 Every employer shall provide at the place of work first-aid facilities as may be prescribed. The State Government shall require the employer to provide and maintain in the shop or establishment, wherein not less than one hundred worker are employed or ordinarily employed, to maintain a canteen for the use of its workers: Provided that if a group of shops or establishments, so decide to provide a common canteen, then the same shall be permitted by the Chief Facilitator by an order, subject to such conditions as may be specified in the order. Appointment of Chief 17. Facilitator, Facilitators and their powers. (1) (2) (3) (4) **CHAPTER-VI**

FACILITATOR AND THEIR POWERS AND FUNCTIONS The State Government may, by notification, appoint such persons who possess the prescribed qualification to be Facilitator for the purposes of this Act and may assign to them such local limits as it may think fit: Provided that the State Government may, by notification, appoint a Chief Facilitator who shall, in addition to the powers conferred on him under this Act, exercise the powers of a Facilitator throughout the State. The State Government may prescribe a scheme for inspection of shops and establishments, which shall provide for generation of a web-based inspection schedule. Every Facilitator and Chief Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code (No. 45 of 1860), and shall officially be subordinate to such Authority as the State Government may specify in this behalf. Subject to such conditions as may be prescribed, a Facilitator may, within the local limits for which he is appointed,- (ii) advise the employers and workers and provide them such information as may be considered necessary for complying with the provisions of this Act effectively; inspect the shop or establishment in accordance with the scheme for inspection referred under sub-section (2), and may,- (a) (b) (c) (d) examine any person who is found in any premises of the shop or establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the shop or establishment; require any person to give any information, which is in his power to give, with respect to the names and addresses of the persons; search, seize or take copies of such register, record of wages or notices or portions thereof as the Facilitator may consider relevant in respect of an offence under this Act and which the Facilitator has reason to believe has been committed by the employer; bring to the notice of the State Government defects or abuses not covered by the law for the time being in force: and (e) exercise such other powers as may be prescribed* Provided that no person shall be compelled under this section to answer any question or give any evidence that tends to incriminate himself. 18. 19. 20. 21. 22. (5) (6) (1) (2) (1) (2) (1) Any person required to produce any document or to give any information required by a Facilitator under sub-section (4) shall be deemed to be legally bound to do so within the meaning of Sections 175 and section 176 of the Indian Penal Code (No. 45 of 1860). The provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) shall, so far as may be, apply to the search or seizure under subclause (c) of clause (ii) of sub-section (4), as they apply to the search or seizure made under the authority of a warrant issued under Section 94 of the said Code

CHAPTER VII RECORDS AND RETURNS Every employer shall maintain such registers and records as may be prescribed. The records may be maintained electronically or manually: Provided that at the time of inspection by a Facilitator, a hard copy of such records if demanded, shall be submitted, duly signed by the employer. Every employer of a shop or an establishment shall furnish an annual return, in such form and manner (including electronic form), to such authority as may be prescribed

CHAPTER VIII OFFENCES AND PENALTIES Whoever contravenes with the provisions of this Act or the rules made thereunder shall be punishable with fine which may extend to two lakh rupees and in the case of a continuing contravention, with an additional fine which may extend to two thousand rupees for every day during which such contravention continues: Provided that the total amount of fine shall not exceed two thousand rupees per worker employed If any person has been convicted of any offence punishable under sub-section (1) is again guilty of an offence involving a contravention or failure of compliance of the same provision, he shall be punishable on a subsequent conviction with fine, which shall not be less than one lakh rupees but which may extend to five lakh rupees. Save as otherwise expressly provided in this Act, where an employer on being held guilty of contravention of any of the provisions of this Act or any rules made thereunder, which has resulted in an accident causing serious bodily injury or death of a worker, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than two lakh rupees but which may be extended to five lakh rupees or with both. Whoever willfully obstructs a Facilitator in exercise of any power conferred on him by or under this Act or refuses or willfully neglects to afford the Facilitator any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in 614 (23) Maintenance of register and records. Annual return. Penalty contravention for of provision of this Act. Penalty contravention for of provisions of this Act which resulted in accident. Penalty obstruction, to provide etc. for refusal register, 614 (24) Cognizance offences. Compounding offences. of 23. of 24. (2) (1) (2) (1) (2) (3) (4) (5) (6) 2018 relation to a shop or an establishment, shall be punishable with fine which may extend to two lakh rupees. Whoever willfully refuses to produce, on the demand by a Facilitator, any register or other document kept

in pursuance of this Act or the rules made thereunder or prevents or attempts to prevent or does anything which he has reason to believe to prevent any person from appearing before, or being examined, by a Facilitator action in pursuance of his duties under this Act, shall be punishable with a fine which may extend to two lakh rupees: Provided that the total amount of fine shall not exceed two thousand rupees per worker employed No Court shall take cognizance of any offence punishable under this Act and the rules made thereunder, unless a complaint in respect thereof is made by the Facilitator within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator: Provided that where the offence consists of disobeying a written order made by a Facilitator, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed. Court of Judicial Magistrate of the First Class shall try any offence punishable under this Act or the rules made thereunder. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment alone, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the State Government may, by notification, specify, for a sum amounting to fifty percent of the maximum fine provided for such offence, in the manner as may be prescribed. Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date, - of commission of a similar offence which was earlier (a) compounded; or commission of similar offence for which such person was (b) earlier convicted. Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the State Government. Every application for the compounding of an offence shall be made in such form and manner as may be prescribed Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to who the offence is so compounded. Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged. 614 (25) Protection of action taken in good faith. 25. 26. 27. 28. (7) (8) (1) (2) 23 2018 Any person who fails to comply with the order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty percent of the maximum fine provided for the offence, in addition to such fine. No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section

CHAPTER MISCELLANEOUS No suit, prosecution or other legal proceeding shall lie against any public servant or any other person in the service of the Central Government or the State Government, acting under direction of any such public servant, for anything done in good faith or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder. The State Government or any officer empowered in this behalf may, by notification, exempt from the operation of all or any of the provisions of this Act for such period as it considers necessary, any shop or establishment or class thereof or any employer or worker or class of employers or workers to whom this Act applies on such terms and conditions as it may think fit. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. The State Government may, by notification, make rules for carrying out the provisions of this Act. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely Power to exemption. grant Application of other laws not barred. Power to make rules. (a) (b) (c) (d) (e) (f) the authority to which and the form and manner in which an application shall be made under sub-section (2), the form of Labour Identification Number under sub-section (3), and the manner of obtaining Labour Identification Number under sub-section (4), of Section 5; the measures to be taken by the employer relating to the health and safety (including cleanliness, lighting, ventilation and prevention of fire) of the workers under sub-section (1) of Section 7; the matters to be provided by rules under sub-section (4) of Section 8; the conditions subject to which the provisions of sub-section (1) and sub-section (2) of Section 8 shall apply to certain class of workers under sub-section (5) of that Section; rate of higher amount of wages provided under Section 9; the provision for sufficient latrine and urinals given under Section 13 and the provision of first-aid facility given under Section 15; the qualifications of Facilitators provided under sub-section Q

conditions subject to which a Facilitator shall exercise his powers given under sub-section (4), and other powers exercisable by him given under sub-clause (e) of clause (ii) of sub-section (4), of Section 17; 614 (26) Power to difficulties. (h) (i) G) (k) 2018 the registers and records to be maintained by the employers given under sub-section (1) of Section 18: the form and manner (including electronic form) for furnishing of annual return and the authority to such returns shall be furnished under Section 19; the manner of compounding of offences given under sub-section (1), and form and manner for making application for such compounding under sub-section (4). of Section 24; any other matter which is required to be, or may be, prescribed. 29. remove 30. Repeal and Saving (3) (1) (2) (1) (2) (3) Every rule made under sub-section (1) and (2) shall be laid before the State Legislative Assembly. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions which are not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulties: Provided that no order shall be made under this Section after the expiry of two years from the date of the commencement of this Act. Every order made under this section shall be, laid, as soon as may be after it is made, before the State Legislative Assembly. The Chhattisgarh Shops and Establishments Act, 1958 (No. 25 of 1958) is hereby repealed. Notwithstanding the repeal of the Act under sub-section (1), anything done or any action taken under the Act so repealed shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act. The mention of particular matters in this section shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 (No. 10 of 1897) with regard to the effect of repeals. - 2018

