

KERALA BEEDI AND CIGAR INDUSTRIAL PREMISES (REGULATION OF CONDITIONS OF WORK) ACT, 1961(8 OF 1962)

62 THE KERALA BEEDI AND CIGAR INDUSTRIAL PREMISES (REGULATION OF CONDITIONS OF WORK) ACT, 1961 (Act 8 of 1962) CONTENTG Preamble. Sections. 2. 3. 4. 5. 6. 7. 8. 9. IO, 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26 27. 28. 29

30. Short title, extent and commencement, Definitions. Beedi and Cigar Industrial premises to be licensed. Licences. Appeals. Opening and closing Of beedi and cigar industrial premises. Daily and weekly hours of work in beedi and cigar industrial premises. Spread over of periods of work. Wages for overtime work. Weekly holidays. Notice of periods of work. Wage period. Annual leave With wages. Wages during leave period. Notice of dismissal. Prohibition of employment of children and women. Canteen. Latrines and urinals. Washing facilities. Cleanliness. Ventilation. Protection against fire. Central Act 20 of 1946 to apply to beedi and Cigar Industrial premises. Application of the Payment of Wages Act, 1936, to beedi and Cigar Industrial premises. Factories Act not to apply to beedi and cigar Industrial premises. Rights and privileges under other laws, etc., not affected. Power to exempt. Appointment, powers and duties of Inspectors, Powers of Inspectors. Penalty for obstructing Inspector. 111 Sections. 31. 32. 33. 34. 63 General penalty for offences. Indemnity. Cognizance of offences. Power to make rules. ACT 8 OF 1962 * THE KERALA BEEDI AND CIGAR INDUSTRIAL PREMISES (REGULATION OF CONDITIONS OF WORK) ACT, 1961. An Act to regulate the conditions of work in beedi and cigar industrial premises in the State of Kerala. Preamble—Whereas it is necessary to regulate the conditions of work in beedi and cigar industrial premises in the State of Kerala Be it enacted in the Twelfth Year Of the Republic of India as follows 1. Short title, extent and (1) This Act may be called the Kerala Beedi and Cigar Industrial Premises (Regulation of Conditions of Work) Act, 1961. (2) It extends to the whole of the State of Kerala. (3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint; and different dates may be appointed for different areas and for different provisions of the Act

2. Definitions —In this Act, unless the context otherwise requires,— (a) adult " means a person who has completed his eighteenth year of age ; (b) beedi and cigar industrial premises means any place or premises, including the precincts thereof, in any part of which any manufacturing process connected with the production of beedis or cigar, or both being carried on with or without the aid of power (c) beedi and Cigar industry means any industry relating to the manufacture of beedis or cigars or both ; (d) child means a person who has not completed his fourteenth year of age ; (e) closed " means not open for carrying out any of the processes connected with the manufacture of beedi or cigar , *Received the assent of the President on the 8th day Of March, 1962 and published in the Gazette Extraordinary dated the 15th day of March, 1962. 64 (f) competent authority means any officer authorised by the Government by notifications to (1) (1) in the functions of the competent authority under this Act in such cases as may be specified in the notification, (g) day " means the period of twenty-four hours beginning at midnight (h) employee " means a person employed directly or through any agency, for wages not, in any beedi and cigar industry, to do any work, skilled, unskilled, manual or clerical, and includes any person who is employed in such industry and declared by the Government by notification to be an employee for the purposes of this Act • (t) employer " means the person who has the ultimate control over the affairs of any beedi and cigar industrial premises or who has, by reason of advancing money, supplying goods or otherwise, a substantial measure in the control of the affairs of any beedi and Cigar industrial premises and includes— (i) a proprietor or a registered user of a trade mark registered under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958), in relation to beedi or Cigar ; and (u) any other person to whom the affairs of any beedi and cigar industrial premises are entrusted (whether such other person is called a managing agent, manager, superintendent or by any other name) ; (J) Inspector " means the Inspector appointed under sub-section (1) of section 28 ; (k) manufacturing process means any process for, or incidental to, making, finishing, packing, labelling or otherwise treating any article or substance with a view to its use, sale transport, delivery or disposal as beedis or cigars or both notification means a notification published in the Gazette, (m) opened " means opened for carrying out any of the processes connected with the manufacture of beedi or cigar ; (n) period of work means the time during which an

employee IS at the disposal of the employer, (n) prescribed means prescribed by rules made under this Act; wages means all remuneration (whether by way of salary, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, fulfilled, be payable to a person employed in respect of his employment of 'AOL k done iti such emp10) jnent, and Includes (1) any remuneration payable under any award or settlement between the parties or order of a court, (u) any remuneration to which the person employed IS entitled in respect of overtime work or holidays or any leave period, (Iti) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name) 65 (iv) any sum which by reason of the termination of employment or the person employed IS payable under any law, contract or Instrument which provides for the payment of such sum, whether with or without deductions, but does provide for the time within which the payment IS to be made, (v) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force, but does not include— (1) any bonus (whether under a scheme of profit sharing or otherwise) 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 order of a court (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or any service excluded from the computation of wages by a general or special order of the Government (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon, (4) any travelling allowance or the value of any travelling concession (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment, or (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (w); (q) week means a period of seven days beginning at midnight of Saturday; 'E' young person means a person who has completed his fourteenth year but has not completed his eighteenth year of age

3. Beedi and cigar industrial Premises to be licensed.—Save as otherwise provided in this Act, no place or premises shall, on and after such date as the Government may, by notification, specify in this behalf, be used as a beedi and Cigar industrial premises without a licence obtained from the competent authority and except in accordance with the terms and conditions specified therein

4. Any person who intends to use any beedi and cigar Industrial premises shall make an application in writing to the competent authority for a licence therefor, together with such particulars as may be prescribed.(2) The application shall specify the maximum number of employees proposed to be simultaneously employed at any time in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed (3) The competent authority shall, deciding whether to grant or refuse a licence, have regard to the following matters, namely (a) the suitability of the place or premises which is proposed to be used for the manufacture of beedis or cigars, (b) the status and previous experience of the applicant: 3140—5 66 (t) the financial resources of the applicant including the financial capacity to meet the demands arising out of the provisions of the law for the time being in force relating to welfare of labour, (d) whether the application is made bonafide on behalf of the applicant himself or on behalf of any other person, (e) whether the beedi or cigar manufactured by the applicant will be sold and marketed by himself or through a proprietor or a registered user of a trade mark registered under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958), in relation to beedi or cigar or any other person; (f) the welfare of labour in the locality (g) the interest of the public generally: and (h) such other matters as may be prescribed. (4) The competent authority shall not grant a licence unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with. (5) (a) A licence granted under this section shall be 'valid for a financial year and shall be renewed from financial year to financial year. (b) The competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in subsection (3). (6) 'The competent authority may cancel or suspend any licence granted or renewed under this Act if it appears to it, after giving the holder thereof an opportunity of being heard, that such licence has been obtained by misrepresentation or fraud or that the licensee has been guilty of an offence under this Act or under any other Act or of any breach of any rule made under this Act or of the terms and conditions of the licence. (7) The Government may issue to competent authorities such orders and directions of a general character as the Government may consider necessary in respect of any matter relating to licences under this section. (8) Subject to the foregoing provisions of this section, the competent authority may

grant or renew licences under this Act on such terms and conditions as it may determine. If the competent authority refuses to grant or renew a licence, it shall do so by an order communicated to the applicant, giving the reasons and writing for such refusal.

5. Appeals.—Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling a licence under section 4 may, within such time as may be prescribed in appeal to such authority as the Government may specify in this behalf and such authority may make such order in the case as it may think fit.

6. Opening and closing of beedi and cigar industrial premises.—No beedi and cigar industrial premises shall on any day be opened earlier than 7 a.m. or closed later than 7 p.m. 67 7. Daily and weekly hours of work in beedi and cigar industrial Premises.—(1) No employee shall be required or allowed to work in any beedi and cigar industrial premises for more than nine hours in any day, or more than 48 hours in any week. Provided that an adult employee may be allowed to work in a beedi and cigar industrial premises for any period in excess of the limit fixed under this sub-section subject to payment of over-time wages if the period of work including over-time work does not exceed ten hours in any day and in the aggregate 54 hours in any week. (2) No employee in any beedi and cigar industrial premises shall be required or allowed to work therein for more than five hours in any day unless he has had an interval for rest of at least one hour. 8 Spread over of periods of.—The periods of work of an employee in any beedi and Cigar Industrial premises shall be so arranged that along with intervals for rest, they shall not spread over more than ten and a half hours in any day.

9. Wages for over-time work.—Where any employee employed in any beedi and Cigar Industrial premises works over-time on any day, he shall be entitled, in respect of such over-time work to wages at twice the ordinary rate of wages for that day. Explanation.—Where an employee employed on a piece rate basis works overtime on any day, he shall be entitled, in respect of such over-time work, to wages at twice the ordinary rate of wages for that day. 10. Weekly Every employee in a beedi and cigar industrial premises shall be allowed in each week a holiday of one whole day. (2) No deduction shall be made from the wages of any employee in a beedi and cigar industrial premises 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. 11. Notice of Periods of work.—There shall be displayed and correctly maintained in every beedi and cigar industrial premises a notice of periods of work in such form and in such manner as may be prescribed showing clearly for every day the periods during which employees may be required to work.

12. Wage Period.—No wage period shall exceed one month.

13. Annual leave. With Every employee in a beedi and cigar Industrial premises shall be allowed in a 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. Explanation.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at the beginning or at the end of the period of leave, 3/40--5a 68 (2) In calculating leave under this section any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted. (3) An application by an employee for the whole or any portion of the leave allowed under sub-section (1) or sub-section (2) shall be in writing and ordinarily be made sufficiently in advance of the date on which he wishes his leave to begin. (4) If the employment of an employee who is entitled to leave under sub-section (1), is terminated by the employer before he has taken the entire leave to which he is entitled or if having applied for leave he has not been granted such leave or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 14 in respect of leave not taken, and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment on or before the next pay day. (5) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal. (6) If an employee does not in any one calendar year take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year: Provided that the total number of days

of leave that may be carried forward to a succeeding year shall not exceed thirty. 14, Wages during leave For the leave allowed to him under sub-section (I) of section 13 an employee shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime and bonus, but inclusive of dearness allowance. (2) An employee who has been allowed leave for not less than four days shall, before his leave begins, be paid wages due for the period of the leave allowed

15. Notice of No employment shall dispense with the services of an employee employed continuously for a period of not less than months, except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice, provided however that such notice shall not be necessary where the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose. Explanation.—An

employee shall be deemed to be employed continuously notwithstanding interruption of service merely on account of sickness or authorised leave or an accident or a strike which is not illegal or a lock-out or a cessation of work which is not due to any fault on the part of the employee. (2) Any employee whose services are dispensed with may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer. (3) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case. (4) In directing the reinstatement of an employee, the appellate authority shall also direct the payment of such amount of compensation as may be specified by him. In case the employer fails to reinstate the employee in accordance with the directions. (5) The decision of the appellate authority shall be final and binding on both the parties, shall not be liable to be questioned in any Court of Law and shall be given effect to within such time as may be specified in the order of the appellate authority. (6) Any compensation required to be paid by the employer under sub-sections (3) and (4) but not paid by him shall be recoverable as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force

16. Prohibition of employment of children and NO child shall be required or allowed to work in any beedi and cigar industrial premises. (2) No woman or young person shall be required or allowed to work in any beedi and cigar industrial premises except between 8 a.m. and 5 p.m.

17. Canteen.—The Government may make rules requiring that in every beedi and cigar industrial premises wherein one hundred and fifty or more employees are employed, one or more canteens shall be provided and maintained by the employer for the use of the employees

18. Latrines and In every beedi and cigar industrial premises sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to employees at all times while they are in the beedi and Cigar industrial premises Provided that It shall not be necessary to provide for separate urinals in the beedi and cigar industrial premises where less than fifty persons are employed or where the latrines are connected to any waterborne sewage system. (2) The Government may prescribe the number of latrines and urinals to be provided in any beedi and cigar industrial premises in proportion to the number of male and female employees ordinarily employed therein and provide for such further matters in respect of sanitation in the beedi and cigar industrial premises including the obligation of employees in this regard, as they consider necessary in the interests of the health of the employees employed therein

19. Washing facilities.—In every beedi and cigar industrial premises where blending and drying of tobacco or warming of beedies hot ovens is carried on, the employer shall provide such washing facilities for the use of the employees as may be prescribed

20. Cleanliness.—The premises of every beedi and cigar industrial premises shall be kept clean and free from filth arising from any drain or pipe or other nuisance, and shall be cleaned at such times and by such methods as may be prescribed

21. The premises of every beedi and Cigar industrial premises shall be ventilated and sufficiently lighted in accordance with such standards and by such methods as may be prescribed. (2) If it

appears to an Inspector that the premises of any beedi and Cigar industrial premises are his jurisdiction not sufficiently lighted or ventilated, he may serve on the employer an order in writing specifying the measures which, in his opinion should be adopted and requiring them to be carried out before a specified date

22. Protection against fire,—In every beedi and cigar industrial premises the employer: shall take such precautions against fire as may be prescribed

23. Central Act 20 of 1946 to apply to beedi and Cigar Industrial Premises—The provisions of the Industrial Employment (Standing Orders) Act, 1946 (Central Act 20 of 1946), as in force for the Orissa, shall apply to every beedi and Cigar Industrial premises wherein fifty or more employees are employed or were employed on any one day of the preceding twelve months as if such beedi and cigar Industrial premises were an industrial establishment to which the aforesaid Act has been applied by a notification under sub-section (3) of section 1 thereof, and as the employee in the said premises were a workman within the meaning of that Act

24. Application Of the Payment of Wages Act, 1936, to beedi and cigar industrial Notwithstanding anything contained in the Payment of Wages Act 1936 (Central Act 4 of 1936) (hereinafter in this section referred to as the said Act), the Government may, by notification, direct that, subject to the provisions of sub-section (2), the said Act or any of the provisions thereof or the rules made thereunder shall apply to all or any class of employees in beedi and Cigar Industrial premises to which this Act applies.(2) On the application of the provisions of the said Act to any beedi and Cigar Industrial premises under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction. (3) The Government may, by like notification, cancel or vary any notification issued under sub-section (1). The Factories Act not to apply to beedi and cigar industrial premises.—On and from the date on which this Act comes into force, the Factories Act, 1948 (Central Act 63 of 1948) shall cease to apply to beedi and Cigar industrial premises

26. Rights and Privileges under other laws, etc., not Notwithstanding contained in this Act shall affect any rights or privileges which any employee working in any beedi and cigar Industrial premises entitled to on the date on which this Act comes into force, under any other law, contract, custom or usage, applicable to such beedi and Cigar Industrial premises, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act. (2) Nothing in this Act shall take away the rights or privileges which an employee working in any beedi and Cigar Industrial premises will be entitled to under the Madras Shops and Establishments Act, 1947, or the Travancore-Cochin Shops and Establishments Act, 1925, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act. (3) If any question arises whether the rights or privileges aforesaid are more favourable to any employee than those to which he would be entitled under this Act, or whether all or any of the provisions of this Act apply to a beedi and Cigar industrial premises to a person employed there, it shall be decided by such officer as may be and his decision thereon shall be final and shall not be liable to be questioned any Court of Law

27. Power to exempt.—The Government may, by notification, exempt, subject to such conditions and restrictions as they may impose,— (a) any beedi and cigar industrial premises; or (b) any beedi and cigar industry, or (c) any class of employees; from all or any of the provisions of this Act or of any rules made thereunder

28. Appointment, powers and duties of Inspectors The Government may, by notification, appoint such officers of Government or of any local authority as they think fit to be Inspectors for the purposes of this Act, within such local limits as the Government may assign to them.(2) The Government may, by notification, appoint any person to be a Chief Inspector who shall, under this Act, exercise the powers of an Inspector throughout the State. (3) Every Inspector appointed under sub-section (1) and the Chief Inspector appointed under sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860) 29. Powers of Subject to any rules made in this behalf, an Inspector appointed under this Act, shall, for the purposes of the enforcement of this Act, have power to do all or any of the following things within the local limits for which he is appointed— (a) to make such examination and hold such enquiry as may be necessary for ascertaining whether the

provisions of this Act have been and are being complied with in any beedi and cigar industrial premises, (b) to require the production of any prescribed register and any other document relating to the manufacture of beedis or cigars; (c) to enter at all reasonable times any place or premises including the residences of employees when he has reasonable grounds for suspecting that any beedi and cigar industry is being carried on or is ordinarily carried on in any such place or premises; (d) to exercise such other powers as may be prescribed for carrying out the purposes of this Act. • Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself. (2) For the purposes of clause (c) of sub-section (1), an Inspector may, after giving due notice to the employer, or, in the absence of the employer, to the occupier, enter any beedi and cigar industrial premises with such assistants, if any, as he thinks fit. (3) Every employer shall accord to the Inspector all reasonable facilities in the discharge of his duties under this Act. 30, Penalty for obstructing Inspector.—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector, any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder or conceals or prevents any employee in a beedi and cigar industrial premises from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both

31. General penalty for contravention.—Save as otherwise expressly provided in this Act, if in, or in respect of, any beedi and cigar industrial premises, there is any contravention of any of the provisions of this Act or any rule made thereunder by the employer of any beedi and cigar industrial premises, such employer shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, (2) If any person who has been convicted of any offence punishable under sub-section (1) is again found guilty of an offence involving the contravention of the same provision, he shall be punishable, on the subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both: Provided that, for the purpose of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the subsequent offence.⁷³ 32. Indemnity.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act

33. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Act or any rule made thereunder unless the complaint is made—(a) by the employee of a beedi and cigar industrial premises, either by himself or through the union of which he is a member within three months from the date on which the offence alleged to have been committed; or (b) by the Inspector within six months from the date on which the alleged offence comes to his knowledge. (2) No court inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act or any rules or orders made thereunder

34. Power to make rules. (1) The Government may, by notification, make rules to carry out the purposes of this Act. (2) Without prejudice to the generality of the foregoing power, such rules may provide for— (a) the terms and conditions subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence (b) the form of application for a licence under this Act and the documents and plans to be submitted together with such application; (c) submission of a quarterly return by an employer to the competent authority specifying the quantity of beedi tobacco and tobacco released by the Central Excise Department and the number of beedis or cigars manufactured by him; (d) the records and registers that shall be maintained in beedi and cigar industrial premises for the purpose of securing compliance with the provisions of this Act and the rules made thereunder; (e) any other matter expressly required or allowed by this Act to be prescribed. (3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication. (4) All rules made under this section shall be laid for not less than fourteen days before the Legislative Assembly, as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following,