

**Bill No. 93 of 2014**

THE FACTORIES (AMENDMENT) BILL, 2014

A

BILL

*further to amend the Factories Act, 1948*

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

**1.** (1) This Act may be called the Factories (Amendment) Act, 2014.

Short title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification,  
in the Official Gazette, appoint, and different dates may be appointed for different provisions  
5 of this Act and any reference in any such provision to the commencement of this Act shall be  
construed as a reference to the coming into force of that provision.

63 of 1948.

**2.** In section 2 of the Factories Act, 1948 (hereinafter referred to as the principal Act),—

Amendment  
of section 2.

(i) for clause (cb), the following clause shall be substituted, namely:—

10 '(cb) "hazardous process" means any process where, unless special care  
is taken, raw materials, hazardous substances used therein or the intermediate or  
finished products, bye products, wastes or effluents thereof would—

(A) cause material impairment to the health of the persons engaged  
in or connected therewith; or

(B) result in the pollution of the general environment;'

(ii) after clause (cb), the following clause shall be inserted, namely:—

‘(cc) “hazardous substance” means any substance as prescribed or preparation of which by reason of its chemical or physio-chemical properties or handling is liable to cause physical or health hazards to human being or may cause harm to other living creatures, plants, micro-organisms, property or the environment;’;

(iii) after clause (e), the following clause shall be inserted, namely:—

‘(ea) “disability” shall have the same meaning assigned to it in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;’;

(iv) in clause (f), after the words “particular area”, the words “or a factory” shall be inserted;

(v) in clause (k), for sub-clause (iv), the following sub-clause shall be substituted, namely:—

“(iv) composing and processing for printing, printing by letter press, lithography, offset, photogravure, screen printing, flexography, or other similar process or binding; or”;

(vi) in clause (m),—

(a) in sub-clause (i), after the words “whereon ten or more workers”, the words “or such number of workers as may be prescribed by the State Government” shall be inserted;

(b) in sub-clause (ii), after the words “whereon twenty or more workers”, the words “or such number of workers as may be prescribed by the State Government” shall be inserted;

(c) after sub-clause (ii) but before *Explanation. 1*, the following proviso shall be inserted, namely:

“Provided that the number of workers specified in sub-clause (i) and sub-clause (ii) shall not exceed twenty and forty workers, respectively.”;

(vii) in clause (n), in the first proviso, for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) in the case of a factory owned or controlled by the Central Government, or any State Government, or any local authority, the person or persons appointed to manage the factory by the Central Government, the State Government or the local authority or such authority as may be prescribed, as the case may be, shall be deemed to be the occupier;”;

(viii) for clause (p), the following clause shall be substituted, namely:—

‘(p) “prescribed” means prescribed by rules made by the Central Government or the State Government, as the case may be, under this Act;’.

Amendment  
of section 6.

**3.** In section 6 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation.*—A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, or the addition of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or result in hazardous conditions likely to cause accident, dangerous occurrence or injuries to health of workers or public or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes, or chemical or biological wastes injurious to health and a certificate in writing shall be given by a competent person to this effect:

Provided that till such certificate is given by a competent person, a certificate given in writing by the occupier shall be valid.”.

4. In section 7 of the principal Act, in sub-section (1), in clause (e), for the word “horse- power” at both the places where it occurs, the words “power in Kilowatts” shall be substituted. Amendment of section 7.
5. In section 7B of the principal Act,— Amendment of section 7B.
- 5 (a) for sub-section (5), the following sub-section shall be substituted, namely:—
- “(5) It shall be the duty of a person,—
- (a) who erects or installs any article for use in a factory, to ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;
- 10 (b) who manufactures, imports or supplies any substance for use in any factory—
- (i) to ensure, so far as practicable, that such substance is safe and has no risks involved to health of persons working in such factory;
- 15 (ii) to carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;
- (iii) to take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;
- 20 (c) who undertakes the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks to health or safety to which the substance may give rise out of such manufacture or research.”;
- 25 (b) in sub-section (6), for the word “article” at both the places where it occurs, the words “article or substance” shall be substituted;
- 30 (c) for the *Explanation*, the following *Explanation* shall be substituted, namely:—
- ‘*Explanation.*—For the purposes of this section—
- (a) “article” shall include plant and machinery;
- (b) “substance” means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and
- 35 (c) “substance for use in any factory” means any substance whether or not intended for use by persons working in a factory.’.
6. In section 13 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted. Amendment of section 13.
- 40 7. In section 17 of the principal Act, in sub-section (4), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted. Amendment of section 17.
8. In section 18 of the principal Act, in sub-section (3), the words “wherein more than two hundred and fifty workers are ordinarily employed” shall be omitted. Amendment of section 18.
- 45 9. In section 20 of the principal Act, sub-section (4) shall be omitted. Amendment of section 20.
10. In section 21 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted. Amendment of section 21.

Amendment of section 22.	<p><b>11.</b> In section 22 of the principal Act,—</p> <p>(a) in sub-section (1), for the words and brackets “adult male worker wearing tight fitting clothing (which shall be supplied by the occupier)”, the words and brackets “adult male worker wearing tight fitting clothing or adult female worker wearing tight fitting clothing (which shall be supplied by the occupier), covering loose hair” shall be substituted;</p> <p>(b) in sub-section (2), for the word “woman” at both the places where it occurs, the words “pregnant woman or a person with disability” shall be substituted;</p> <p>(c) in sub-section (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.</p>	5 10
Amendment of section 23.	<p><b>12.</b> In section 23 of the principal Act, in sub-section (2), for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted.</p>	
Omission of section 26.	<p><b>13.</b> Section 26 of the principal Act shall be omitted.</p>	
Substitution of new section for section 27.	<p><b>14.</b> For section 27 of the principal Act, the following section shall be substituted, namely:—</p>	15
Prohibition of employment of young persons, pregnant woman and persons with disabilities near cotton-openers.	<p>“27. No young person or pregnant woman or a person with disability shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work.”.</p>	
Amendment of section 28.	<p><b>15.</b> In section 28 of the principal Act, in sub-section (4), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.</p>	20
Amendment of section 29.	<p><b>16.</b> In section 29 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.</p>	25
Amendment of section 31.	<p><b>17.</b> In section 31 of the principal Act, in sub-sections (2) and (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.</p>	
Amendment of section 34.	<p><b>18.</b> In section 34 of the principal Act, in sub-section (2), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.</p>	30
Amendment of section 35.	<p><b>19.</b> In section 35 of the principal Act, for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted.</p>	
Insertion of new section 35A.	<p><b>20.</b> After section 35 of the principal Act, the following section shall be inserted, namely:—</p>	35
Personal protective equipment.	<p>“35A. (1) The occupier, having regard to the nature of the hazards involved in the work and processes being carried out, shall supply to the workers exposed to such hazards, suitable personal protective equipment and protective clothing as may be necessary.</p> <p>(2) The personal protective equipment and protective clothing supplied to the workers as required under sub-section (1) shall conform to an international standard where national standard for such protective equipment or clothing is not available.</p> <p>(3) The occupier shall maintain all items of personal protective equipment and protective clothing referred to in sub-section (1) in a clean and hygienic condition and in good repair.</p>	40 45

(4) The Central Government or the State Government may make rules prescribing the standards of maintenance, issue of personal protective equipment and protective clothing with a view to ensure their effectiveness in relation to the conditions of use and conformity to their quality standards.”.

5       **21.** For section 36 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 36. Entry into confined spaces.

10       ‘36. (1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress or wherein the oxygen content is less than the prescribed content of oxygen.

*Explanation.*— For the purpose of this sub-section, the expression “adequate size” means,—

15       (a) in the case of a rectangular shape manhole, of not less than 50 cms. x 30 cms.;

(b) in the case of an oval shape manhole, of not less than 50 cms. major axis and 30 cms minor axis;

(c) in the case of a circular shape manhole, of not less than 50 cms. diameter.

20       (2) No person shall be required or allowed to enter in any boiler furnace, boiler flue, chamber, tank, vat, pipe or other confined space in any factory for the purpose of working or making any examination therein until—

(a) it has been sufficiently cooled, by ventilation or otherwise, and is safe for persons to enter; and

(b) wherever there is likelihood of deficiency of oxygen,—

25       (i) a certificate in writing has been given by a competent person, based on test carried out by himself, that the space is not deficient in oxygen so as to be unsafe for persons to enter; or

30       (ii) the worker is wearing suitable breathing apparatus and a safety harness for confined spaces securely attached to a rope is available of which the free end is held by a person standing outside the confined space.

(3) No person with any disability, or, any pregnant woman, shall be required or allowed to enter in any chamber, tank, vat, pit, pipe, flue or other confined space in any factory as referred to in sub-section (1) and in any boiler, furnace, boiler flue, chamber, tank, vat, pipe or other confined space in any factory as referred to in sub-section (2).

35       (4) The suitable breathing apparatus, reviving apparatus and safety harness and ropes, shall be kept for instant use in every factory and in every such confined space as referred to in sub-section (1) or in clause (b) of sub-section (2), which any person may enter, and all such apparatus shall be periodically examined and certified by a competent person to be fit for use; and a sufficient number of persons employed in every factory shall be trained and practiced in the use of all such apparatus and in the method of restoring respiration.

(5) The State Government may, by order in writing, exempt, subject to such conditions as it may think fit to impose, any factory or class or description of factories from compliance with any of the provisions of this section.’.

45       **22.** In section 37 of the principal Act,—

Amendment of section 37.

(a) in sub-section (1),—

(i) for the portion beginning with the words “any manufacturing process produces” and ending with the words “any such explosion by—”, the following shall be substituted, namely:—

50       “any manufacturing process, storage or handling of, raw material, intermediate product or finished product produces dust, gas, fumes or vapour to such an extent as to be likely to result in fire or explosion on

ignition or otherwise, all practicable measures shall be taken to prevent any such fire or explosion by—”;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(d) explosive gas measurement by suitable and calibrated instrument, at such intervals as may be prescribed”;

(b) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) In any factory if any flammable gas, fume or dust is likely to be present in any area, the electrical equipment, apparatus and fittings in that area shall be selected, installed and maintained as per the National Electrical Code and shall conform to the relevant National Standards, or to an International Standard where National Standard is not available.

(4B) The electrical equipment, apparatus and fittings referred to in sub-section (4A), shall be duly approved before use in factories by the Directorate General of Occupational Safety and Health.”.

Amendment of section 38. **23.** In section 38, in sub-section (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

Amendment of section 40B. **24.** In section 40B of the principal Act, for the words “The State Government”, wherever they occur, the words “The Central Government or the State Government” shall be substituted.

Amendment of section 41A. **25.** In section 41A of the principal Act, for the words “The State Government”, wherever they occur, the words “The Central Government or the State Government” shall be substituted.

Amendment of section 41B. **26.** In section 41B of the principal Act,—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) (a) The occupier of a factory involved in the manufacture, storage or handling such hazardous substances in quantities equal to or more than such quantities as may be prescribed, shall draw up in consultation with workers' representatives an on-site emergency plan and detailed disaster control measures for his factory and submit the same for information of the Chief Inspector and other authorities as may be prescribed.

(b) The occupier of the factory shall make known to the workers employed in the factory and to the general public in the vicinity of the factory, the safety measures required to be taken in accordance with the on-site emergency plan and detailed disaster control measures drawn under sub-clause (a) above in the event of an accident taking place:

Provided that the Central Government or the State Government or the Chief Inspector may, subject to the prior approval of the Central Government or the State Government, by order in writing, require any factory carrying on hazardous process, irrespective of the quantity of hazardous substances in the premises, to draw up an on-site emergency plan and disaster control measures.”;

(ii) in sub-section (5),—

(a) in clause (a), for the words “factory engaged”, the words “factory is engaged” shall be substituted;

(b) in clause (b), before the words “within a period of”, the words “at least” shall be inserted.

Amendment of section 41C. **27.** In section 41C of the principal Act, in clause (a), for the words “chemical, toxic or any other harmful substances”, the words “hazardous substances” shall be substituted.

Amendment of section 41D. **28.** In section 41D of the principal Act, in sub-section (1), for the words “prevention and recurrence”, the words “prevention of recurrence” shall be substituted.

29. In section 41E of the principal Act, in sub-section (I), for the words “Director General of Factory Advice Service and Labour Institutes”, the words “Directorate General of Occupational Safety and Health” shall be substituted. Amendment of section 41E.
30. In section 41F of the principal Act, in sub-section (I), for the words and brackets “threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise)”, the words “limits of exposure of chemical and toxic substances in manufacturing process” shall be substituted. Amendment of section 41F.
31. In section 41G of the principal Act, in sub-section (I), for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted. Amendment of section 41G.
32. After section 41H of the principal Act, the following section shall be inserted, namely:— Insertion of new section 41-I.  
Power to make rules regarding hazardous process.
- “41-I. The Central Government or the State Government may make rules —
- (a) specifying standards of health and safety to be followed in hazardous process;
- (b) prohibiting or restricting employment of young persons, pregnant women, and any class of adult workers in manufacture, storage or handling involving hazardous process;
- (c) prohibiting, restricting or controlling the use of hazardous substances.”.
33. In section 45 of the principal Act, in sub-section (3), for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted. Amendment of section 45.
34. For section 46 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 46.
- “46. (I) In every factory wherein two hundred or more workers are ordinarily employed, there shall be provided and maintained a canteen or canteens by the occupier for the use of the workers. Canteens.
- (2) The State Government may prescribe—
- (a) the standards in respect of construction, location, accommodation, furniture, cleanliness and other equipment of the canteen;
- (b) the foodstuffs to be served therein and the charges which may be made therefor;
- (c) the constitution of managing committee for the canteen and representation of the workers in the management of the canteen;
- (d) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and the expenditure of the items shall be borne by the occupier;
- (e) the periodical medical examination of canteen employees; and
- (f) the delegation to the Chief Inspector, subject to such conditions, as may be prescribed, of the power to make rules under clause (b).
- (3) The Chief Inspector may, subject to such conditions as may be specified by him, after recording the reasons in writing, relax the requirement of sub-section (I) for a period not exceeding twelve months for existing factories to provide the facility of canteen.”.
35. In section 47 of the principal Act,— Amendment of section 47.
- (a) in sub-section (I),—
- (i) for the words “one hundred and fifty”, the word “seventy-five” shall be substituted;
- (ii) for the words “suitable shelters or rest rooms”, the words “suitable and separate shelters or rest rooms for male and female workers” shall be substituted;

(iii) in the first proviso, for the words “as part of the requirements”, the words “as part of requirements relating to the lunch room” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely: —

“(4) The Chief Inspector may, subject to such conditions as may be specified by him, after recording the reasons, relax the requirement of sub-section (1), for a period not exceeding twelve months for existing factories to provide the facility of shelters, rest rooms and lunch rooms.”.

Amendment of section 56.

**36.** In section 56 of the principal Act, for the proviso, the following proviso shall be substituted, namely:

“Provided that where the State Government is satisfied, it may, by notification in the Official Gazette, increase the period of spreadover upto twelve hours in a factory or group or class or description of factories.”.

Amendment of section 59.

**37.** In section 59 of the principal Act, after sub-section (5), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section, the term “such allowances” means all allowances except those of complimentary in nature such as house rent allowance, transport and small family allowance.’.

Amendment of section 64.

**38.** In section 64 of the principal Act,—

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

(b) in sub-section (5), for the words “Rules made”, the words, brackets and figures “Rules made before the commencement of the Factories (Amendment) Act, 2014” shall be substituted.

Amendment of section 65.

**39.** In section 65 of the principal Act, in sub-section (3), in clause (iv),—

(a) for the word “seventy-five”, the words “one hundred and fifteen” shall be substituted;

(b) after *Explanation*, the following proviso shall be inserted, namely:—

“Provided that the State Government or the Chief Inspector may, subject to the prior approval of the State Government, by order further enhance the total number of hours of overtime work in any quarter to one hundred and twenty-five in the public interest.”.

Substitution of new section for section 66.

**40.** For section 66 of the principal Act, the following section shall be substituted, namely:—

Further restrictions on employment of women.

“66. The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any women;

(b) there shall be no change of shifts except after a weekly holiday or any other holiday; and

(c) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that where the State Government or any person, authorised by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies’ toilets, equal opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the door step of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, the employer, representative organisation of the employer and representative organisation of



workers of the concerned factory or group or class or description of factories, allow women to work between 7.00 P.M. and 6.00 A.M. in such factory or group or class or description of factories, subject to such conditions as may be specified therein:

5            Provided further that no such permission shall be granted to a woman worker during a period of sixteen weeks before and after her childbirth, of which at least eight weeks shall be before the expected childbirth, and for such additional period, if any, as specified in the medical certificate stating that it is necessary for the health of the woman worker or her child:

10           Provided also that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered.”.

**41.** In section 76 of the principal Act, clause (b) shall be omitted.

Amendment of section 76.

26 of 1938. 15           **42.** In section 77 of the principal Act, for the words and figures “the Employment of Children Act, 1938”, the words, brackets and figures “the Child Labour (Prohibition and Regulation) Act, 1986” shall be substituted.

Amendment of section 77.

**43.** In section 79 of the principal Act,—

Amendment of section 79.

(a) in sub-section (1),—

20            (i) in the opening portion, for the figures and word “240 days”, the figures and word “90 days” shall be substituted;

(ii) in *Explanation 1*, for the figures and word “240 days”, the figures and word “90 days” shall be substituted;

(b) in sub-section (2), for the word “two-thirds”, the word “one-fourth” shall be substituted.

25           **44.** In section 87 of the principal Act,—

Amendment of section 87.

(a) in the opening portion, for the words “the State Government”, the words “the Central Government or the State Government” shall be substituted;

(b) in clause (b), for the words “women, adolescents or children”, the words “young persons or women or persons with disabilities” shall be substituted.

30           **45.** In section 88 of the principal Act, in sub-section (3), for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted.

Amendment of section 88.

**46.** In section 89 of the principal Act, sub-section (4) shall be omitted.

Amendment of section 89.

35           **47.** In section 90 of the principal Act, for the words “State Government”, wherever they occur, the words “Central Government or the State Government” shall be substituted.

Amendment of section 90.

**48.** In section 91A of the principal Act, in sub-section (1), for the words “Director General of Factory Advice Service and Labour Institutes”, the words “Director General of Occupational Safety and Health” shall be substituted.

Amendment of section 91A.

40           **49.** For section 92 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 92.

45            “92. (1) Save as otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of the provisions of Chapters I, III (except sections 11, 18, 19 and 20), IV, IVA (except sections 41B, 41C and 41H), VII and IX (except section 89) of this Act or of any rules made thereunder or any order in writing given thereunder, the occupier and the manager of the factory shall each be guilty of an offence and punishable with imprisonment for

General penalty for offences.

a term which may extend to two years or with fine which may extend to three lakh rupees or with both, and in any case it shall not be less than thirty thousand rupees:

Provided that where the contravention of any of the provisions of the Chapters referred to in sub-section (1) or rules made thereunder has resulted in an accident causing death or serious bodily injury, the fine shall not be less than seventy-five thousand rupees. 5

(2) If the contravention is continued after conviction under sub-section (1), then the occupier and manager of the factory shall each be guilty of an offence and punishable with a further fine which shall not be less than two thousand rupees for each day on which the contravention is so continued. 10

(3) In respect of any contravention of any of the provisions of this Act or of any rules made thereunder or any order in writing given thereunder other than those mentioned under sub-section (1), for which no penalty has been provided the occupier and manager of the factory shall each be guilty of an offence and punishable with fine which may extend to one lakh fifty thousand rupees and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees for each day on which the contravention is so continued. 15

*Explanation.*—For the purposes of this section “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot. 20

Penalties for offences by persons other than occupier.

92A. If any person, who designs, manufactures, imports or supplies any article or substance for use in a factory and contravenes any of the provisions of section 7B, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three lakh rupees or with both. 25

Penalties in certain other cases.

92B. (1) If any competent person appointed under clause (ca) of section 2 fails to comply with any of the provisions of Act or the rules made thereunder, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to three thousand rupees or with both. 30

(2) If any worker employed in a factory spits in contravention of sub-section (3) of section 20, he shall be punishable within fine not exceeding one hundred rupees.

(3) If any medical practitioner fails to comply with the provisions of sub-section (2) of section 89, he shall be punishable with fine which may extend to three thousand rupees. 35

(4) If any worker employed in a factory contravenes the provisions of sub-section (1) of section 97 or section 111 or of any rule or order made thereunder, he shall be punishable with fine which may extend to one thousand five hundred rupees.

Compounding of certain offences.

92C. (1) The Central Government or the State Government may, by notification in the Official Gazette, prescribe in respect of the offences specified in the Fourth Schedule, which may before the institution of the prosecution, be compounded by such officers or authorities and for such amount as prescribed: 40

Provided that the Central Government or the State Government, as the case may be, may, by notification in the Official Gazette, amend the Fourth Schedule by way of addition, omission or variation of any offence specified in the said Schedule. 45

(2) Where an offence has been compounded under sub-section (1), no further proceedings shall be taken against the offender in respect of such offence.

(3) Nothing contained in sub-section (1) shall apply to offence committed within a period of three years from the date on which a similar offence committed was compounded under sub-section (1).” 50

50. For section 93 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 93.

5 '93. (1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for provision and maintenance of—

Liability of owner of premises in certain circumstances.

(i) common facilities and services such as approach roads, drainage, water supply, lighting and sanitation;

(ii) adequate staircases;

(iii) precaution in case of fire;

10 (iv) ensuring structural stability;

(v) hoists and lifts; and

(vi) any other common facilities.

15 (2) Where in any premises, independent or self-contained, floors or flats, compartments, rooms, galas, sheds are used as separate factories, the owner of the premises shall be responsible for the provision and maintenance of—

(i) latrines, urinals and washing facilities;

(ii) safety of machinery and plant installed in the common place or location of an occupier;

20 (iii) safe means of access to floors or flats, compartments, rooms, galas, sheds and maintenance and cleanliness of staircases and common passages;

(iv) precautions in case of fire;

(v) hoists and lifts;

25 (vi) prohibition of the common passages, balconies, verandas, access space, staircases and such other common spaces for use of any activity not intended in such spaces;

(vii) ensuring structural stability; and

(viii) any other common facilities provided in the premises.

30 (3) The owner of premises shall be responsible for provision, maintenance or arrangement for any other facility which may be required but not specified in sub-sections (1) and (2) above.

(4) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-sections (1) and (2) in respect of the carrying out of the provisions of canteens, shelter, rest rooms and creches.

35 (5) In respect of sub-section (3) while computing for the purposes of any of the provisions of this Act, the total number of workers employed in the whole of the premises shall be deemed to be in a single factory.

40 (6) The owner of the premises shall be liable for any contravention of any of the provisions of this section, as if he were the occupier or manager of a factory, and shall be punishable in accordance with the provisions of section 92.

*Explanation.*—For the purposes of this section, “owner” shall include promoter, co-operative society, trust, receiver, special officer, as the case may be.’

Amendment  
of section 94.

**51.** In section 94 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “ten thousand rupees but which may extend to two lakh rupees”, the words “forty thousand rupees but which may extend to six lakh rupees” shall be substituted;

5

(ii) in the first proviso, for the words “ten thousand rupees”, the words “forty thousand rupees” shall be substituted;

(iii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where contravention of any of the provisions of Chapters mentioned in sub-section (1) of section 92 or of any rules made thereunder has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one lakh rupees.”

10

(b) after sub-section (1), as so amended, the following sub-section shall be inserted, namely:—

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“(1A) If any person who has been convicted of any offence punishable under section 92A is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction,—

(i) in case of contravention of sub-section (1) of section 92A, with imprisonment for a term which may extend to one year or with fine which shall not be less than forty thousand rupees but which may extend to five lakh rupees or with both; and

20

(ii) in case of contravention of sub-section (2) of section 92A, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.”;

25

(c) in sub-section (2), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “and sub-section (1A)” shall be inserted.

Amendment  
of section 95.

**52.** In section 95 of the principal Act, for the portion beginning with the words “being examined by, an Inspector” and ending with the words “ten thousand rupees or with both”, the following shall be substituted, namely:—

30

“being examined by, an Inspector or does not provide reasonable and necessary assistance or co-operation to an Inspector in reaching the concern spot, branch, section, department in a factory, or conceals any fact or figures required for effective implementation of the provisions of the Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to thirty thousand rupees or with both.”

35

Amendment  
of section 96.

**53.** In section 96 of the principal Act, for the words “ten thousand rupees”, the words “thirty thousand rupees” shall be substituted.

Amendment  
of section  
96A.

**54.** In section 96A of the principal Act,—

(a) for the words “two lakh rupees”, the words “six lakh rupees” shall be substituted;

40

(b) for the words “five thousand rupees”, the words “fifteen thousand rupees” shall be substituted.

Amendment  
of section 97.

**55.** In section 97 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

45

“(1) Subject to the provisions of section 111, no worker employed in a factory shall contravene any provisions of this Act or of any rule or order made thereunder, imposing any duty or liability on the workers.”

**56.** In section 98 of the principal Act, for the words “one thousand rupees”, the words “three thousand rupees” shall be substituted. Amendment of section 98.

**57.** In section 99 of the principal Act, for the words “one thousand rupees”, the words “three thousand rupees” shall be substituted. Amendment of section 99.

5 **58.** In section 102 of the principal Act, in sub-section (2), for the words “one hundred rupees”, the words “three hundred rupees” shall be substituted. Amendment of section 102.

**59.** In section 104 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 104.

10 “(2) A declaration in writing by a certifying surgeon or any other medical authority notified in this behalf by the State Government under sub-section (2) of section 16 of  
61 of 1986. the Child Labour (Prohibition and Regulation) Act, 1986 relating to a worker stating therein that he has personally examined such worker to be under or over the age stated as such in the declaration shall, for the purposes of this Act and rules made thereunder, be conclusive evidence as to the age of that worker.”.

15 **60.** In section 111 of the principal Act, sub-section (2) shall be omitted. Amendment of section 111.

**61.** In section 112 of the principal Act, for the words “The State Government may make rules”, the words, figures and letter “Subject to the provisions contained in section 112A, the State Government may make rules” shall be substituted. Amendment of section 112.

20 **62.** After section 112 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 112A.

“112A. (1) The Central Government may, by notification and consultation with the State Governments, frame rules with a view to bring uniformity in the areas of occupational safety, health or such other matter as it may consider necessary. Power to make rules by Central Government.

25 (2) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should  
30 not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

**63.** The First Schedule to the principal Act shall be omitted. Omission of First Schedule.

35 **64.** After Third Schedule to the principal Act, the following Schedule shall be inserted, namely:— Insertion of Fourth Schedule.

**“THE FOURTH SCHEDULE**  
(See section 92C)

LIST OF COMPOUNDABLE OFFENCES

40 Serial number	Section and rules framed thereunder and orders issued thereunder	Nature of Offence
1.	Section 11 – Cleanliness	Not maintaining cleanliness as per the provisions.
2.	Section 18 – Drinking Water	Not providing and maintaining arrangements for drinking water as per the provisions.
45 3.	Section 19 – Latrines and Urinals	Not providing latrine and urinal accommodation as per the provisions.

Serial number	Section and rules framed thereunder and orders issued thereunder	Nature of Offence	
4.	Section 20 — Spittoons	(a) Not providing the spittoons as per the provisions; (b) Spitting in contravention of sub-section (3) of section 20.	5
5.	Section 42 - Washing Facilities	Not providing and maintaining washing facilities as per the provisions.	
6.	Section 43 – Facilities for storing and drying of wet clothing	Not providing facilities as per the provisions.	10
7.	Section 44 – Facilities for sitting	Not providing facilities as per the provisions.	
8.	Sub-sections (1), (2) and (3) of section 45 – First-aid appliances	Not providing and maintaining first-aid appliances as per the provisions.	
9.	Section 46 – Canteens	Not providing and maintaining canteen as per the provisions.	15
10.	Section 47 – Shelters, rest rooms and lunch rooms	Not providing and maintaining shelters, rest rooms and lunch rooms as per the provisions.	
11.	Section 48 — Creches	Not providing and maintaining creches as per the provisions.	
12.	Section 50 – Power to make rules to supplement Chapter V	Not complying with the rules framed under section 50.	20
13.	Sub-section (2) of section 53 – Compensatory Holidays	Not displaying the notice and not maintain the register for compensatory holiday.	
14.	Sub-section (5) of section 59 – Extra wages for overtime	Not maintaining the prescribed registers.	25
15.	Section 60 – Restriction on double employment	Allowing a worker double employment on any day.	
16.	Section 61 – Notice of periods of work for adults	Not complying with the provisions.	
17.	Section 62 – Register of adult workers	Not maintaining register as per the provisions.	30
18.	Section 63 – Hours of work to correspond with notice	Not complying with the provisions.	
19.	Section 64 – Power to make exempting rules	Not complying with the rules framed under section 64.	
20.	Section 65 – Power to make exempting orders	Not complying with the orders issued under section 65.	35
21.	Section 79 – Annual leave with wages	Not complying with the provisions.	
22.	Section 80 – Wages during leave period	Not complying with the provisions.	
23.	Section 81 – Payment in advance in certain cases	Not complying with the provisions.	40
24.	Section 82 – Mode of recovery of unpaid wages	Not complying with the provisions.	
25.	Section 83 – Power to make rules	Not maintaining registers as per rules and not complying with the provisions.	
26.	Section 84 – Power to exempt factories	Not complying with the conditions specified in the exempting order.	45
27.	Section 93 – Liability of owner of premises in certain circumstances	Not complying with the provisions contained in sub-section (1) and clauses (i) and (vi) of sub-section (3).	
28.	Section 97 – Offences by workers	Not complying with the provisions.	50
29.	Section 108 – Display of notices	Not complying with the provisions.	

Serial number	Section and rules framed thereunder and orders issued thereunder	Nature of Offence
	30. Section 110 – Returns	Not complying with the provisions.
	31. Section 111A – Right of workers, etc.	Denial of rights of workers.
5	32. Section 114 – No charge for facilities and conveniences	Demanding charge from worker for providing any facility under the Act.”.

## STATEMENT OF OBJECTS AND REASONS

The Factories Act was enacted in 1948. Its 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 in the years 1949, 1950, 1951, 1954, 1970 and 1976. The last amendment to the Factories Act, 1948 was made in the year 1987 as the Factories (Amendment) Act, 1987, wherein a separate Chapter was inserted relating to hazardous process.

2. There have been several developments over the last twenty years ever since the last amendment was made. These developments include changes in the manufacturing practices and emergence of new technologies, ratification of ILO Conventions, Judicial decision, recommendations of the Committees and decisions taken in the Conferences, of Chief Inspectors of Factories.

3. In view of above developments and suggestions from various Ministries of the Central Government, employers and trade union representatives, it has been decided to amend the Factories Act, 1948 by an amendment Bill, namely, the Factories (Amendment) Bill, 2014.

4. The Factories (Amendment) Bill, 2014, *inter alia*, provides the following, namely:—

(a) to amend section 18 of the Act so as to extend the provisions relating to drinking water to all factories irrespective of number of workers;

(b) to amend section 22 of the Act so as to prohibit the pregnant woman or a person with disability to work on or near machinery in motion;

(c) to substitute a new section for existing section 27 relating to “prohibition of employment of woman and children near cotton openers” so as to prohibit employment of young persons, pregnant woman and persons with disabilities in any part of a factory for pressing cotton in which a cotton-opener is at work;

(d) to substitute a new section 35A relating to “protection of eyes” so as to impose obligation upon the occupier to make a provision of “Personal Protective Equipment” for workers exposed to various hazards;

(e) to substitute a new section for existing section 36 of the Act relating to “precautions against dangerous fumes, gases, etc.” to provide adequate facilities to the persons who are liable to enter into confined spaces;

(f) to amend section 37 of the Act relating to “explosive or inflammable dust, gas, etc.”, so as to take practical measures against explosion or inflammable dust, gas, etc.;

(g) to amend section 41B of the Act relating to “compulsory disclosure of information by the occupier” to provide for preparation of emergency plan and disaster control measures in consultation with the workers;

(h) to amend section 46 of the Act relating to “canteens” to provide canteen facilities in respect of factories employing two hundred or more workers instead of the present stipulation of two hundred and fifty workers;

(i) to amend section 47 of the Act relating to “shelters, rest rooms and lunch rooms” so as to provide for shelters or rest rooms and lunch rooms in respect of factories employing seventy-five or more workers instead of present stipulation of one hundred and fifty workers;

(j) to substitute a new section for section 66 of the Act providing further restrictions on employment of women;



(k) to insert a new section 112A so as to empower the Central Government to make rules in consultation with the State Governments, with a view to bring uniformity in the areas of occupational safety, health or such other matters as the Central Government may consider necessary; and

(l) to insert the Fourth Schedule providing the list of compoundable offences.

7. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 5th August, 2014.*

NARENDRA SINGH TOMAR

*Notes on clauses*

*Clause 1* of the Bill provides for the short title and commencement. A provision has been made empowering the Central Government to appoint date of commencement of the proposed legislation and different dates for different provisions of the proposed legislation.

*Clause 2* of the Bill seeks to amend section 2 of the Factories Act, 1948 relating to definitions of “hazardous process”, “hazardous substance”, “factory” and “prescribed”.

*Clause 3* of the Bill seeks to amend section 6 of the Act, relating to approval, licensing and registration of factories.

Under the existing provisions contained in the *Explanation* to the said section, a factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

It is proposed to substitute the *Explanation* to said section so as to provide that a factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery or within such limits as may be prescribed, or the addition of any plant or machinery, if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or result in hazardous conditions likely to cause accident, dangerous occurrences or injuries to health of workers or public or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes, or chemical or biological wastes injurious to health and a certificate in writing shall be given by a competent person to this effect. Provided that till such certificate is given by the competent person, a certificate given in writing by the occupier shall be valid.

*Clause 4* of the Bill seeks to amend section 7 of the Act relating to Notice by occupier.

Under the existing provisions contained in clause (e) of sub-section (1) of said section, the total rated horse-power installed or to be installed in the factory, which shall not include the rated horse-power of any separate stand-by plant.

It is proposed to substitute the words “horse-power” in clause (e) of sub-section (1) of said section by the words “power in Kilowatts” in order to convert the unit from British to Metric system.

*Clause 5* of the Bill seeks to amend section 7B of the Act relating to the general duties of manufacturers, etc., as regards articles and substances for use in factories.

Under the existing provisions contained in sub-section (5) of said section, where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

It is proposed to substitute sub-section (5) of said section so as to impose responsibility upon a person,— (a) who erects or instals any article for use in a factory, to ensure, so far as practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory; (b) who manufactures, imports or

supplies any substance for use in any factory—(i) to ensure, so far as practicable that such substance is safe and has no risks involved to health of persons working in such factory; (ii) to carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary; (iii) to take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health; (c) who undertakes the manufacture of any substance for use in any factory to carry out or arrange for the carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimization of any risks to health or safety to which the substance may give rise out of such manufacture or research”. It is also proposed to substitute sub-section (6) and the *Explanation* to said section in the light of addition of the word “substance”.

*Clause 6* of the Bill seeks to amend section 13 of the Act relating to the provision of ventilation and temperature.

Under the existing provisions contained in section (2) of the said section, the State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 7* of the Bill seeks to amend section 17 of the Act relating to the provision of lighting.

Under the existing provisions contained in sub-section (4) of said section, the State Government may prescribe, standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

It is proposed to amend sub-section (4) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 8* of the Bill seeks to amend section 18 of the Act relating to the provision of drinking water.

Under the existing provisions contained in sub-section (3) of said section, in every factory wherein more than two hundred and fifty workers are ordinarily employed provision shall be made for cool drinking water during hot weather by effective means and for distribution thereof.

It is proposed to amend sub-section (3) of the said section so as to omit the words, “wherein more than two hundred and fifty workers are ordinarily employed”. By the omission of the said words the responsibility lies upon each and every factory, to provide the facilities of cool drinking water during hot weather by effective means, irrespective of strength of workers.

*Clause 9* of the Bill seeks to amend section 20 of the Act relating to the provision of spittoons. Under the existing provisions contained in sub-section (4) of said section whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees. It is proposed to amend section 20 of the Act so as to omit sub-section (4) of the said section. The said proposal is consequential due to insertion of a new section 92B namely “Penalty in certain other cases”.

*Clause 10* of the Bill seeks to amend section 21 of the Act relating to the provision of fencing of machinery.

Under the existing provisions contained in sub-section (2) of said section the State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 11* of the Bill seeks to amend section 22 of the Act relating to the provision of work on or near machinery in motion.

Under the existing provisions contained in sub-section (2) of said section, no woman or a young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

It is proposed to amend sub-section (1) of section 22 so as to provide that the words and brackets “adult male worker wearing tight fitting clothing (which shall be supplied by the occupier)” shall be replaced as “adult male worker wearing tight fitting clothing or adult female worker wearing tight fitting clothing (which shall be supplied by the occupier) covering loose hair”.

It is also proposed to amend sub-section (2) of said section so as to prohibit the pregnant woman or a person with disability instead of “women”.

It is also proposed to amend sub-section (3) of said section, so as to substitute the words “the State Government” by the words “the Central Government or the State Government”, which is consequential in nature.

*Clause 12* of the Bill seeks to amend section 23 of the Act relating to employment of young persons on dangerous machines.

Under the existing provisions contained in sub-section (2) of said section, the provisions contained in sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 13* of the Bill seeks to amend section 26 of the Act relating to casing of new machinery.

It is proposed to omit section 26 of the said Act, since it is proposed to amend sub-section (5) of section 7B making the manufacturers, suppliers of articles including machinery responsible for manufacturing supplying safe machinery to be used in factory.

*Clause 14* of the Bill seeks to amend section 27 of the Act relating to Prohibition of employment of women and children near cotton openers.

Under the existing provisions contained in the said section, no woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work. The proviso to the said section says that, if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

It is proposed to amend said section so as to prohibit the employment of young persons or pregnant woman or persons with disability instead of women.

*Clause 15* of the Bill seeks to amend section 28 of the Act relating to hoists and lifts.

Under the existing provisions contained in sub-section (4) of said section, the State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

It is proposed to amend sub-section (4) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 16* of the Bill seeks to amend section 29 of the act relating to lifting machines, chains, ropes and lifting tackles.

Under the existing provisions contained in sub-section (2) of said section the State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories— (a) prescribing further requirements to be complied with in addition to those set out in this section; (b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

It is proposed to amend sub-section (2) of said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 17* of the Bill seeks to amend section 31 of the Act relating to pressure plant.

Under the existing provisions contained in sub-section (2) of the Act the State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories. Sub-section (3) of said section provides that the State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.

It is proposed to amend sub-sections (2) and (3) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature

*Clause 18* of the Bill seeks to amend section 34 of the Act relating to Excessive Weights.

Under the existing provisions contained in the sub-section (2) of said section, the State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

It is proposed to amend sub-section (2) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 19* of the Bill seeks to amend section 35 of the Act relating to Protection of eyes.

Under the existing provisions contained in the said section, the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process, involving risk of injury to the eyes from particles or fragments thrown off in the course of the process or risk to the eyes by reason of exposure to excessive light.

It is proposed to amend sub-section (2) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 20* of the Bill seeks to insert a new section 35A namely Personal Protective Equipment and protective clothing to the workers having regard to the nature of the hazards involved in the work. The said clause empowers the State Government or the Central Government to make rules prescribing the standards of maintenance, issue of personal protective equipment and protective clothing with a view to ensure their effectiveness in relation to the conditions of use and conformity to their quality standards.

*Clause 21* of the Bill seeks to amend section 36 of the Act relating to precautions against dangerous fumes, gases, etc.

It is proposed to substitute the said section so as to provide certain provisions in respect of circumstance where a person is required to enter any chamber, tank, vat, pit, flue or other confined space in any factory in which any gas, fume vapor or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby.

*Clause 22* of the Bill seeks to amend section 37 of the Act relating to explosive or inflammable dust, gas, etc.

Under the existing provisions contained in the sub-section (1) of said section, where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by— (a) effective enclosure of the plant or machinery used in the process; (b) removal or prevention of the accumulation of such dust, gas, fume or vapour; (c) exclusion or effective enclosure of all possible sources of ignition.

It is proposed to amend sub-section (1) of said section so as to provide that any manufacturing process, storage or handling of, raw material, intermediate product or finished product produces dust, gas, fumes or vapour to such an extent as to be likely to result in fire or explosion on ignition or otherwise, all practicable measures shall be taken to prevent any such fire or explosion. It is also proposed to insert new sub-section (4A) so as to provide that in any factory if any flammable gas, fume or dust is likely to be present in any area, the electrical equipment, apparatus and fittings installed in that area shall be selected, installed and maintained as per the National Electrical Code and shall conform to the relevant National Standards, or to an International Standard where National Standard is not available.

It is also proposed to insert a new sub-section (4B) so as to provide that the electrical equipment, apparatus and fittings referred to in sub-section (4A), shall be duly approved before use in factories by the Directorate General of Occupational Safety and Health.”

*Clauses 23* of the Bill seeks so amend section 38 of the Act relating to precautions in case of fire.

Under the existing provisions contained in sub-section (3) of the said section, the State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (1) and (2).

It is proposed to amend sub-sections (3) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 24* of the Bill seeks to amend section 40B of the Act relating to Safety Officers.

Under the existing provisions contained in sub-section (1) of the said section, in every factory,— (i) wherein one thousand or more workers are ordinarily employed, or (ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or

any other hazard to health, to the persons employed in the factory, the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification. Sub-section (2) of the said section provides that, the duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.

It is proposed to amend of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 25* of the Bill seeks to amend section 41A of the Act relating to Constitution of Site Appraisal Committees.

It is proposed to amend the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 26* of the Bill seeks to amend section 41B of the Act relating to the Compulsory disclosure of information by the occupier.

Under the existing provisions contained in sub-section (4) of the said section, every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

It is proposed to amend sub-section (4) of the said section so as to specify that the— (a) occupier of a factory involved in manufacture, storage or handling such hazardous substances in quantities equal to or more than such quantities as may be prescribed, shall draw up in consultation with workers representatives an on-site emergency plan and detailed disaster control measures for his factory and submit the same for information of Chief Inspector and other authorities as may be prescribed, (b) The occupier of the factory shall make known to the workers employed in the factory and to the general public in the vicinity of the factory, the safety measures required to be taken in accordance with the on-site emergency plan and detailed disaster control measures drawn under sub-clause (a) above in the event of an accident taking place. Proviso to this sub-section provided that the Central Government or the State Government or the Chief Inspector may, subject to the prior approval of the Central Government or the State Government, by order in writing, require any factory carrying on hazardous process, irrespective of the quantity of hazardous substances in the premises, to draw up an on-site emergency plan and disaster control measures.

It is further proposed to amend clause (a) and clause (b) of sub-section (5) of the said section so as to substitute the words “factory engaged” by the words “factory is engaged” and to insert the words “at least” before the words “within a period of” so as to make the said sub-section more comprehensive.

*Clause 27* of the Bill seeks to amend section 41C of the Act relating to the specific responsibility of the occupier in relation to hazardous process.

Under the existing provisions contained in clause (a) of the said section, every occupier of a factory involving any hazardous process shall— (a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed.

It is proposed to amend clause (a) of the said section so as to substitute the words “chemical, toxic or any other harmful substance” by the words “hazardous substances”, in order to make the section more comprehensive.

*Clause 28* of the Bill seeks to amend section 41D of the Act relating to the power of Central Government to appoint Inquiry Committee.

Under the existing provisions contained in sub-section (1) of section 41D of the Act, the Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected or likely to be affected, due to such failure or neglect and for the prevention and recurrence of such extraordinary situations in future in such factory or elsewhere.

It is proposed to amend sub-section (1) of said section so as to substitute the words “prevention and recurrence” by the words “prevention of recurrence” in order to make the section more comprehensive.

*Clause 29* of the Bill seeks to amend section 41E of the Act relating to the emergency standards.

Under the existing provisions contained in sub-section (1) of the said section, where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director- General of Factory Advice Service and Labour Institutes or any institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

It is proposed to amend sub-section (1) of the said section so as to substitute the words “Director-General of Factory Advice Service and Labour Institutes” by the words “Director General of Occupational Safety and Health” due to renaming of “Directorate General of Factory Advice Service and Labour Institutes” as “Directorate General of Occupational Safety and Health”.

*Clause 30* of the Bill seeks to amend section 41F of the Act relating to the permissible limits of exposure of chemical and toxic substances.

Under the existing provisions contained in sub-section (1) of the said section, the maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

It is proposed to substitute the words “threshold limit of exposure of chemical and toxic substances in manufacturing process (whether hazardous or otherwise)” by the words “limits of exposure of chemicals and toxic substances in manufacturing process” in order to make the section more comprehensive.

*Clause 31* of the Bill seeks amend section 41G of the Act relating to workers’ participation in safety management.

Under the existing provisions contained in sub-section (1) of the said section, the State Government may, by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up Safety Committee.

It is proposed to amend sub-section (1) of the said section to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 32* of the Bill seeks to insert a new section 41-I relating to power to make rules regarding hazardous process. The said clause provides that the Central Government or the State Government may make rules— (a) specifying standards of health and safety to be followed in hazardous process, (b) prohibiting or restricting employment of young persons,



pregnant women, and any class of adult workers in manufacture, storage or handling involving hazardous process, (c) prohibiting, restricting, or controlling the use of hazardous substances.

*Clause 33* of the Bill seeks to amend section 45 of the Act relating to the First-aid appliances.

It is proposed to amend sub-section (3) of the said section so as to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 34* of the Bill seeks to substitute section 46 of the Act relating to canteens.

Under the existing provisions contained in the said section, the State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers. It is proposed to substitute the said section, so as to provide that in every factory wherein two hundred or more workers are ordinarily employed, there shall be provided and maintained a canteen or canteens by the occupier for the use of the workers.

It is also proposed to confer power upon the State Government to make rules on certain provisions relating to the canteens and also empowers the Chief Inspector to relax the requirement of providing canteens, for a period not exceeding twelve months, for existing factories, after recording the reason in writing.

*Clause 35* of the Bill seeks to amend section 47 of the Act relating to shelters, rest rooms and lunch rooms.

Under the existing provisions contained in sub-section (1) of the said section, in every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers. The proviso to the said section says that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section.

It is proposed to amend sub-section (1) of the said section so as to impose responsibility on the employer of every factory to provide shelters and rest rooms wherein seventy five workers are ordinarily employed. The said clause also substitutes the words “suitable and separate shelters or rest rooms for male and female workers” for the words “suitable shelters or rest rooms”. The said clause also proposes to insert a new sub-section (4) so as to empower the Chief Inspector to relax the requirement of providing of shelters, rest rooms and lunch rooms, for a period not exceeding twelve months, for existing factories after recording the reasons.

*Clause 36* of the Bill seeks to amend section 56 of the Act relating to spreadover.

Under the existing provisions contained in the proviso to section 56, the Chief Inspector may increase the spreadover up to 12 hours for reasons to be specified in writing.

It is proposed to amend the said proviso so as to provide that where the State Government is satisfied it may by notification in Official Gazette increase the period of spreadover upto 12 hours in a factory or group or class or description of factories.

*Clause 37* of the Bill seeks to amend section 59 of the Act relating to extra wages for overtime.

Under the existing *explanation* to sub-section (3) of section 59, no mention has been made as what allowances has to be considered for computing the earnings for the days on which the worker actually worked.

It is proposed to amend the explanation clause by explaining the term such allowances. “such allowances” means all allowances except those of complementary in nature such as house rent allowance, transport and small family allowance.

*Clause 38* of the Bill seeks to amend section 64 of the Act relating to power to make exempting rules.

Under the existing provisions contained in clause (iv) of sub-section (4) of the said section, the total number of hours of overtime shall not exceed fifty for any one quarter.

It is proposed to amend clause (iv) of sub-section (4) of the said section so as to increase the total number of hours of overtime for any one quarter from fifty to one hundred. It is also proposed to amend sub-section (5) of the said section so as to substitute the words "Rules made" by the words "Rule made before the commencement of Factories (Amendment) Act, 2014".

*Clause 39* of the Bill seeks to amend section 65 of the Act relating to power to make exempting orders.

Under the existing provisions contained in clause (iv) of sub-section (3) of the said section, 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.

It is proposed to amend clause (iv) of sub-section (3) of the said section so as to increase the total number of hours of overtime work in any quarter from seventy-five to one hundred and fifteen. It is also proposed to insert a proviso in the said sub-section after explanation which enables that the State Government or the Chief Inspector may, subject to the prior approval of the State Government, by order further enhance the total number of hours of overtime work in any quarter to one hundred and twenty-five in the public interest.

*Clause 40* of the Bill seeks to substitute a new section 66 for section 66 of the Act relating to further restrictions on employment of women.

The existing provisions contained in the said section provides further restrictions on employment of women that—(a) no exemption from the provisions of section 54 may be granted in respect of any women, (b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M., (c) there shall be no change of shifts except after a weekly holiday or any other holiday.

Sub-section (2) of the said section provides that the State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

Sub-section (3) of the said section provides that the rules made under sub-section (2) shall remain in force for not more than three years at a time.

It is proposed to substitute a new section 66 to the said section so as to provide that where the State Government or any person, authorised by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies toilets, equal opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the door step of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, representative organization of women workers, the employer, representative organization of the employer and representative organization of workers of the concerned factory or group or class or description of factories allow women to work between 7.00 P.M. and 6.00 A.M. in such factory or group or class or description of factories, subject to such conditions as may be specified therein.

It is further proposed to provide that no such permission shall be granted to a women worker during a period of sixteen weeks before and after her childbirth, of which at least eight weeks shall be before the expected childbirth, and for such additional period, if any, as specified in the medical certificate stating that it is necessary for the health of the woman worker or her child.

It is also proposed to provide that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered.

*Clause 41* of the Bill seeks to amend section 76 of the Act relating to the power of State Government to make rules.

Under the existing provisions contained in clause (b) of said section the State Government make rules prescribing the physical standards to be attained by children and adolescents working in factories. It is proposed to omit this clause.

*Clause 42* of the Bill seeks to amend section 77 of the Act relating to certain other provisions of law not barred. Under the existing provisions contained in section 77 of the Act the provisions of Chapter VII relating to employment of young persons shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.

It is proposed to amend said section so as to adopt the provisions of Child Labour (Prohibition and Regulation) Act, 1986 instead of Employment of Children Act, 1938 to the said Act.

*Clause 43* of the Bill seeks to amend section 79 of the Act relating to Annual leave with wages.

Under the existing provisions contained in opening portion of sub-section (1), every worker who has worked for a period of 240 days or more in a factory 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— (i) if an adult, one day for every twenty days of work performed by him during the previous calendar year; (ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

It is proposed to amend sub-section (1) of the said section so as to decrease the computation of period of work from “240 days” to 90 days.

It is also proposed to amend *Explanation 1* to the sub-section (1) of said section so as to decrease the computation of period of work from 240 days to 90 days. It is also proposed to amend sub-section (2) of said section so as to replace the words “two thirds” by “one-fourth” in order to make the section more comprehensive.

*Clause 44* of the Bill seeks to amend section 87 of the Act relating to the Dangerous operations.

Under the existing provisions contained in clause (b) of section 87 of the Act, where the State Government is of opinion that any manufacturing process or operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the manufacturing process or operation is carried on prohibiting or restricting the employment of women, adolescents or children in the manufacturing process or operation.

It is proposed to amend the opening portion and clause (b) of said section so as to empower the Central Government or the State Government to make rules prohibiting or restricting the employment of young persons or women or persons with disabilities.

*Clause 45* of the Bill seeks to amend section 88 of the Act relating to the notice of certain accidents.

Under the existing provisions contained in sub-section (3) of said section, the State Government may make rules for regulating the procedure at inquiries under the said section.

It is proposed to amend sub-section (3) of said section to substitute the words “the State Government” by the words “the Central Government or the State Government”. The proposed amendment is consequential in nature.

*Clause 46* of the Bill seeks to amend section 89 of the Act relating to notice of certain diseases.

Under the existing provisions contained in sub-section (4) said section, if any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to one thousand rupees.

It is proposed to omit sub-section (4) of the said section. The said proposal is consequential due to insertion of a new section 92B namely "Penalties in certain other cases".

*Clause 47* seeks to amend section 90 of the Act relating to power to direct enquiry into cases of accident or disease.

Under the existing provisions contained in the said section, the State Government is empowered to make rules with respect to the provisions contained in the said section. It is proposed to amend said section so as to substitute the words "the State Government" by the words "the Central Government or the State Government". The proposed amendment is consequential in nature

*Clause 48* seeks to amend section 91A of the Act relating to the Safety and occupational health surveys.

It is proposed to amend sub-section (1) of said section so as to substitute the words "Director General of Factory Advice Service and Labour Institutes" by the words "Director General of Occupational Safety and Health" due to renaming of "Directorate General of Factory Advice Service and Labour Institutes" as "Directorate General of Occupations Safety and Health".

*Clause 49* of the Bill seeks to substitute section 92 of the Act relating to General penalty for Offences.

It is proposed to amend the action so as to provide that in case of contravention of the provisions of Chapter I, III (except sections 11, 18, 19 and 20), IV, IVA (except sections 41B, 41C and 41H), VII and IX (except section 89) of this Act, or of any rules made thereunder or any order in writing given thereunder, the occupier and the manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to three lakh rupees or with both, and in any case it shall not be less than thirty thousand rupees. It is further proposed that,—(i) where the contravention of any of the provisions of the Chapters referred to in sub-section (1) or rules made there under has resulted in an accident causing death or serious bodily injury, the fine shall not be less than seventy-five thousand rupees; (ii) if the contravention is continued after conviction under sub-section (1), then the occupier and manager of the factory shall each be guilty of an offence and punishable with a further fine which shall not be less than two thousand rupees for each day on which the contravention is so continued; (iii) in respect of any contravention of any of the provisions of this Act or any rules made there under or any order in writing given there under other than those mentioned under sub-section (1), for which no penalty has been provided the occupier and manager of the factory shall each be guilty of an offence and punishable with fine which may extend to one lakh fifty thousand rupees and if the contravention is continued after conviction, with a further fine which shall not be less than one thousand rupees for each day on which the contravention is so continued. It is further proposed to consolidate the provisions relating to penalties for violation of various provisions of the Act by a person other than occupier.

It is further to insert a new section 92B as penalty for offences by others than the occupier such as the competent person, medical practitioner or any worker. If any competent person appointed under clause 2(ca) fails to comply with any of the provisions under the act or rules he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extends to three lakh rupees or with both. It is also proposed as a consequential due to amendment of section 20, section 89, section 97 and section 111 of the Act. It is also proposed to compound in respect of offences specified in the Fourth Schedule to the Act namely section 92C which relates to Compounding of certain offences.

*Clause 50* of the Bill seeks to substitute section 93 of the Act relating to Liability of owner of premises in certain circumstances.

It is proposed to substitute section 93 of the Act so as to impose liability upon the owner of premises in certain circumstances. It is also proposed to punish the owner of premises for contravention of any of the provisions of said section as if he were the occupier or manager of a factory and shall be punishable in accordance with the provisions of section 92.

*Clause 51* of the Bill seeks to amend section 94 of the Act relating to the enhanced penalty after previous conviction.

It is proposed to amend sub-section (1) of said section so as to substitute the words “ten thousand rupees but which may extend to two lakh rupees” with the words “forty thousand rupees which may extend to six lakh rupees”.

It is also proposed to insert sub-section (1A) so as to provide that if any person who has been convicted of any offence punishable under section 92A is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction,— (i) in case of contravention of sub-section (1) of section 92A, with imprisonment for a term which may extend to one year or with fine which shall not be less than forty thousand rupees but which may extend to five lakhs rupees or with both; and (ii) in case of contravention of sub-section (2) of section 92A, with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both. It is also proposed to amend sub-section (2) of said section so as to insert the words, brackets, and figure and letter “sub-section (1A)” after the words, brackets, and figure “sub-section (1).

*Clause 52* seeks to amend section 95 of the Act relating to penalty for obstructing inspector.

Under the existing provisions contained in said section, 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 there under, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

It is proposed to amend said section so as to enhance the penalty from ten thousand rupees to thirty thousand rupees.

*Clause 53* seeks to amend section 96 of the Act relating to penalty for wrongfully disclosing results of analysis under section 91.

Under the existing provisions contained in said section, whoever wrongfully discloses results of analysis under section 91 shall be punishable with fine which may extent to ten thousand rupees.

It is proposed to amend said section so as to enhance the penalty from ten thousand rupees to thirty thousand rupees

*Clause 54* seeks to amend section 96A of the Act relating to Penalty for contravention of the provisions of sections 41B, 41C and 41H.

Under the existing provisions contained in sub-section (1) said section, whoever fails to comply with or contravenes any of the provisions of sections 41B, 41C or 41H or the rules made there under, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to two lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

It is proposed to enhance the fine from two lakh rupees to six lakh rupees and from five thousand rupees to fifteen thousand rupees in order to make the provisions more stringent.

*Clause 55* of the Bill seeks to amend section 97 of the Act relating to offences by workers.

Under the existing provisions contained in sub-section (1) of said section, it is provided that subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made there under, imposing any duty or liability on workers, he shall be punishable with fine which may extend to five hundred rupees. It is proposed to amend sub-section (1) of said section so as to omit the provisions relating to penalty for contravention of any provisions of this Act with reference to section 111 of the Act. The said proposal is consequential due to insertion of new section 92B namely penalties in certain other cases.

*Clause 56* seeks to amend section 98 of the Act relating to penalty for using false certificate of fitness.

Under the existing provisions contained in section 98, whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to two months or with fine which may extend to one thousand rupees or with both.

It is proposed to amend the said section so as to increase the penalty from one thousand rupees to three thousand rupees in order to make the provision more stringent.

*Clause 57* seeks to amend section 99 of the Act relating to penalty for double employment of child.

Under the existing provisions contained in the said section, if a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to one thousand rupees unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

It is proposed to amend the said section so as to increase the penalty from one thousand rupees to three thousand rupees in order to make the provision more stringent.

*Clause 58* seeks to amend section 102 of the Act relating to Power of Court to make orders.

It is proposed to amend the said section so as to increase the penalty from one hundred rupees to three hundred rupees in order to make the provision more stringent.

*Clause 59* of the Bill seeks to amend section 104 of the Act relating to the onus as to the age.

Under the existing provisions contained in the sub-section (2) of said section, a declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

It is proposed to amend sub-section (2) of said section so as to provide that a declaration in writing shall be given by a certifying surgeon or any other medical practitioner under sub-section (2) of the section 16 of Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) relating to a worker stating therein that he has personally examined such worker to be under or over the age stated as such in the declaration shall, for the purposes of this Act and rules made thereunder, be conclusive evidence as to the age of that worker.

*Clause 60* of the Bill seeks to amend section 111 of the Act relating to the obligations of workers.

Under the existing provisions contained in the sub-section (2) of said section, if any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

It is proposed to amend section 111 of the Act so as to omit sub-section (2) of said section. The said proposal is consequential due to insertion of new section 92B namely, penalties in certain other cases.

*Clause 61* of the Bill seeks to amend section 112 of the Act relating to general power to make rules by State Government. The said clause empowers the State Government to make rules for carrying out the provisions of the proposed legislation.

It is proposed to amend the section 112 by inserting the words “subject to the provisions contained in section 112A” thus, empowering the State Governments to make rules where the Central Government has not been empowered to make rules.

*Clause 62* of the Bill seeks to insert a new section 112 A namely, “Power to make rules by Central Government”.

The said clause empowers the Central Government to make rules in consultation with the State Governments with a view to bring uniformity in the areas of occupational safety, health or such other matters as it may consider necessary. It also provides that the rules made under the proposed legislation are required to be laid before both the Houses of Parliament.

*Clause 63* of the Bill seeks to omit First Schedule to the Act. The said Schedule specifies list of industries involving hazardous processes. The said proposal is consequential due to amendment of clause (cb) of section 2 of the Act, relating to the definition of “hazardous process” and insertion of a new clause (cc) relating to the definition of the term “hazardous substances”.

*Clause 64* of the Bill seeks to insert a new Schedule after the Third Schedule to the Act which provides the list of Compoundable Offences. The said proposal is consequential in nature.

#### FINANCIAL MEMORANDUM

There are no financial implications of the Factories (Amendment) Bill, 2014. Hence consultation with Ministry of Finance is not required.



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government in addition to the State Government to prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.

2. Clause 7 of the Bill empowers the Central Government in addition to the State Government to prescribe standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

3. Clause 10 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of section 21(2).

4. Clause 11 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prohibit in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

5. Clause 12 of the Bill empowers the Central Government in addition to the State Government to make rules so as to restrict the employment of young persons on dangerous machines.

6. Clause 15 of the Bill empowers the Central Government in addition to the State Government to make rules regarding hoists and lifts.

7. Clause 16 of the Bill empowers the Central Government in addition to the State Government to make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories so as to prescribe further requirements to be complied with in addition to those set out in this section, or to exempt from compliance with all or any of the requirements of Section 29, wherein its opinion, such compliance is unnecessary or impracticable.

8. Clause 17 of the Bill empowers the Central Government in addition to the State Government to make rules providing for the examination and testing of any plant or machinery and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories, or to exempt, subject to such conditions as may be specified therein, any part of any plant or machinery from the provisions of section 31.

9. Clause 18 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prescribe the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

10. Clause 19 of the Bill empowers the Central Government in addition to the State Government to make rules in respect of any prescribed manufacturing process which involves risk of injury to the eyes from particles or fragments thrown off in the course of the process, or risk to the eyes by reason of exposure to excessive light so as to provide for requirement of effective screens or suitable goggles for the protection of persons employed on or in the immediate vicinity of the process.

11. Clause 20 of the Bill empowers the Central Government in addition to the State Government to make rules so as to prescribe a standard of maintenance, issue of personal

protective equipment and protective clothing with a view to ensure their effectiveness in relation to the conditions of use and conformity to their quality standards.

12. Clause 23 of the Bill empowers the Central Government in addition to the State Government to make rules in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (1) and (2) of section 38.

13. Clause 24 of the Bill empowers the Central Government in addition to the State Government to prescribe the duties, qualifications and conditions of service of Safety Officers.

14. Clause 25 of the Bill empowers the Central Government in addition to the State Government to make rules related to constitution of site appraisal committees.

15. Clause 31 of the Bill empowers the Central Government in addition to the State Government to make rules related to workers participation in safety management by setting up safety committee.

16. Clause 32 of the Bill empowers the Central Government in addition to the State Government to make rules for – (a) specifying standards of health and safety to be followed in hazardous process; (b) prohibiting or restricting employment of young persons, pregnant women, any class of adult workers in manufacture, storage or handling involving hazardous process; and (c) prohibiting, restricting or controlling the use of hazardous substances.

17. Clause 33 of the Bill empowers the Central Government in addition to the State Government regarding recognition of the certificate in first-aid treatment for the person in charge of the first-aid box.

18. Clause 44 of the Bill empowers the Central Government in addition to the State Government to make rules regarding exposure of a person in serious risk in the factories.

19. Clause 45 of the Bill empowers the Central Government in addition to the State Government to make rules regarding the procedure for the notice of the certain accidents to be given by the factory management.

20. Clause 47 of the Bill empowers the Central Government in addition to the State Government to make rules for regulating the procedure at inquiries in respect of matters relating to power to direct enquiry into cases of accident or disease.

21. Clause 62 of the Bill empowers the Central Government to make rules. However, the Central Government may, and in consultation with the State Governments, frame rules with a view to bring uniformity in the areas of occupational safety, health or such other matter as it may consider necessary.

22. The matters in respect of which regulations 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 or context,—

Interpretation.

\* \* \* \* \*

(*cb*) "hazardous process" means any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein or the intermediate or finished products, bye-products, wastes or effluents thereof would—

(*i*) cause material impairment to the health of the persons engaged in or connected therewith, or

(*ii*) result in the pollution of the general environment:

Provided that the State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry specified in the said Schedule;

\* \* \* \* \*

(*f*) "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 Inspector of Factories;

\* \* \* \* \*

(*k*) "manufacturing process" means any process for—

\* \* \* \* \*

(*iv*) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or

\* \* \* \* \*

(*n*) "occupier" of a factory means the person who has ultimate control over the affairs of the factory:

Provided that—

\* \* \* \* \*

(*iii*) in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier:

Provided further that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,—

(*1*) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under:—

(*a*) section 6, section 7, section 7A, section 7B, section 11 or section 12;

(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to—

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agency, master or other officer-in-charge or person;

\* \* \* \* \*

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

\* \* \* \* \*

Approval, licensing and registration of factories.

**6. (1)** The State Government may make rules—

\* \* \* \* \*

*Explanation.*— A factory shall not be deemed to be extended within the meaning of this section by reason only of the replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

Notice by occupier.

**7. (1)** The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing—

\* \* \* \* \*

(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;

\* \* \* \* \*

General duties of manufacturers, etc., as regards articles and substances for use in factories.

**7B. (1)** Every person who designs, manufactures, imports or supplies any article for use in any factory, shall—

\* \* \* \* \*

(5) Where a person designs, manufactures, imports or supplies an article on the basis of a written undertaking by the user of such article to take the steps specified in such undertaking to ensure, so far as is reasonably practicable, that the article will be safe and without risks to the health of the workers when properly used, the undertaking shall have the

effect of relieving the person designing, manufacturing, importing or supplying the article from the duty imposed by clause (a) of sub-section (1) to such extent as is reasonable having regard to the terms of the undertaking.

(6) For the purposes of this section, an article is not to be regarded as properly used if it is used without regard to any information or advice relating to its use which has been made available by the person who has designed, manufactured, imported or supplied the article.

*Explanation.*— For the purposes of this section, "article" shall include plant and machinery.

\* \* \* \* \*

**13. (1)** \* \* \* \* \*

Ventilation and temperature.

(2) The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained.

\* \* \* \* \*

**17. (1)** \* \* \* \* \*

Lighting.

(4) The State Government may prescribe, standards of sufficient and suitable lighting for factories or for any class or description of factories or for any manufacturing process.

**18. (1)** \* \* \* \* \*

Drinking water.

(3) In every factory wherein more than two hundred and fifty workers are ordinary employed, provision shall be made for cooling drinking water during hot whether by effective means and for distribution thereof.

\* \* \* \* \*

**20. (1)** \* \* \* \* \*

Spittoons.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

#### CHAPTER IV

##### SAFETY

**21. (1)**\* \* \* \* \*

Fencing of machinery.

(2) The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from the provisions of this section.

**22. (1)** Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out—

Work on or near machinery in motion.

(a) in case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation,

while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this

behalf and who has been furnished with a certificate of his appointment, and while he is so engaged,—

- (a) such worker shall not handle a belt at a moving pulley unless—
  - (i) the belt is not more than fifteen centimetres in width;
  - (ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);
  - (iii) the belt joint is either laced or flush with the belt;
  - (iv) the belt, including the joint and the pulley rim, are in good repair;
  - (v) there is reasonable clearance between the pulley and any fixed plant or structure;
  - (vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and
  - (vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person;
- (b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle, wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

(3) The State Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, the cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

Employment of young persons on dangerous machines.

**23.** (1) \* \* \* \* \*

(2) Sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

\* \* \* \* \*

Casing of new machinery.

**26.** (1) In all machinery driven by power and installed in any factory after the commencement of this Act,—

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased.

(2) Whoever sells or lets on hire or, as agent of a seller or hirer, causes or procures to be sold or let on hire, for use in a factory any machinery driven by power which does not comply with the provisions of sub-section (1) or any rules made under sub-section (3), 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.

(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

**27.** No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work:

Prohibition of employment of women and children near cotton-openers.

Provided that if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

**28.** (1) \* \* \* \* \*

Hoists and lifts.

(4) The State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2), by order direct that such requirement shall not apply to such class or description of hoist or lift.

*Explanation.*—For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.

**29.** (1) \* \* \* \* \*

Lifting machines, chains, ropes and lifting tackles.

(2) The State Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories—

(a) prescribing further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

\* \* \* \* \*

**31.** (1)\* \* \* \* \*

Pressure plant.

(2) The State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribing such other safety measures in relation thereto as may in its opinion be necessary in any factory or class or description of factories.

(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.

\* \* \* \* \*

**34.** (1) \* \* \* \* \*

Excessive weights.

(2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.

**35.** In respect of any such manufacturing process carried on in any factory as may be prescribed, being a process which involves—

Protection of eyes.

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reasons of exposure to excessive light,

the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

Precautions against dangerous fumes, gases, etc.

**36. (1)** No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless—

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust; or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.

\* \* \* \* \*

Explosive or inflammable dust, gas, etc.

**37. (1)** Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by—

(a) effective enclosure of the plant or machinery used in the process;

(b) removal or prevention of the accumulation of such dust, gas, fume or vapour;

(c) exclusion or effective enclosure of all possible sources of ignition.

\* \* \* \* \*

Precautions in case of fire.

**38. (1)** \* \* \* \* \*

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect the provisions of sub-sections (1) and (2).

\* \* \* \* \*

Safety Officers.

**40B. (1)** In every factory,—

(i) wherein one thousand or more workers are ordinarily employed, or

(ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory,

the occupier shall, if so, required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualification and conditions of service of Safety Officer, shall be such as may be prescribed by the State Government.

\* \* \* \* \*

CHAPTER IVA

PROVISIONS RELATING TO HAZARDOUS PROCESSES

Constitution of Site Appraisal Committees.

**41A. (1)** The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee consisting of—

(a) the Chief Inspector of the State who shall be its Chairman;

(b) a representative of the Central Board for the Prevention and Control of Water Pollution appointed by the Central Government under section 3 of the Water (Prevention and Control of Pollution) Act, 1974;



14 of 1981. (c) a representative of the Central Board for the Prevention and Control of Air Pollution referred to in section 3 of the Air (Prevention and Control of Pollution) Act, 1981;

6 of 1974. (d) a representative of the State Board appointed under section 4 of the Water (Prevention and Control of Pollution) Act, 1974;

14 of 1981. (e) a representative of the State Board for the Prevention and Control of Air Pollution referred to in section 5 of the Air (Prevention and Control of Pollution) Act, 1981;

(f) a representative of the Department of Environment in the State;

(g) a representative of the Meteorological Department of the Government of India;

(h) an expert in the field of occupational health; and

(i) a representative of the Town Planning Department of the State Government, and not more than five other members who may be co-opted by the State Government who shall be—

(i) a scientist having specialised knowledge of the hazardous process which will be involved in the factory,

(ii) a representative of the local authority within whose jurisdiction the factory is to be established; and

(iii) not more than three other persons as deemed fit by the State Government.

(2) The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within a period of ninety days of the receipt of such application in the prescribed form.

(3) Where any process relates to a factory owned or controlled by the Central Government or to a corporation or a company owned or controlled by the Central Government, the State Government shall co-opt in the Site Appraisal Committee a representative nominated by the Central Government as a member of that Committee.

(4) The Site Appraisal Committee shall have power to call for any information from the person making an application for the establishment or expansion of a factory involving a hazardous process.

6 of 1974. 14 of 1981. (5) Where the State Government has granted approval to an application for the establishment or expansion of a factory involving a hazardous process, it shall not be necessary for an applicant to obtain a further approval from the Central Board or the State Board established under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

**41B.** (1) \* \* \* \* \*

Compulsory disclosure of information by the occupier.

(4) Every occupier shall, with the approval of the Chief Inspector, draw up an on-site emergency plan and detailed disaster control measures for his factory and make known to the workers employed therein and to the general public living in the vicinity of the factory the safety measures required to be taken in the event of an accident taking place.

(5) Every occupier of a factory shall,—

20 of 1987. (a) if such factory engaged in a hazardous process on the commencement of the Factories (Amendment) Act, 1987, within a period of thirty days of such commencement; and

(b) if such factory proposes to engage in a hazardous process at any time after such commencement, within a period of thirty days before the commencement of such process,

inform the Chief Inspector of the nature and details of the process in such form and in such manner as may be prescribed.

\* \* \* \* \*

Specific responsibility of the occupier in relation to hazardous processes.

**41C.** Every occupier of a factory involving any hazardous process shall—

(a) maintain accurate and up-to-date health records or, as the case may be, medical records, of the workers in the factory who are exposed to any chemical, toxic or any other harmful substances which are manufactured, stored, handled or transported and such records shall be accessible to the workers subject to such conditions as may be prescribed;

\* \* \* \* \*

Power of Central Government to appoint Inquiry Committee.

**41D.** (1) The Central Government may, in the event of the occurrence of an extraordinary situation involving a factory engaged in a hazardous process, appoint an Inquiry Committee to inquire into the standards of health and safety observed in the factory with a view to finding out the causes of any failure or neglect in the adoption of any measures or standards prescribed for the health and safety of the workers employed in the factory or the general public affected, or likely to be affected, due to such failure or neglect and for the prevention and recurrence of such extraordinary situations in future in such factory or elsewhere.

\* \* \* \* \*

Emergency standards.

**41E.** (1) Where the Central Government is satisfied that no standards of safety have been prescribed in respect of a hazardous process or class of hazardous processes, or where the standards so prescribed are inadequate, it may direct the Director-General of Factory Advice Service and Labour Institutes or any institution specialised in matters relating to standards of safety in hazardous processes, to lay down emergency standards for enforcement of suitable standards in respect of such hazardous processes.

\* \* \* \* \*

Permissible limits of exposure of chemical and toxic substances.

**41F.** (1) The maximum permissible threshold limits of exposure of chemical and toxic substances in manufacturing processes (whether hazardous or otherwise) in any factory shall be of the value indicated in the Second Schedule.

\* \* \* \* \*

Workers' participation in safety management.

**41G.** (1) The occupier shall, in every factory where a hazardous process takes place, or where hazardous substances are used or handled, set up a Safety Committee consisting of equal number of representatives of workers and management to promote co-operation between the workers and the management in maintaining proper safety and health at work and to review periodically the measures taken in that behalf:

Provided that the State Government may, by order in writing and for reasons to be recorded, exempt the occupier of any factory or class of factories from setting up such Committee.

\* \* \* \* \*

First-aid appliances.

**45.** (1) \* \* \* \* \*

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who holds a certificate in first-aid treatment recognised by the State Government and who shall always be readily available during the working hours of the factory.

\* \* \* \* \*

**46.** (1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

Canteens.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

**47.** (1) In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Shelters, rest rooms and lunch rooms.

Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section:

Provided further that where a lunch room exists no worker shall eat any food in the work room.

\* \* \* \* \*

**56.** The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spreadover more than ten and a half hours in any day:

Spreadover.

Provided that the Chief Inspector may, for reasons to be specified in writing increase the spreadover up to twelve hours.

\* \* \* \* \*

**59.** (1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

Extra wages for overtime.

(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be ordinary rates of wages of those workers:

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earnings of the worker for the days on which he actually worked in the week in which the overtime work was done.

*Explanation.*—For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

*Explanation 1.*—"Standard family" means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

*Explanation 2.*—"Adult consumption unit" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rate of .8 and .6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing—

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

\* \* \* \* \*

**64. (1)\*** \* \* \* \* \*

Power to make exempting rules.

(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 years.

**65. (1) \*** \* \* \* \* \*

Power to make exempting orders.

(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 same meaning as in sub-section (4) of section 64.

**66. (1)** The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

Further restrictions on employment of women.

(a) no exemption from the provisions of section 54 may be granted in respect of any woman;

(b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.:

Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorise the employment of any woman between the hours of 10 P.M. and 5 A.M.;

(c) there shall be no change of shifts except after a weekly holiday or any other holiday.

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

\* \* \* \* \*

**76.** The State Government may make rules—

Power to make rules.

\* \* \* \* \*

(b) prescribing the physical standards to be attained by children and adolescents working in factories;

\* \* \* \* \*

26 of 1938.

**77.** The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.

Certain other provisions of law not barred.

\* \* \* \* \*

**79.** (1) Every worker who has worked for a period of 240 days or more in a factory 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—

Annual leave with wages.

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

*Explanation 1.*— For the purpose of this sub-section—

(a) any days of lay off, by agreement or contract or as permissible under the standing orders;

(b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and

(c) the leave earned in the year prior to that in which the leave is enjoyed,

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

\* \* \* \* \*

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

\* \* \* \* \*

Dangerous operations.

**87.** Where the State Government is of opinion that any manufacturing process or operation carried on in a factory exposes any persons employed in it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class or description of factories in which the manufacturing process or operation is carried on—

\* \* \* \* \*

(b) prohibiting or restricting the employment of women, adolescents or children in the manufacturing process or operation;

\* \* \* \* \*

Notice of certain accidents.

**88. (1)\*** \* \* \*

(3) The State Government may make rules for regulating the procedure at inquiries under this section.

\* \* \* \* \*

Notice of certain diseases.

**89. (1)\*** \* \* \*

(4) If any medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with fine which may extend to one thousand rupees.

\* \* \* \* \*

Power to direct enquiry into cases of accident or disease.

**90. (1)** The State Government may, if it considers it expedient so to do, appoint a competent person to inquire into the causes of any accident occurring in a factory or into any case where a disease specified in the Third Schedule has been, or is suspected to have been contracted in a factory, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects, and may also, so far as may be necessary for the purposes of the inquiry, exercise any of the powers of an Inspector under this Act; and every person required by the person making the inquiry to furnish any information shall be deemed to be legally bound so to do within the meaning of section 176 of the Indian Penal Code .

5 of 1908.

45 of 1860.

(3) The person holding an inquiry under this section shall make a report to the State Government stating the causes of the accident, or as the case may be, disease, and any attendant circumstances, and adding any observations which he or any of the assessors may think fit to make.

(4) The State Government may, if it thinks fit, cause to be published any report made under this section or any extracts therefrom.

(5) The State Government may make rules for regulating the procedure at inquiries under this section.

\* \* \* \* \*

Safety and occupational health surveys.

**91A. (1)** The Chief Inspector, or the Director General of Factory Advice Service and Labour Institutes, or the Director General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes or the Director General of Health Services may, at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in charge of the factory, undertake safety and occupational health surveys, and such occupier or manager or other person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

\* \* \* \* \*

## CHAPTER X

## PENALTIES AND PROCEDURE

**92.** Save as is otherwise expressly provided in this Act and subject to the provisions of section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to one thousand rupees for each day on which the contravention is so continued:

General penalty for offences.

Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than twenty-five thousand rupees in the case of an accident causing death, and five thousand rupees in the case of an accident causing serious bodily injury.

*Explanation.*—In this section and in section 94 "serious bodily injury" means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.

**93.** (1) Where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation.

Liability of owner of premises in certain circumstances.

(2) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (1).

(3) Wherein any premises, independent or self-contained, floors or flats are leased to different occupiers for use as separate factories, the owner of the premises shall be liable as if he were the occupier or manager of a factory, for any contravention of the provisions of this Act in respect of—

(i) latrines, urinals and washing facilities in so far as the maintenance of the common supply of water for these purposes is concerned;

(ii) fencing of machinery and plant belonging to the owner and not specifically entrusted to the custody or use of an occupier;

(iii) safe means of access to the floors or flats and maintenance and cleanliness of staircases and common passages;

(iv) precautions in case of fire;

(v) maintenance of hoists and lifts; and

(vi) maintenance of any other common facilities provided in the premises.

(4) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out the provisions of sub-section (3).

(5) The provisions of sub-section (3) relating to the liability of the owner shall apply where in any premises independent rooms with common latrines, urinals and washing facilities are leased to different occupiers for use as separate factories:

Provided that the owner shall be responsible also for complying with the requirements relating to the provision and maintenance of latrines, urinals and washing facilities.

(6) The Chief Inspector shall have, subject to the control of the State Government, the power to issue orders to the owner of the premises referred to in sub-section (5) in respect of the carrying out of the provisions of section 46 or section 48.

(7) Where in any premises portions of a room or a shed are leased to different occupiers for use as separate factories, the owner of the premises shall be liable for any contravention of the provisions of—

(i) Chapter III, except sections 14 and 15;

(ii) Chapter IV, except sections 22, 23, 27, 34, 35 and 36:

Provided that in respect of the provisions of sections 21, 24 and 32 the owner's liability shall be only in so far as such provisions relate to things under his control:

Provided further that the occupier shall be responsible for complying with the provisions of Chapter IV in respect of plant and machinery belonging to or supplied by him;

(iii) section 42.

(8) The Chief Inspector shall have, subject to the control of the State Government, power to issue orders to the owner of the premises in respect of the carrying out of the provisions of sub-section (7).

(9) In respect of sub-sections (5) and (7), while computing for the purposes of any of the provisions of this Act the total number of workers employed, the whole of the premises shall be deemed to be a single factory.

Enhanced  
penalty after  
previous  
conviction.

**94.** (1) If any person who has been convicted of any offence punishable under section 92 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to three years or with fine which shall not be less than ten thousand rupees but which may extend to two lakh rupees or with both:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than ten thousand rupees:

Provided further that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than thirty-five thousand rupees in the case of an accident causing death and ten thousand rupees in the case of an accident causing serious bodily injury.

(2) For the purposes of sub-section (1) no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted.

Penalty for  
obstructing  
Inspector.

**95.** 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 worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

Penalty for  
wrongfully  
disclosing  
results of  
analysis under  
section 91.

**96.** Whoever, except in so far as it may be necessary for the purposes of a prosecution for any offence punishable under this Act, publishes or discloses to any person the results of an analysis made under section 91, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.



**96A.** (1) Whoever fails to comply with or contravenes any of the provisions of section 41B, 41C or 41H or the rules made thereunder, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to two lakh rupees, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

Penalty for contravention of the provisions of sections 41B, 41C and 41H.

\* \* \* \* \*

**97.** (1) Subject to the provisions of section 111, if any worker employed in a factory contravenes any provision of this Act or any rules or orders made thereunder, imposing any duty or liability on workers, he shall be punishable with fine which may extend to five hundred rupees.

Offences by workers.

\* \* \* \* \*

**98.** Whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself under section 70, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to two months or with fine which may extend to one thousand rupees or with both.

Penalty for using false certificate of fitness.

**99.** If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to one thousand rupees, unless it appears to the Court that the child so worked without the consent or connivance of such parent, guardian or person.

Penalty for permitting double employment of child.

\* \* \* \* \*

**102.** (1) \* \* \* \* \*

Power of Court to make orders.

(2) Where an order is made under sub-section (1) the occupier or manager of the factory, as the case may be, shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if, on the expiry of such period or extended period, as the case may be, the order or the Court has not been fully complied with, the occupier or manager, as the case may be, shall be deemed to have committed a further offence, and may be sentenced therefore by the Court to undergo imprisonment for a term which may extend to six months or to pay a fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or both to undergo such imprisonment and to pay such fine, as aforesaid.

\* \* \* \* \*

**104.** (1) \* \* \* \* \*

Onus as to age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that worker.

\* \* \* \* \*

**111.** (1)\* \* \* \* \*

Obligations of workers.

(2) If any worker employed in a factory contravenes any of the provisions of this section or of any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

\* \* \* \* \*

**112.** The State Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.

General power to make rules.

\* \* \* \* \*

*“THE FIRST SCHEDULE*

*[See section 2 (cb)]*

LIST OF INDUSTRIES INVOLVING HAZARDOUS PROCESSES

1. Ferrous Metallurgical Industries
  - Integrated Iron and Steel
  - Ferrow-alloys
  - Special Steels
2. Non-ferrous Metallurgical Industries
  - Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminium
3. Foundries (ferrous and non-ferrous)
  - Castings and forgings including cleaning or smoothening/roughening by sand and shot blasting
4. Coal (including coke) industries
  - Coal, Lignite, Coke, etc.
  - Fuel Gases (including Coal Gas, Producer Gas, Water Gas)
5. Power Generating Industries
6. Pulp and paper (including paper products) industries
7. Fertiliser Industries
  - Nitrogenous
  - Phosphatic
  - Mixed
8. Cement Industries
  - Portland Cement (including slag cement, puzzolona cement and their products)
9. Petroleum industries
  - Oil Refining
  - Lubricating Oils and Greases
10. Petro-chemical Industries
11. Drugs and Pharmaceutical Industries
  - Narcotics, Drugs and Pharmaceuticals
12. Fermentation Industries (Distilleries and Breweries)
13. Rubber (Synthetic) Industries
14. Paints and Pigment Industries
15. Leather Tanning Industries
16. Electro-plating Industries
17. Chemical Industries
  - Coke Oven By-products and Coaltar Distillation products

- Industrial Gases (nitrogen, oxygen, acetylene, argon, carbondioxide, hydrogen, sulphur dioxide, nitrous oxide, halogenated hydrocarbon, ozone, etc.)
- Industrial Carbon
- Alkalies and Acids
- Chromates and dichromates
- Leads and its compounds
- Electrochemicals (metallic sodium, potassium and magnesium, chlorates, perchlorates and peroxides)
- Electrothermal produces (artificial abrasive, calcium carbide)
- Nitrogenous compounds (cyanides, cyanamides, and other nitrogenous compounds)
- Phosphorous and its compounds
- Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)
- Explosives (including industrial explosives and detonators and fuses)

18. Insecticides, Fungicides, Herbicides and other Pesticides Industries

19. Synthetic Resin and Plastics

20. Man-made Fibre (Cellulosic and non-cellulosic) Industry

21. Manufacture and repair of electrical accumulators

22. Glass and Ceramics

23. Grinding or glazing of metals

24. Manufacture, handling and processing of asbestos and its products

25. Extraction of oils and fats from vegetable and animal sources

26. Manufacture, handling and use of benzene and substances containing benzene

27. Manufacturing processes and operations involving carbon disulphide

28. Dyes and Dyestuff including their intermediates

29. Highly flammable liquids and gases.”.

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LOK SABHA

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BILL

further to amend the Factories Act, 1948

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*(Shri Narendra Singh Tomar, Minister of Labour and Employment)*