

THE ASSAM SHOPS AND ESTABLISHMENT BILL, 2022

A BILL

to provide for regulations of conditions of employment and other conditions of service of workers and employees in shops and commercial establishments and establishments for public amusement or entertainment and other establishment and for matters connected and incidental thereto.

Preamble

Whereas it is expedient to provide for the regulation of conditions of workers and employment in shops and commercial establishments and establishments for public entertainment or amusement or other establishment and matters connected therewith and incidental thereto in the State of Assam.

It is hereby enacted in the Seventy- third Year of the Republic of India as follows :-

Short title, extent
and
commencement

1. (1) This Act may be called the Assam Shops and Establishments Act, 2022.
- (2) It extends to the whole of the state of Assam.
- (3) It shall come into force at once.

CHAPTER-1

PRELIMINARY

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-
 - (1) "Chief Facilitator" means the Chief Facilitator appointed as such under sub-section (1) of section 23;
 - (2) "commercial establishment" means an establishment which carries business of advertising, commission or forwarding or commercial agency, a department or a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, a clerical department of any industrial or commercial undertaking including one of public transport, an insurance company, joint stock company, brokers office or exchange, or such other establishment or class thereof as the Government may, by notification, declare to be a commercial establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or

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an establishment for public entertainment or amusement;

(3) "day" means the period of twenty-four hours beginning at midnight;

(4) "employer" means an owner or a person who has ultimate control over the affairs of a shop or an establishment, and includes-

(i) in the case of a firm or association of individuals, a partner or member of the firm or association;

(ii) in the case of a company, a director of the company;

(iii) in the case of an establishment owned or controlled by the Central Government or a State Government or any local authority, the person or persons appointed to manage the affairs of such shop or establishment by the Central Government or the State Government or the local authority, as the case may be;

(5) "establishment" means an establishment which carries on, any business, trade, manufacture or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or exchange or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession or manufacture; and includes,-

(i) establishment of any medical practitioner (including hospital, dispensary, clinic, polyclinic, maternity home and such others), architect, engineer, accountant, tax consultant or any other technical or professional consultant;

(ii) a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession or work in connection with or incidental or ancillary thereto;

(iii) shop, residential hotel, restaurant, eating house, theatre or other place of public

Central Act
No. XXI of
1860

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amusement or entertainment; to whom the provisions of the Factories Act, 1948 do not apply;

Central Act
No. 63 of
1948

(iv) such other establishment as the Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act;

(6) "establishment for public entertainment or amusement" means a restaurant, eating house, cafe, cinema, theatre and such other establishments or class thereof as the Government may by notification, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment;

(7) "Government" means the Government of Assam;

(8) "Facilitator" means a facilitator appointed under section 23 of the Act;

(9) "factory" means any premises and the precincts thereof which is a factory within the meaning of clause (m) of section 2 and section 85 of the Factories Act, 1948;

Central Act
No. 63 of
1948

(10) "holiday" means a day on which a worker shall be given a weekly off under the provisions of this Act;

(11) "leave" means a leave mentioned under section 17 of this Act;

(12) "local authority" means,-

(i) the Municipal Corporation constituted under the Guwahati Municipal Corporation Act, 1969 or constituted or deemed to be constituted under the Assam Municipal Corporation Act, 2022;

Assam Act
No.1 of 1973.

Assam Act
No.8 of 2022

(ii) a Municipality constituted under Assam Municipal Act, 1956;

Assam Act
No.15 of
1957

(iii) a Panchayat constituted under the Assam Panchayat Act, 1994;

Assam Act
No.18 of
1994

(13) "member of the family of an employer" means the wife, husband, son, daughter, father, mother, brother or sister of an employer who lives with and is

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dependent on such employer;

- (14) "notification" means a notification published in the Official Gazette;
- (15) "opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any worker of or connected with the establishment;
- (16) "prescribed" means prescribed by rules made under this Act;
- (17) "prescribed authority" means Commissioner of Labour for the purpose of this Act;
- (18) "register of establishments" means a register maintained for the registration of shops and establishments under this Act, either manually or in electronic format;
- (19) "registration certificate" means a certificate of registration of a shop or establishment;
- (20) "shift" means where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a group or relay and each of such period is called a shift;
- (21) "shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers and includes an office, a store-room, godown, warehouse or work place, whether in the same premises or otherwise, mainly used in connection with such trade or business, but does not include a factory;
- (22) "spread-over" means the period between the commencement and the termination of the work of a worker on any day;
- (23) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,-

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- (i) any remuneration payable under any award or settlement between the parties or under any order of a court or tribunal;
- (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (iv) any sum which, by reason of the termination of employment of the person employed, is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions;
- (v) any sum to which the person employed is entitled under any scheme framed under any law, for the time being in force; and
- (vi) house rent allowance payable in cash, but does not include,-
 - (a) any bonus, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or under any order of a court;
 - (b) the value of any accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the Government;
 - (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (d) any travelling allowance or the value of any travelling concession;
 - (e) any sum paid to the employed person to defray special expenses entailed to him by the nature of his employment; or
 - (f) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv) above;

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(24) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Facilitator or Facilitator;

(25) "worker" means any person including a person engaged through an outsourcing agency (except an apprentice under the Apprentices Act, 1961) employed to do any manual, unskilled, skilled, technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied.

Central Act
52 of 1961

Act not to apply
to certain persons
and premises

3. (1) The provisions of this Act shall not apply to,-
- (a) a worker occupying position of confidential, managerial or supervisory character in a shop or in an establishment;
 - (b) establishments of the Central or the State Government;
 - (c) establishments of local authorities;
 - (d) offices of Reserve Bank of India;
 - (e) any establishment used for the treatment or care of the sick, in firm, destitute or mentally unfit;
 - (f) a member of the family of an employer; and
 - (g) a worker whose work is inherently intermittent.
- (2) A list of the workers referred to in clause (a) to (g) of sub section (1) above, shall be displayed at a conspicuous place and on the website of the shop or establishment and a copy thereof shall be sent to the Facilitator.

Application of
the Act to other
establishments
and workers

4. Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, declare any establishment or class of establishments to which, or any worker or person or class of workers or persons to whom, this Act or any of the provisions thereof does not for the time being apply and to establishment or class of establishments or a worker or a person or class of workers or persons to which or whom this Act or any provisions thereof with such modifications or adaptations as may in the opinion of the Government be necessary shall apply from such date as may be specified in the notification.

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Protection of
rights of workers
under any other
law,
etc.

5. Nothing in this Act shall affect any right or privileges which a worker in any shop or establishment is entitled to at the date of commencement of this Act under any other law, contract, custom or usage applicable to such shop or establishment or any award, settlement or agreement binding on the employer and the worker in such shop or establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

CHAPTER-II REGISTRATION OF SHOPS AND ESTABLISHMENTS

Registration and
Issue of Labour
Identification
Number

6. (1) On the commencement of this Act, every shop or establishment employing five or more workers shall apply online in a form as may be prescribed for registration to the Chief Facilitator or any Facilitator of the concerned area and obtain a Labour Identification Number (LIN) within a period of sixty (60) days from the date of opening of such shop or establishment.
- (2) The shop or establishment shall pay online along with their application such fees and such self-certified documents as may be prescribed, containing:-
- (i) the name of the Employer and the manager;
 - (ii) the postal address of the establishment;
 - (iii) the name, if any of the establishment;
 - (iv) the actual nature of the business of the establishment;
 - (v) such other particulars as may be prescribed:

Provided that, nothing contained herein above shall apply to the shops and establishments already having valid registration under the Assam Shops and Establishments Act, 1971 until the expiry of their registration or renewal.

Assam Act
No. XXI of
1974

- (3) On receipt of the application along with the documents and the fees, the Facilitator shall, register the shop or establishment in the register of establishments in such manner as may be prescribed and shall issue online, in such form as may be prescribed, a registration certificate or renewal certificate along with the Labour Identification

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Number (LIN) to the employer within a period of fifteen (15) days from the date of receipt of such application. The Facilitator shall verify the correctness of the application and documents attached thereto within such time as may be prescribed. The registration certificate shall be produced whenever it is demanded by the Chief Facilitator or Facilitator and shall be pre-dominantly displayed at some conspicuous space of the shops and establishments.

- (4) A registration certificate issued under sub-section (3) above, shall remain in force from the date of issue till the completion of five (5) years or change in ownership or nature of business takes place. In case of change in ownership or nature of business, the employer of every establishment shall have to obtain fresh registration certificate.

Intimation by
establishment
having less than
five workers

7. (1) Within a period of sixty (60) days from the date of the commencement of this Act or the date on which establishment commences its business, the employer of every establishment employing less than five workers shall give an intimation of having commenced the business to the Chief Facilitator and Facilitator authorized on behalf of the Chief Facilitator in whose jurisdiction the establishment is located, by submitting online application, in the prescribed form, together with such self declaration and self-certified documents, as may be prescribed, containing details such as name of the employer and manager, name and address of the establishment, nature of business, number of workers and such other details as may be prescribed. The Facilitator shall issue to the employer of such establishment, a receipt of intimation in such form and manner as may be prescribed. The details of the intimation receipt shall be recorded online in a register maintained in such form as may be prescribed:

Provided that if at any point of time the number of workers engaged in the establishment become five or more, then all provisions of this Act shall apply to such establishment and the employer of such establishment shall have to obtain registration as per the provisions of section 6 of this


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Act;

Provided further that, nothing contained herein above shall apply to the shops and establishments already having valid registration under the Assam Shops and Establishments Act, 1971 until the expiry of their registration.

Assam Act
No. XXI of
1974

- (2) Whoever, contravenes the provisions of this section or rules framed thereunder shall be punishable with a fine of rupees five thousand which may extend upto rupees ten thousand.
- (3) An application for the renewal of a registration certificate shall be submitted online not less than thirty (30) days before the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, and shall be accompanied by such fees, and the renewed registration certificate shall be in such form, as may be prescribed.
- (4) If the application for the renewal of a registration certificate is submitted after the expiry of the period specified in sub-section (3) but within thirty days after the date of expiry of the registration certificate or of the renewed registration certificate, as the case may be, such application shall be accompanied by an additional fee as late fee equal to half of the fee payable for the renewal of a registration certificate.
- (5) In the event of any doubt or difference of opinion between an employer and the Facilitator with respect to any provisions of this Act, the Facilitator shall refer the matter to the prescribed authority which shall, after inquiry as it thinks proper, decide the matter and its decision shall be final for the purposes of this Act.

Cancellation of
registration of
shops and
establishment

8. At any time, if it is found or brought to the notice of the Chief Facilitator and Facilitator that the registration of any shop or establishment has been obtained by misrepresentation or suppression of material facts or by submitting false or forged documents or false declaration or by fraud, the Facilitator shall, after giving an opportunity of being heard to the employer of the shop or establishment, cancel the registration and remove such shop or establishment from the register of establishments in the manner as may be prescribed.


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Change to be
communicated

9. It shall be the duty of every employer to inform to the Chief Facilitator or Facilitator in the prescribed form, any change in any of the particulars contained in the application submitted under section 6 of this Act within such period and such fees as may be prescribed. The Facilitator shall, on receiving such notice and the prescribed fees along with the self-declaration of the applicant and self-certified documents under sub-section (2) of section 6, make the changes in the register of establishments in accordance with such notice and shall issue a fresh registration certificate online within a period of fifteen (15) days.

Notice for closure
of business

10. The employer shall inform, in such form and in such manner, as may be prescribed, to the Chief Facilitator and Facilitator within thirty days from the date of closing of the business that the shop or establishment has been closed for business. The Facilitator on receiving the information and on being satisfied about its correctness shall remove the entry of such shop or establishment from the register of establishments and cancel the registration certificate:

Provided that, if the Facilitator does not receive the information but he is otherwise satisfied that any shop or establishment has been closed, he may remove the entry of such shop and establishment from the register of establishment and cancel such certificate.

CHAPTER III

DUTIES OF EMPLOYER

Prohibition of
discrimination of
women

11. (1) No woman worker shall be discriminated in the matter of recruitment, training, transfer or promotion or wages.
- (2) No woman worker shall be required or allowed to work in any establishment except between the hours of 6 a.m. and 9 p.m.:

Provided that, where the Government or any person, authorized by it in this behalf, if satisfied that the provisions of shelter, rest room, night crèche, ladies toilet, adequate protection of dignity, honour and safety, protection from sexual harassment, and their transportation from the shop or establishment to the door step of their residence exists in such shop or establishment, it may, issue order, after obtaining the consent of the women worker, allowing her to work between 9 p.m. to 6 a.m. subject to such conditions as may be specified


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in the notification.

Health and safety
of
worker

12. (1) Every employer shall take such measures relating to the health and safety of the worker including cleanliness, lighting, ventilation and prevention of fire as may be prescribed.
- (2) Every employer shall be responsible for providing constant adequate supervision of the worker employed in the shop or establishment and to ensure the compliance with the rules relating to health and safety made under sub-section (1) and for taking steps necessary to prevent accidents.

Fixing of hours
of work and
spread over

13. (1) No adult worker shall be required or allowed to work in a shop or establishment for more than forty-eight hours in any week and nine hours in a day and no worker shall be asked to work continuously for more than five hours unless he has been given a break of not less than half an hour:

Provided that, the working hours or weekly holiday may be relaxed in case of work of urgent nature with the previous permission of the Facilitator.

- (2) The total number of hours of work in a shift including the rest interval shall not exceed four and half hours in any shop or establishment and in case a worker is entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours.
- (3) Any working hour beyond nine hours a day or forty-eight hours a week shall be treated as overtime and the total number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.
- (4) The Government shall subject to sub-section (1) above,
- (i) prescribe the number of hours of work which shall constitute a normal working day for the workers employed in the shop or establishment, inclusive of one or more specified intervals; and
- (ii) provide for a day of rest in every period of seven days, which shall be allowed to all the workers employed in the shop or establishment and for the payment of remuneration in

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respect of such days of rest.

(5) The provisions of sub-sections (1) and (2) shall, in relation to the following class of workers employed in such shop or establishment, apply only to such extent, and subject to such conditions, as may be prescribed, namely:-

- (i) workers engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (ii) workers engaged in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;
- (iii) workers engaged in any work which for technical reasons has to be completed before the day is over;
- (iv) workers engaged in a work which cannot be carried on except at times dependent on the irregular action for natural forces; and
- (v) highly skilled workers (such as workers working in the Establishments of Information Technology, Bio-Technology and Research and Development Divisions).

Payment of wages for overtime work

14. Where a worker is required to work in a shop or establishment beyond nine hours a day or forty eight hours a week, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages. The total number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.

Shift working and overtime work

15. (1) A department or any section of a department of the shop or shift establishment may work in more than one shift at the discretion of the employer and if more than one shift are worked, the worker may be required to work in any shift at the discretion of the employer.

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(2) A shop or establishment may work on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least twenty-four consecutive hours of rest.

(3) If a worker is denied weekly holiday, the

compensatory leave in lieu thereof shall be given within two months of such weekly holiday.

- (4) The period and hours of work in a week for all classes of workers in such shift shall be informed to all workers in writing and shall be sent to the Facilitator electronically or otherwise.
- (5) Where a worker is required to work on a day of his rest, he shall be entitled to wages at the rate of twice his ordinary rate of wages.

Furnishing of
Identity Card to
worker

- 16. The employer of a shop or an establishment shall furnish to every worker an identity card which shall be produced by the worker on demand by Facilitator. Such Identity Card shall contain particulars as may be prescribed.

CHAPTER IV LEAVE WITH PAY AND PAYMENT OF WAGES

Annual leave,
casual and sick
leave and other
holiday

- 17. (1) Every worker shall be allowed a weekly holiday with wages:

Provided that the Government may, by notification in the Official Gazette, fix different days as weekly holiday for different classes of shops and establishments or areas.

- (2) Every worker shall be entitled to eight days casual leave with wages in every calendar year which shall be credited into the account of the worker on a quarterly basis.
- (3) Every worker who has worked for a period of two hundred and forty days or more in a shop or establishment during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year.
- (4) Every worker shall be permitted to accumulate earned leave up to a maximum of forty-five days.
- (5) Where the employer refuses to sanction the leave due when applied fifteen days in advance, then the worker shall have a right to encash the leave in excess of forty-five days:

Provided that, if a worker is entitled to leave other than casual and festival leave under this section, is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his

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employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.

- (6) Every worker shall be entitled to seven days leave on medical ground with wages in every calendar year which shall be credited into the account of the worker in the beginning of the calendar year but shall lapse if unavailed at the end of the year.
- (7) A worker shall be entitled to eight paid festival holidays in a calendar year, namely, the 26th January, 15th August and 2nd October and five such other festival holidays as may be agreed to between the employer and the workers before the commencement of the year. On these days, he shall be paid wages at the rate equivalent to his ordinary rate of wages excluding overtime:

Provided that, the employer may require any worker to work in the shop or establishment on all or any of these days, subject to the conditions that for such work the worker shall be paid double the amount of the ordinary rate of wages and also leave on any other day in lieu of the compulsory holiday.

- (8) For the purpose of sub-section (3) above,-
- (i) any days of lay-off, by agreement or contract or as permissible under the model standing orders or standing orders certified under provisions of the Industrial Employment (Standing Orders) Act, 1946;
- (ii) in the case of a woman worker, maternity leave under the provisions of the Maternity Benefits Act, 1961;
- (iii) the leave earned in the year prior to that in which the leave is availed; or
- (iv) the absence of the worker due to temporary disablement caused by an accident arising out of and in the course of his employment, shall be deemed to be days on which the worker has worked in the shop or establishment for the purpose of computation of the period of two hundred and forty days or more, but shall not earn leave for these days.

Central Act
No. 20 of
1946.

Central Act
No. 53 of
1961

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- (9) The leave admissible under sub-section (3) shall be exclusive of all holidays whether occurring during or either at the end of the period of leave.
- (10) Every worker shall be paid wages for the period of his leave earned under sub-sections (3) and (4) above at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

CHAPTER V WELFARE PROVISIONS

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| Drinking water | 18. Every employer shall make effective arrangement to provide and maintain at suitable points conveniently situated for all workers employed in the shop or establishment, a sufficient supply of wholesome drinking water. |
| Latrines and Urinals | 19. Every employer shall provide separate sufficient rest-room, latrine and urinal for men and women as may be prescribed and these shall be so conveniently situated as may be accessible for the workers employed in the shop or establishment:

Provided that, several employers may provide common facilities of separate latrines and urinals for men and woman, in case it is not possible to provide such facility individually, in a shop or establishment due to constraint of space or otherwise. |
| Creche facility | 20. In every shop or establishment wherein thirty or more woman workers or fifty or more woman workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms as crèche for the use of children of such woman workers :

Provided that, if a group of establishments, so decide to provide a common crèche within a radius of one kilometre, then, the same shall be permitted by the Chief Facilitator, subject to such conditions as may be specified in the order. |
| First-aid | 21. Every employer shall provide at the place of work first-aid facilities as may be prescribed. |
| Canteen | 22. The employer shall provide and maintain in the shop or establishment, wherein not less than one hundred workers are employed or ordinarily employed to maintain a |

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canteen for the use of its workers:

Provided that, if a group of shops or establishments decide to provide a common canteen, then the same shall be permitted by the Facilitator by an order, subject to such conditions as may be specified in the order.

CHAPTER-VI FACILITATORS AND THEIR POWERS AND FUNCTIONS

Appointment of
Chief Facilitator
and Facilitators
and their powers

23. The Government may by notification in the Official Gazette appoint such person who posses' such qualifications as may be prescribed to be the Chief Facilitator and Facilitator for the purposes of this Act and may assign to them such local limit as may think fit:

Provided that the Government may, by notification, appoint the Chief Facilitator as Facilitator who shall in addition to the powers of a Chief Facilitator under this Act, exercise the powers of a Facilitator as assigned and areas as specified in the notification.

Powers and
duties of the
Chief Facilitator
and the
Facilitator

24. (1) The State Government may prescribe a scheme for random inspection of shops and establishments which may provide for generation of a web based Inspection Schedule.
- (2) Every Chief Facilitator and Facilitator appointed under section 23 shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code and shall be officially subordinate to such authority as the Government may specify in this behalf.
- (3) Subject to such conditions as may be prescribed, the Facilitator may, within the local limits for which he is appointed-
- (i) advice the employers and workers and provide them such information as may be considered necessary for complying with the provisions of this Act effectively;
 - (ii) inspect the shops or establishments in accordance with the scheme for inspection referred to in sub-section (1) above, and may-
 - (a) enter, at all reasonable time and with such assistants, if any, being persons in the service of the Government or of any local authority as he thinks fit, any place which is or which he has reason to

Central Act
No.45 of
1860


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believe is a shop or establishment;

- (b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act;
- (c) examine any person who is found in any premises of the shop or establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the shop or establishment;
- (d) require any person to give any information, which is in his possession with respect to the names and addresses of the persons;
- (e) search, seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act and which he has reason to believe has been committed by the employer;
- (f) bring to the notice of the Government defects found during inspection; and
- (g) exercise such other powers, as may be prescribed:

Provided that, no person shall be compelled under this section to answer any question or give any evidence founding to indiscriminate himself.

- (4) Any person required to produce any document or to give any information required by Chief Facilitator or the Facilitator appointed under section 23 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Central Act
No.45 of
1860

- (5) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure under sub-clause (e) of clause (ii) of sub-section (2) as they apply to the search or seizure made under the authority of a warrant issued under

Central Act
No.2 of 1974

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section 94 of the said Code.

CHAPTER VII RECORDS AND RETURNS

- Maintenance of Registers and Returns
25. (1) Every employer shall maintain the registers and records, in such form and in such manner as may be prescribed.
- (2) The records may be maintained electronically or manually:
Provided that, at the time of inspection by an Facilitator, a hard copy of such records, if demanded, shall be submitted duly signed by the employer or his representative.
- (3) Every employer and in his absence the manager shall, on demand, produce for inspection of Facilitator all registers, records and notices required to be kept under and for the purposes of this Act.
- (4) All such registers and records shall be kept in the premises of the shop or establishment to which they relate.
- Annual Returns
26. The employer of a shop and establishment shall furnish an annual returns, in such a form and in such manner (including in electronic form), to such authority as may be prescribed.

CHAPTER VIII OFFENCES AND PENALTIES

- Penalty for contravention of the provisions of this Act
27. Whoever contravenes the provisions of this Act or the rules made there under shall be punishable with fine which may extend to rupees fifty thousand and in the case of a continuing contravention, with an additional fine which may extend to rupees two thousand for every day during which such contravention continues:
Provided that, the total amount of fine shall not exceed rupees two thousand per worker employed in a shop or establishment.
- Penalty for contravention of the provisions of this Act which resulted in accident
28. Save as is otherwise expressly provided in this Act, where an employer on being held guilty of contravention of any of the provisions of this Act or any rules made there under which has resulted in an accident causing serious bodily injury or death of a worker, shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than rupees one lakh which

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may be extend to rupees two lakhs or with both.

Penalty for
obstruction or
refusal to provide
register, etc.

29. (1) Whoever wilfully obstructs the Facilitator in exercise of any powers conferred on him by or under this Act or refuses or wilfully neglects to afford the Facilitator any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to a shop or an establishment, shall be punishable with fine which may extend to rupees one lakh.
- (2) Whoever wilfully refuses to produce on the demand of the Facilitator any register or other document kept in pursuance of this Act or the rules made there under, or prevents or attempts to prevent or does anything which he has reason to believe to prevent any person from appearing before, or being examined by the Facilitator acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to rupees two lakhs:

Provided that the total amount of fine shall not exceed two thousand rupees per worker employed.

Cognizance of
offences by
companies

30. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Notwithstanding anything contained in sub section (1) above, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company' such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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Explanation. - For the purpose of this section, -

- (a) "company" means anybody corporate and includes a firm or other association of

individuals; and

- (b) "Director" in relation to a firm, means a partner in the firm.

Cognizance of offences

31. (1) No court shall take cognizance of any offence punishable under this Act and the rules made there under unless a complaint in respect thereof is made by the Facilitator within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator and a complaint is filed in that regard thereby:

Provided that where the offence consists of disobeying a written order made by a Facilitator, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

- (2) No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act or the rules made thereunder.
- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Judicial Magistrate of the first class may impose fine and penalties as provided under section 27 of this Act.

Central Act
No. 2 of
1974

Compounding of offences

32. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the Government may, by notification, in the Official Gazette, specify, for a sum of fifty percent of the maximum fine provided for such offence, in the manner as may be prescribed.

Central Act
No. 2 of
1974

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- (2) Nothing contained in sub-section (1) above, shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date-
- (a) of commission of a similar offence which was earlier compounded;
- (b) of commission of similar offence for which such person was earlier convicted.
- (3) Every officer referred to in sub-section (1) above, shall exercise the powers to compound an offence,

subject to the direction, control and supervision of the Government.

- (4) Every application for the compounding of an offence shall be made in such form and manner as may be prescribed.
- (5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.
- (6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in subsection (1) above, in writing to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence so compounded shall be discharged.
- (7) Any person who fails to comply with an order made by the officer referred to in sub-section (1) above, shall be liable to pay a sum equivalent to twenty percent of the maximum fine provided for the offence, in addition to such fine.
- (8) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.

CHAPTER IX MISCELLANEOUS

Protection of
action taken in
good faith

33. No suit, prosecution or other legal proceedings shall lie against any public servant or any other person serving under the Central or the State Government, acting under direction of any such public servant, for anything in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made there under.

Opening and
closing hours

34. (1) Notwithstanding anything contained in this Act, any shops or establishments if situated,-
- (i) (a) in Municipal Corporation Area, or
 - (b) on National Highway, or
 - (c) on Railway platform, or
 - (d) at State Roadways bus station premises,

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or

- (e) in Hospital premises, or
- (f) on Petrol Pumps, shall remain open 24 hours on any day of the week:

Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13, 15 and 17 of this Act;

- (ii) in Municipality area or on State Highway may be opened except from 2.00 A.M to 6.00 A.M:

Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;

- (iii) in the areas other than the areas mentioned in clauses (a) and (b) above, any shop or establishment in the districts or on minor roads may be opened except from 1.00 P.M. to 6.00 A.M:

Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;

- (2) Notwithstanding anything contained in sub-section (1), considering the circumstances relating to traffic, public health, public safety, public nuisance or such other reason which may affect law and order situation, the hours for opening and closing of different classes of shops or establishments and for different premises, shopping complex or mall or for different area or areas and for different period may be curtailed by such authority as the Government may, by notification in the Official Gazette, specify.

Power to grant exemptions

- 35. The Government or any officer empowered in this behalf may, by notification, exempt from the operation of all or any of the provisions of this Act for any period it is considered, any shop or establishment or class thereof or any employer or worker or class of employers or workers to whom this Act applies on such terms and conditions as it may think fit.

Suspension of the operation of provisions of the

- 36. The Government may by notification in the Official Gazette, suspend the operation of all or any of the provisions of this Act for such period and subject to such

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Act		conditions as it deems fit on account of any festive or other occasions.
Act not in derogation of any other law	37.	The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.
Power to make Rules	38.	<p>(1) The Government may by notification, make rules for carrying out the provisions of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <ul style="list-style-type: none"> (a) the authority to which and the form and manner in which an application shall be made under sub-section (1), the form of Labour Identification Number under sub-section (2), of section 6; (b) the manner of forms and documents referred to in section 7; (c) manner of cancellation of registration under section 8 ; (d) form, fees and notice of change of particulars under section 9; (e) form and manner of information to the Chief Facilitator; (f) measures to be taken by the employer relating to the health and safety (including cleanliness, lighting, ventilation and prevention of fire) of the workers under sub section (1) of section 12; (g) matters to be provided by rules under sub-section 4 of section 13; (h) conditions subject to which the provisions of sub-section (1) and (2) of section 13 shall apply to certain class of workers under sub-section (5); (i) rate of higher amount of wages under section 14; (j) particulars of Identity Card under section 16; (k) provisions of sufficient latrine and urinals under section 19 and the provision of first-aid facility under section 21; (l) qualifications of the Facilitators under section

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- (1);
- (m) scheme for random inspection of shop and establishment;
- (n) conditions subject to which the Facilitator shall exercise his powers under sub-section (3), of section 24;
- (o) the registers and records to be maintained by the employers under sub-section (1) of section 25;
- (p) the form and manner (including electronic form) for furnishing of annual return and the authority to such returns shall be furnished under section 26;
- (q) the manner of compounding of offences under sub-section (1) and the form and manner for making application for such compounding under sub-section (4) of section 32;
- (r) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before State Legislative Assembly.

Power to remove difficulties

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) above, shall be laid, as soon as may be, after it is made, before the State Legislature.

Repeal and saving

40. The Assam Shops and Establishments Act, 1971 is hereby repealed:

Assam Act
No. XXI of
1974

Provided that,-

(a) every appointment, order, rule, bye-law, regulation, notification, registration or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the

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provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act;

- (b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

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STATEMENT OF OBJECTS AND REASONS

The Assam Shops and Establishments Bill, 2022 seeks to amend the Assam Shops and Establishment Act, 1971.

It is proposed to introduce many elements of reforms which safeguard the rights of Employers as well as Employees by providing easy labour reforms and improve employer-employee relation.

The proposed amendments aims to introduce labour reforms in the State by doing away with obsolete provisions of the Principal Act, making it more accountable and transparent and to streamline regulatory structures and processes and to simplify the procedures related to renewals of Certificates, Licenses, etc in establishments in the State of Assam.

Hence, the Bill for the above amendments.


Minister
Labour Welfare, Assam


Principal Secretary,
Assam Legislative Assembly

FINANCIAL MEMORANDUM

There is no financial involvement in the proposed bill.


Minister
Labour Welfare, Assam

MEMORANDUM OF DELEGATED LEGISLATION

There is no delegation of legislative power to the executive in the proposed bill.


Minister
Labour Welfare, Assam

Annexure- A

THE ASSAM SHOPS AND ESTABLISHMENT ((AMENDMENT) ACT, 2022.

Section of the Act.	Existing Provision	Provisions of the Proposed Amendment Act
1.	<p>1.Short title, extent and commencement-</p> <p>a) This Act may be called the Assam Shops & Establishment Act, 1971.</p> <p>b) It extends to the State of Assam.</p> <p>c) It shall come into force on such date as the State Govt. may, by notification in the Official Gazette, appoint</p> <p>d) It shall apply, in the first instance to the Municipalities as declared or constituted under the provisions of the Assam Municipal Act, 1956 (Assam Act XV of 1957) and to all such areas and to all shops, commercial establishments and establishments for public entertainment or amusement to which the Assam Shops and Establishments Act, 1948 (Assam Act XII of 1948) applied immediately before the commencement of this Act and thereafter it shall apply to such other areas, or to such shops, commercial establishments or establishments for public entertainment or amusement in such other areas on such date or dates as the State Government may, by notification specify</p>	<p>1. Short title, extent, application and commencement-</p> <p>(1) This Act may be called the Assam Shops and Establishments Act, 2022.</p> <p>(2) It extends to the whole of the State of Assam.</p> <p>(3) The provisions of this Act, shall apply to the establishments employing three or more workers except section 7.</p> <p>(4) It shall come into force on such date as the State Govt. may, by notification in the <i>Official Gazette</i>, appoint.</p>

2.	<p>CHAPTER I PRELIMINARY</p> <p>Definition In this Act, unless there is anything repugnant the subject or context:</p> <p>(1) "apprentice" means a person aged not less than twelve years whom an employer employs in his service for training by himself or by any other person for any and trade or calling;</p> <p>(2) "child" means a person who has not completed his fourteenth year;</p> <p>(3) "closed" means not open for the service of any customer or any business connected with the establishment;</p> <p>(4) "commercial establishment" means an establishment in which there is conducted the business of advertising, commission, forwarding or commercial agency, a department of a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, a clerical department of any industrial or commercial undertaking including one of public transport, an insurance company, joint stock company, brokers office or exchange, or such other establishment or class thereof as the State Government may, by notification, declare to be a commercial establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or an establishment for public entertainment or amusement;</p> <p>(5) "day" means the period of twenty-four hours beginning at mid-night;</p> <p>(6) "employee" means a person wholly or principally employed in and in connection with any establishment and an apprentice;</p> <p>(7) "employer" means a person owning or having ultimate control over the affairs of an establishment and includes the manager, agent or other person acting in the general management;</p> <p>(8) "establishment" means a shop or a commercial establishment or an establishment for public entertainment or amusement;</p> <p>(9) "establishment for public entertainment or amusement" means a restaurant, eating house, cafe, cinema, theatre and such other establishment or class thereof as the State Government may by notification, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment;</p> <p>(10) "factory" means a factory as defined in or declared to be a factory under the Factories Act, 1948 (Central Act No. 63 of 1948);</p> <p>(11) "half day" means a period of six consecutive hours between the hours of half past seven O'clock ante-meridiem and seven O'clock post-meridiem;</p>	<p>CHAPTER 1 Preliminary</p> <p>2. Definition-In this Act, unless there is anything repugnant in the subject or context:</p> <p>(1)"Chief Facilitator" means the Chief Facilitator appointed as such under sub-section (1) of section 23;</p> <p>(2)"commercial establishment" means an establishment in which there is conducted the business of advertising, commission, forwarding or commercial agency, a department of a factory in which persons are employed in a clerical capacity in any room or place where no manufacturing process is being carried on, a clerical department of any industrial or commercial undertaking including one of public transport, an insurance company, joint stock company, brokers office or exchange, or such other establishment or class thereof as the State Government may, by notification, declare to be a commercial establishment for the purposes of all or any of the provisions of this Act, but does not include a shop or an establishment for public entertainment or amusement;</p> <p>(3)"day" means the period of twenty-four hours beginning at midnight;</p> <p>(4)"employer" means an owner or a person who has ultimate control over the affairs of a shop or an establishment, and includes-</p> <p>(i) in the case of a firm or association of individual a partner or member of the firm or association;</p> <p>(ii) in the case of a company, a director of the company;</p> <p>(iii) in the case of an establishment owned or controlled by the Central Government or a State Government or any local authority, the person or persons appointed to manage the affairs of such shops or establishment by the Central Government or the State Government or the local authority, as the case may be;</p> <p>(5)"establishment" means an establishment which carries on, any business, trade, manufacture or any journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or exchange or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession or manufacture;</p>
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<p>(12) "Inspector" means an inspector appointed under this Act; (13) "leave" means leave provided for in Chapter III of this Act;</p> <p>(14) "notification" means a notification published in the Official Gazette;</p> <p>(15) "opened" means opened for the service of any customer or to any business connected with the establishment;</p> <p>(16) "period of work" means the time during which an employee is at the disposal of the employer;</p> <p>(17) "prescribed" means prescribed by rules made under this Act;</p> <p>(18) "prescribed authority" means the authority prescribed by rules made under this Act;</p> <p>(19) "shop" means any premises where any trade or business is carried on or where services are rendered to customers, and includes office, store rooms, godown or warehouse whether in the same premises or otherwise used in connection with such trade or business workshops including automobile repairing garages, accountants establishments, drawing and designing firms, solicitors' establishments, but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefit provided for workers under the Factories Act, 1948 (Central Act No. 63 of 1948) or an establishment for public entertainment or amusement;</p> <p>(20) "spread over" means the period between commencement and the termination of the work of an employee on any day;</p> <p>(21) "Wages" means pay at whatever intervals paid and includes dearness and such other allowances payable in terms of money and includes lodging and such other amenities whose value is, capable of being computed in terms of money;</p> <p>(22) "Week" means the period of seven days beginning at mid-night on Saturday night or such other night as may be approved in writing for a particular area by the prescribed authority;</p> <p>(23) "Year" means a year commencing on the first day of January.</p>	<p>and includes,-</p> <ul style="list-style-type: none"> (i) establishment of any medical practitioner (including hospital, dispensary, clinic, polyclinic, maternity home and such others), architect, engineer, accountant, tax consultant or any other technical or professional consultant; (ii) a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on, whether for purposes of gain or not, any business, trade or profession or work in connection with or incidental or ancillary thereto; (iii) shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; to whom the provisions of the Factories Act, 1948 do not apply; (iv) such other establishment as the State Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act; <p>(6) "establishment for public entertainment or amusement" means a restaurant, eating house, cafe, cinema, theatre and such other establishment or class thereof as the State Government may by notification, declare to be, for the purposes of this Act, an establishment for public entertainment or amusement, but does not include a shop or a commercial establishment;</p> <p>(7) "Government" means the Government of Assam,</p> <p>(8) "Facilitator" means a facilitator appointed under section 17 of the Act;</p> <p>(9) "factory" means any premises and the precincts thereof which is a factory within the meaning of clause (m) of section 2 and section 85 of the Factories Act, 1948;</p> <p>(10) "holiday" means a day on which a worker shall be given a weekly off under the provisions of this Act;</p>
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		<p>(11) "leave" means a leave mentioned in Section 17 of this Act;</p> <p>(12) "local authority" means,-</p> <ul style="list-style-type: none"> (i) a Municipal Corporation constituted under the Gauhati Municipal Corporation Act, 1969 ; (ii) a Municipality constituted under Assam Municipal Act, 1956; (iii) a Panchayat constituted under the Assam Panchayat Act, 1994; <p>(13) "member of the family of an employer" means the wife, husband, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;</p> <p>(14) "notification" means a notification published in the Official Gazette;</p> <p>(15) "opened" means opened for the service of any customer, or for any business of the establishment, or for work, by or with the help of any worker of or connected with the establishment;</p> <p>(16) "prescribed" means prescribed by rules made under this Act;</p> <p>(17) " authority" means the Commissioner of Labour for the purpose under this Act;</p> <p>(18) "register of establishments" means a register maintained for the registration of shops and establishments under this Act, either manually or in electronic format;</p> <p>(19) "registration certificate" means a certificate of the registration of a shop or establishment;</p> <p>(20) "shift" means where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a group or relay and each of such period is called a shift;</p> <p>(21) "shop" means any premises where goods are sold, either by retail or wholesale of where services are rendered to customers, and includes an office, a store-room, go-</p>
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down, warehouse or workhouse or work place for distribution or packaging or repackaging or finished goods is carried on; but does not include a shop attached to a factory where persons employed in such shop are allowed the benefits provided under the Factories Act, 1948;

(22)"spread-over" means the period between the commencement and the termination of the work of a worker on any day;

(23) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes-

(i) any remuneration payable under any award or settlement between the parties or under any order of a court or tribunal;

(ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

(iii) any additional remuneration payable under the terms of employment; (whether called a bonus or by any other name);

(iv) any sum which, by reason of the termination of employment of the person employed, is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions;

(v) any sum to which the person employed is entitled under any scheme framed under any law, for the time being in force; and

(vi) house rent allowance payable in cash, but does not include-

(a) any bonus, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or under any order of a court;

(b) the value of any accommodation, or of the supply of light, water, medical

		<p>attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the Government;</p> <p>(c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;</p> <p>(d) any travelling allowance or the value of any travelling concession;</p> <p>(e) any sum paid to the employed person to defray special expenses entailed to him by the nature of his employment; or</p> <p>(f) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv) above;</p> <p>(24) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Facilitator;</p> <p>(25) "worker" means any person including a person engaged through an outsourcing agency (except an apprentice under the Apprentices Act, 1961) employed to do any manual, unskilled, skilled, technical, operational or clerical work for hire or reward, whether the terms of employment be express or implied.</p>
3.	<p>Section 3 Exemptions</p> <p>(1) The provisions of Sections 10 and 11 shall not apply to:</p> <p>(a) Shops or classes of shops dealing mainly in dairy product, bread, pastries, sweetmeat and flowers;</p> <p>(b) pharmacies or shops dealing mainly in medicines, surgical appliances, bandages or other medical requisites;</p> <p>(c) shops dealing mainly in articles required for funerals, burials or cremations as may be Specified by the Inspectors within respective jurisdictions;</p> <p>(d) shops dealing in tobacco, cigars, cheroots, bidis, pan, liquid refreshment sold in retail for consumption on the premises, ice, newspaper or periodicals;</p>	<p>3. Act not to apply to certain persons and premises.</p> <p>(1) The provisions of this Act shall not apply to,</p> <p>(a) a worker occupying position of confidential, managerial or supervisory character in a shop or in an establishment;</p> <p>(b) establishments of the Central or the State Government;</p> <p>(c) establishments of local authorities;</p>

<p>(e) barbers' and hairdresser's shops.</p> <p>(2) Nothing contained in this Act shall apply to,</p> <p>(a) persons employed in any establishment in a position of management;</p> <p>(b) persons whose work mainly involves travelling and persons employed as canvassers and caretakers;</p> <p>(c) establishments under the Central or any State Government, local authorities, the Reserve Bank of India or any other Bank, any Railway Administration and cantonment authorities;</p> <p>(d) any water transport service or motor transport service, or any system of public conservancy or sanitation, any industry or business or undertaking which supply power, light or water to the public and such other public utility companies or associations or classes thereof as the State Government may, by notification, exempt from the operation of this Act;</p> <p>(e) stall and refreshment rooms at railway stations, docks, wharves and airports;</p> <p>(f) establishment for the treatment or care of the sick, infirm, destitute or mentally unfit.</p> <p>(g) shops or stalls in any public exhibition or show so far as such shops or stalls deal in retail trade which is solely subsidiary or ancillary to the main purpose of such exhibition or show;</p> <p>(h) shops or stalls in any public fair or bazaar held for charitable purposes; (i) shops or classes of shops dealing mainly in vegetables, meat and fish; (j) establishments in mine and oilfields;</p> <p>(k) any persons employed in a confidential and capacity, messenger, watchman or exclusively in connection with the collection, dispatch, delivery and conveyance or customs formalities of goods or such other persons or classes of persons as the State Government may, by notification, exempt from the operation of all or any of the provisions of this Act;</p> <p>(l) such seasonal commercial establishments engaged in the purchase of raw jute or cotton ginning or cotton or jute pressing and the clerical department of such seasonal factories and such other establishments as the State on, Government may, by notification, exempt from the operation of all or any of the provisions of this Act.</p>	<p>(d) offices of Reserve Bank of India;</p> <p>(e) any establishment used for the treatment or care of the sick, infirm destitute or mentally unfit;</p> <p>(f) a member of the family of an employer ; and</p> <p>(g) a worker whose work is inherently intermittent.</p> <p>(2) A list of the workers referred to in clause (a) of sub-section (1) above, shall be displayed on the website of the shop or establishment and in absence of the website at a conspicuous place in the shop or establishment and a copy thereof shall be sent to the Facilitator.</p>
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4	<p>Section 4. Power of Government to apply exempted persons or establishment Notwithstanding anything contained in section 3, the State Government may, by notification in the Official Gazette a apply all or any of the provisions of this Act to any class of persons or establishment mention Section other than those mentioned in clause (c) of sub-section (1) and modify or can any such notification.</p>	<p>4. Application of the Act to other establishments and workers. Notwithstanding anything contained in this Act, the Government may, by notification in the <i>Official Gazette</i>, declare any establishment or class of establishments to which, or any worker or person or class of workers or persons to whom, this Act or any of the provisions thereof does not for the time being apply to establishment.</p>
5.	<p>Nil</p>	<p>5. Protection of rights of workers under any other law. Nothing in this Act shall affect any right or privileges which a worker in any shop or establishment is entitled to at the date of commencement of this Act under any other law, contract, custom or usage applicable to such shop or establishment or any award, settlement or agreement binding on the employer and the worker in such shop or establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.</p>
6.	<p style="text-align: center;">CHAPTER-IX Miscellaneous</p> <p>Sec.36 Registration of establishment (1) Every employer shall have his establishment registered under this Act. The registration shall be valid for a calendar year and thereafter shall be renewed for every calendar year. (2) The application for registration or for renewal of registration shall be made to the Chief Inspector or to such other officer as the Chief Inspector may authorize in this behalf in such forms and within such date and containing such particulars as may be prescribed. (3) The fees payable for registration or for renewal of registration shall be such as may be prescribed by the State Government. (4) Where an establishment is registered under this Act or when the registration of any establishment is renewed there shall be issued to the employer, a certificate of registration or a renewal certificate of registration, as the case may be containing such particulars as may be prescribed. The</p>	<p style="text-align: center;">CHAPTER II Registration of Shops and Establishments</p> <p>6. Registration and Issue of Labour Identification Number. (1) On the commencement of this Act every establishment employing five or more workers shall apply for registration in online system to the Chief Facilitator or any Facilitator of the concerned area and obtain a Labour Identification Number (LIN) within a period of 60 days from the date of establishment of such shop or establishment. (2) The Shop or establishment shall pay online alongwith their application such fees and such self declaration and self certified documents as may be prescribed, containing - a) the name of the Employer and the manager; b) the postal address of the establishment; c) the name, if any of the establishment;</p>

7	<p>certificate or the renewal certificate, as the case may be, shall be kept prominently displayed at some conspicuous place of the establishment.</p>	<p>d) the actual nature of the business of the establishment; e) such other particulars as may be prescribed;</p> <p>Provided that, nothing contained herein above shall apply to the shops and establishments already having valid registration under the Assam Shops and Establishments Act, 1971 until the expiry of their registration or renewal.</p> <p>(3) On receipt of the application along with the documents and the fees, the Facilitator shall, register the shop or establishment in the register of establishments in such manner as may be prescribed and shall issue online, in a form, such as may be prescribed, a registration certificate along with the Labour Identification Number (LIN) to the employer within a period of thirty days from the receipt of such application. The Facilitator shall verify the correctness of the application and documents attached thereto within such time as may be prescribed. The registration or renewal certificate shall be predominantly displayed at some conspicuous place of the shops and Establishment.</p> <p>(4) A registration certificate issued under sub-section (3) shall remain in force from the date of issue till the completion of five(5) years or change in ownership or nature of business takes place. In case of change in ownership or nature of business, the employer of every establishment shall have to obtain fresh registration certificate.</p> <p>7. Intimation by establishment having less than three workers.</p> <p>(1) Within a period of sixty days from the date of the commencement of this Act or the date on which establishment commences its business, the employer of every establishment employing less than five (5) workers shall give an intimation of having commenced the business to the Chief Facilitator and Facilitator authorized on behalf of the Chief Facilitator in whose jurisdiction the establishment is located, by submitting online application in the prescribed form together with such self-declaration and self-certified documents, as may be prescribed, containing details such as name and address of the employer and manager, name of the establishment, nature of business, number of workers and such other details as may be prescribed. The Facilitator shall issue to the employer of such establishment, a receipt of intimation in such form and manner as may be prescribed. The details of the</p>
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8		<p>intimation receipt shall be recorded online in a register maintained in such form as may be prescribed:</p> <p>Provided that if at any point of time the number of workers engaged in the establishment become five (5) or more, then all provisions of this Act shall apply to such establishment and the employer of such establishment shall have to obtain registration as per the provisions of section 6.</p> <p>Provided that, nothing contained hereinabove shall apply to the shops and establishments already having valid registration under the Assam Shops and Establishments Act, 1971 until the expiry of their registration.</p>
9		<p>8. Cancellation of registration of shops and establishment.</p> <p>At any time, if it is found or brought to the notice of the Chief Facilitator and Facilitator that the registration of any shop or establishment has been obtained by misrepresentation or suppression of material facts or by submitting false or forged documents or false declaration or by fraud, the Facilitator shall, after giving an opportunity of being heard to the employer of the shop or establishment, cancel the registration and remove such shop or establishment from the register of establishments in the manner as may be prescribed.</p>
10		<p>9. Notice of change in particulars.</p> <p>It shall be the duty of every employer to inform to the Chief Facilitator or Facilitator, any change in any of the particulars contained in the application submitted under section 6 within such period, after the change has taken place, as sub section the State Government may be prescribed. The Facilitator shall, on receiving such notice and the prescribed fees along with the self-declaration of the applicant and self-certified documents as may be prescribed, make the change in the register of establishments in accordance with such notice and shall issue a fresh registration certificate online within a period of 30 days.</p> <p>10. Notice for closure of business.</p> <p>The employer shall inform, in such form and in such manner, as may be prescribed, to the Chief Facilitator and Facilitator within thirty days from the date of closing of the business that the shop or establishment has been closed for business. The</p>

11	<p style="text-align: center;">CHAPTER V</p> <p>Sec. 20. Prohibition of employment of women and persons below seventeen years during night No women or any person who has not attained the age of seventeen shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 A.M. or after 7 P.M</p>	<p>Facilitator on receiving the information and on being satisfied about its correctness shall remove the entry of such shop or establishment from the register of establishments and cancel the registration certificate:</p> <p>Provided that, if the Facilitator does not receive the information but he is otherwise satisfied that any shop or establishment has been closed, he may remove the entry of such shop and establishment from the register of establishment and cancel such certificate.</p> <p style="text-align: center;">CHAPTER III</p> <p style="text-align: center;">Duties of Employer</p> <p>11. Prohibition of discrimination of woman.</p> <p>(1) No woman worker shall be discriminated in the matter of recruitment, training, transfer or promotion or wages.</p> <p>(2) No woman worker shall be required or allowed to work in any establishment except between the hours of 6 a.m. and 9 p.m</p> <p>Provided that, where the State Government or any person, authorized by it in this behalf, is satisfied that the provisions of shelter, rest room, 'night crèche, ladies toilet, adequate protection of dignity, honour and safety, protection from sexual harassment, and their transportation from the shop or establishment to the door step of their residence exists in such shop or establishment, it may, by Notification, after obtaining the consent of the woman worker, allow her to work between 9 p.m. to 6 a.m. subject to such conditions as may be specified in the Notification.</p>
12	<p style="text-align: center;">CAPTER VI</p> <p>21. HEALTH AND SAFETY Cleanliness, ventilation and lighting (1) The premises of every establishment shall be kept clean and free from alluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed and these methods may include lime washing, colour washing painting, varnishing, disinfection and deodorizing. (2) The premises of every establishment shall be ventilated and sufficiently</p>	<p>12. Health and safety of worker.</p> <p>(1) Every employer shall take such measures relating to the health and safety of the worker including cleanliness, lighting, ventilation and prevention of fire as may be</p>

13	<p>lighted during all working hours, with such standards and by such methods as may be prescribed.</p> <p>(3) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently kept clean or lighted or ventilated, he may serve on the employer an order in writing specifying the measures which in his opinion, should be adopted and requiring him to be carried out before a specified date of accounts and that total number of hours of overtime shall not exceed fifty for any quarter.</p> <p>Sec. 22. Precaution against fire Every employer shall take proper precaution against fire in such manner as may be prescribed.</p> <p>Chapter-II Sec 6. HOURS OF WORK Daily and weekly hours No employee in any establishment shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week -- Provided that the total number of hours of work including overtime, shall not exceed ten hours in any day except on days of stock taking and preparation of accounts and that total number of hours of overtime shall not exceed fifty for any quarter.</p> <p>Sec 8.Interval for rest The period of work of an establishment each day shall be so fixed that no period shall exceed four hours and no such person shall work for more than four hours before he has had an interval for rest of at least one hour.</p> <p>Sec 9.Spread over The periods of work of an employee in an establishment shall be so fixed that, inclusive of his interval for rest, they shall not spread over more than ten and half hours in any day.</p>	<p>prescribed.</p> <p>(2) Every employer shall be responsible for providing constant adequate supervision of the worker employed in the shop or establishment and to ensure the compliance with the rules relating to health and safety made under sub-section (1) and for taking steps necessary to prevent accidents.</p> <p>13. Fixing of hours of work and spread over (1) No adult worker shall be required or allowed to work in a shop or establishment for more than forty-eight hours in any week and nine hours in a day and no worker shall be asked to work continuously for more than five hours unless he has been given a break of not less than half an hour:</p> <p>Provided that the working hours or of weekly rest may be relaxed in case of work of urgent nature with the previous permission of the Facilitator.</p> <p>(2) The total number of hours of work in a shift including the rest interval shall not exceed ten and half hours in any shop or establishment and in case a worker is entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours.</p> <p>(3) Any working hour beyond nine hours a day or forty-eight hours a week shall be treated as overtime and the total number of overtime hours shall not exceed one hundred and twenty -five hours in a period of three months.</p> <p>(4) The State Government shall make rules to.-</p>
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<p>14</p>	<p>Sec 7 Extra wages for overtime</p> <p>Where an employee works in any establishment for more than eight hours in any day or for more than forty-eight hours in any week, he shall in respect of such. Over time work, be entitled to wages at the rate of twice the ordinary rate of wages.</p> <p>Explanation: For the purpose of this Section "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the supply of meals and the concessional sale to</p>	<p>(i) subject to sub-section (1), fix the number of hours of work which shall constitute a normal working day for the workers employed in the shop or establishment, inclusive of one or more specified intervals;</p> <p>(ii) provide for a day of rest in every period of seven days which shall be allowed to all the workers employed in the shop or establishment and for the payment of remuneration in respect of such days of rest.</p> <p>(5) The provisions of sub-sections (1) and (2) shall, in relation to the following class of workers employed in such shop or establishment, apply only to such extent, and subject to such conditions, as may be prescribed, namely:-</p> <p>(i) Workers engaged on urgent work, or in any emergency which could not have been foreseen or prevented;</p> <p>(ii) workers engaged in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;</p> <p>(iii) workers engaged in any work which for technical reasons has to be completed before the day is over;</p> <p>(iv) workers engaged in a work which cannot be carried on except at times dependent on the irregular action for natural forces; and</p> <p>(v) highly skilled workers (such as workers working in the Establishments of Information' Technology, Bio-Technology and Research and Development Divisions).</p> <p>14. Payment of wages for overtime</p> <p>Where a worker is required to work in a shop or establishment payment of beyond nine hours a day or forty-eight hours a week, he shall be entitled, in respect of the overtime work, wages at the rate of twice his ordinary rate of wages. The total</p>
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	employees of food grains and other articles as the employee is for the time being entitled to, but does not include bonus.	number of overtime hours shall not exceed one hundred and twenty-five hours in a period of three months.
15		<p>15. Shift working and rest.</p> <p>(1) A department or any section of a department of the shop or shift establishment may work in more than one shifts at the discretion of the employer and if more than one shifts are worked, the worker may be required to work in any shift at the discretion of the employer.</p> <p>(2) A shop or establishment may work on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least twenty-four consecutive hours of rest.</p> <p>(3) If a worker is denied weekly holiday, the compensatory leave in lieu thereof shall be given within two months of such weekly holiday.</p> <p>(4) The period and hours of work in a week for all classes of workers in such shift shall be informed to all workers in writing and shall be sent to the Facilitator electronically or otherwise.</p> <p>(5) Where a worker is required to work on a day of his rest, he shall be entitled to wages at the rate of twice his ordinary rate of wages.</p>
16		<p>16. Furnishing Identity card to worker.</p> <p>The employer of a shop or an establishment shall furnish to every worker an identity card which shall be produced by the worker on demand by Facilitator. Such identity card shall contain particulars as may be prescribed.</p>

17.	<p style="text-align: center;">CHAPTER III Leave</p> <p>Section 13 Annual leave with wages</p> <p>(1) Every employee in an establishment shall be entitled after twelve months' continuous service in that establishment to privilege leave with wages for a period of 16 days in the subsequent period of twelve months, provided that such privilege leave with wages may be accumulated up to maximum period of 30 days.</p> <p>(2) Every employee in an establishment shall also be entitled during every twelve months of continuous service to medical leave with wages for a period not exceeding twelve days on the ground of any sickness incurred or accident sustained by him and to casual leave with wages for a period not exceeding twelve days on any reasonable ground.</p> <p>(3) If an employee entitled to any leave under sub-section (1) is discharged by his employer before he has been allowed the leave, or if having applied for and been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under this Act in respect of the leave.</p> <p>(4) If an employee entitled to any leave under sub-section (2) is discharged by his employer when he is sick or suffering from the result of an accident, the employer shall pay him the amount payable under this Act in respect of the period of the leave to which he is entitled at the time of his discharge, in addition to the amount, if any, payable to him under sub-section (3).</p> <p>(5) An employee shall be deemed have completed a period of twelve months' continuous service within the meaning of this section, notwithstanding any interruption in service during those twelve months brought about</p> <p>(a) by sickness, accident, or authorised leave (including authorised holidays and weekly holidays), not exceeding ninety days in the aggregate for all three; or</p> <p>(b) by a lock-out; or</p> <p>(c) by a strike which is not an illegal strike; or</p> <p>(d) by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate, and authorised leave shall be deemed not to include any weekly holiday allowed under this Act which occurs at the beginning or end of an interruption brought about by the leave</p>	<p style="text-align: center;">CHAPTER IV. Leave with Pay and Payment of Wages</p> <p>17. Annual leave, casual and sick leave and other holidays.</p> <p>(1) Every worker shall be allowed a weekly holiday with wages: <div style="padding-left: 40px;">Provided that the State Government may, by notification in the <i>Official Gazette</i>, fix different days as weekly holiday for different classes of shops and establishments or areas.</div></p> <p>(2) Every worker shall be entitled to eight days casual leave with wages in every calendar year which shall be credited into the account of the worker in the beginning of the calendar year, but it shall lapse if the casual leave remains un-availed at the end of the year.</p> <p>(3) Every worker who has worked for a period of two hundred and forty days or more in a shop or establishment during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year.</p> <p>(4) Every worker shall be permitted to accumulate earned leave up to a maximum of forty-five days.</p> <p>(5) Where the employer refuses to sanction the leave due when applied fifteen days in advance, then the worker shall have a right to encash the leave in excess of forty-five days: <div style="padding-left: 40px;">Provided that, if a worker is entitled to leave other than causal and festival leave under this section, is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.</div></p>

CHAPTER II
Hours of work

Sec11.Closing of shops and grants of weekly holidays for religious purposes

(1) Every shop shall remain entirely closed for one day in each week.

(2) The State Government may, by notification, require that in addition to one day referred to in sub-section (1), every shop or any specified class of shops shall remain closed between such hours in the afternoon of such days in each week, as may be specified in the notification:

Provided that, when there are conducted in a shop two or more trades or business, any of which is of such character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that shop, such shop shall so far as the conduct of the trade or business is concerned, be exempt from the operation of sub-section (1):

Provided further that when in any establishment for which the provisions of this Act applies two or more trades or business are conducted, one or more of which are usually conducted in a shop while the others are usually conducted in a commercial establishment, the provisions of this Section shall not apply to the establishments so far as the conduct of the trades or business usually conducted in a commercial establishment are concerned.

(3) No deduction on account of any closer of a shop under the provisions sub-section (1)

or sub-section (2) shall be made from the wages of such shop.

(4) The day on which shop shall be closed in each week under the provisions of sub- section (1) shall be such day as may be specified by the employer in a notice, which shall be displayed in a conspicuous place in the shop.

Provided that no employer shall more often than once in every three months, alter the day so specified.

Provided further that the Inspector may by a written order, require the shops in particular area within their respective jurisdiction, to be kept closed on a particular day as specified in the order.

(5) Every person employed in a commercial establishment shall be allowed as holidays at least one and a half day in each week:

Provided that, when there are conducted in a commercial establishment two or more trades or business, any of which is of such a character that, if it was the sole trade or business therein conducted, the provisions of this Act would not apply to that commercial establishment, such commercial to that establishment shall, so far as the conduct of the trade or business is

(6) Every worker shall be entitled to seven days leave on medical ground with wages in every calendar year which shall be credited into the account of the worker in the beginning of the calendar year but shall lapse if unavailed at the end of the year.

(7) A worker shall be entitled to eight paid festival holidays in a calendar year, namely, the 26th January, 15th August and 2nd October and five such other festival holidays as may be agreed to between the employer and the workers before the commencement of the year. On these days, he shall be paid wages at the rate equivalent to his ordinary rate of wages excluding overtime:

Provided that, the employer may require any worker to work in the shop or establishment on all or any of these days, subject to the conditions that for such work the worker shall be paid double the amount of the ordinary rate of wages and also leave on any other day in lieu of the compulsory holiday.

(8) For the purpose of sub-section (3),-

(a) any days of lay-off, by agreement or contract or as permissible under the model standing orders or standing orders certified under provisions of the Industrial Employment (Standing Orders) Act, 1946;

(b) in the case of a woman worker, maternity leave under the provisions of the Maternity Benefits Act, 1961;

(c) the leave earned in the year prior to that in which the leave is availed; or

(d) the absence of the worker due to temporary disablement caused by an accident arising out of and in the course of his employment, shall be deemed to be days on which the worker has worked in the shop or establishment for the purpose of computation of the period of two hundred and forty days or more, but shall not earn leave for these days.

(9) The leave admissible under Sub-Section (3) shall be exclusive of all holidays whether occurring during or either at the end of the period of leave.

(10) Every worker shall be paid wages for the period of his leave earned under sub-

concerned be exempt from the operation of this sub-section.

(6) No deduction on account of any holiday allowed under the provisions of sub-section (5) shall be made from the wages of any person employed in such commercial establishment.

(7) Notwithstanding anything contained in the Weekly Holidays Act, 1942 (Act XVIII of

1942) every person employed in an establishment for public entertainment or amusement shall be allowed as holidays at least one and a half day in each week:

Provided that, when there are conducted in an establishment for public entertainment or amusement two or more trade or business any of which is of such a character that if it was the sole trade or business therein conducted the provisions of this Act would not apply to that establishment, such establishment shall so far as the conduct of that trade or business is concerned, be exempt from the operation of this sub-section.

(8) No deduction on account of any holiday allowed under the provisions of sub-section (7) shall be made from the wages of any person employed in such establishment for public entertainment or amusement.

(9) Every person employed in a shop, commercial establishment for public entertainment or amusement shall be entitled to leave of absence for any days, he may select, not exceeding three in number in any one year for the purpose of attending ceremonies or performing functions or duties connected with or enjoined by his religion.

(10) Every person employed in an establishment shall be granted a paid holiday on each of the following occasions and on such other day or days as may be notified by the State Government from time to time.

(a) 26th January

(b) 1st May

(c) 15th Aug

(d) 2nd October

Sec.14 Wages during leave period

For the leave allowed to him under section 13, an employee shall be paid at the rate equal to the daily average of his total full time earning exclusive of any overtime earning and bonus, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the supply of meals and by the sale by the employer of food grains and other articles at concessional rates, for the days on which he worked during the month immediately preceding his leave.

sections (3) and (4) at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime'.

(11) Every worker shall be entitled to seven days leave on medical grounds with wages in every calendar year which shall be credited into the account of the worker in the beginning of the calendar year, but shall lapse if un-availed at the end of the year.

CHAPTER V
Welfare Provisions.

18. Drinking water.

Every employer shall make effective arrangement to provide and maintain at suitable points conveniently situated for all workers employed in the shop or establishment, a sufficient supply of wholesome drinking water.

19. Latrines and Urinals.

Every employer shall provide separate sufficient restroom, latrine and urinal for men and women as may be prescribed and these shall be so conveniently situated as may be accessible for the workers employed in the shop or establishment:

Provided that, several employers may provide common facilities of latrines and urinals, in case it is not possible to provide such facility individually, in a shop or establishment due to constraint of space or otherwise.

20. Creche facility.

In every shop or establishment where in thirty or more women workers are employed, there shall be provided and maintained a suitable room or rooms as *creche* for the use of children of such workers:

Provided that, if a group of shops or establishments decide to provide a common *creche* within a radius of one kilometre, then, the same shall be permitted by the Facilitator by an order, subject to such conditions as may be specified in the order:-

21		<p>21. First-aid.</p> <p>Every employer shall provide at the place of work first-aid facilities as may be Prescribed.</p>
22		<p>22. Canteen.</p> <p>The employer shall provide and maintain in the shop or establishment, wherein not less than one hundred workers are employed or ordinarily employed to maintain a canteen for the use of its workers:</p> <p style="text-align: center;">Provided that, if a group of shops or establishments decide to provide a common canteen, then the same shall be permitted by the “Facilitator by an order, subject to such conditions as may be specified in the order.</p>
23	<p style="text-align: center;">CHAPTER-VII</p> <p>ENFORCEMENT AND INSPECTION</p> <p>Sec .25 Appointment of Inspectors</p> <p>(1) The State Government may, by notification in the Official Gazette, appoint such officer or such persons or class of persons as they think fit to be Inspectors for the purposes of this Act within such local limits as they may assign to them respectively.</p> <p>(2) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the Chief Inspector for the purposes of this Act.</p>	<p style="text-align: center;">CHAPTER-VI</p> <p style="text-align: center;">Facilitators And Their Powers And Functions.</p> <p>23. Appointment of Chief Facilitator and Facilitators and their powers.</p> <p>(1) The Government may by Notification published in the official Gazette appoint such person as posses the qualification as may be prescribed to the Chief Facilitator and Facilitator for the purpose of this Act and may assign such local area as it may think fir, Provided that the Government may by notification may appoint the Chief Facilitator as Facilitator in addition to the power of a Chief Facilitator under this Act and exercise the power of a Facilitator as assigned and areas as specified in the notification.</p> <p>(2) The Government may prescribe a scheme for inspection of shops and establishments which may provide for generation of a web-based inspection schedule.</p> <p>(3) Every Facilitator and Chief Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code and shall be officially subordinate to such authority as the Government may specify in this behalf.</p> <p>(4) Subject to such conditions as may be prescribed, a Facilitator may, within</p>

24	<p>Sec 26. Powers and duties of Inspectors Subject to any rules made by the State Government in this behalf, an Inspector may within the local limits for which he is appointed:</p> <p>(a) Enter, at all reasonable times and with such assistants, if any, being persons in the service of the Government or any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment.</p> <p>(b) make such inspection of the premises and of any prescribed registers, records and notice and take on the spot or otherwise evidence of any person as he may deem necessary for carrying out the purposes of this Act; and</p> <p>(c) exercise such other powers as may be necessary for carrying out the purpose of this Act.</p> <p>Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.</p> <p>Sec 27 Inspector to be public servant Every Inspector appointed under sub-section (1) of section 25 shall be deemed to be a public servant within the meaning of section 12 of the Indian Penal Code. (Act XLV of 1860).</p>	<p>the Local limits for which he is appointed –</p> <p>(i) Advice the employer and worker and provide them such information as may be considered necessary or complying with the provisions of the Act effectively.</p> <p>24. Powers and duties of Facilitators.</p> <p>(1) The State Government may prescribe a scheme for randomize inspection of shops and establishments which may provide for generation of a web based inspection schedule.</p> <p>(2) Every Chief Facilitator and Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code and shall be officially subordinate to such authority as the State Government may specify in this behalf.</p> <p>(3) Subject to such conditions as may be prescribed, the Facilitator may, within the local limits for which he is appointed-</p> <p>(i) advice the employers and workers and provide them such information as may be considered necessary for complying with the provisions of this Act effectively;</p> <p>(ii) inspect the shops or establishments in accordance with the scheme for inspection referred to in sub-section (4), of Section 24, and may-</p> <p>(a) enter, at all reasonable time and with such assistants, if any, being persons in the service of the Government or of any local authority as he thinks fit, any place which is or which he has reason to believe is a shop or establishment;</p> <p>(b) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any persons as he may deem necessary for carrying out the purposes of this Act;</p> <p>(c) examine any person who is found in any premises of the shop or establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the shop or establishment;</p> <p>(d) require any person to give any information, which is in his possession with respect to the names and addresses of the persons;</p> <p>(e) search, seize or take copies of such register, record of wages or notices or</p>
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		<p>portions thereof as he may consider relevant in respect of an offence under this Act and which he has reason to believe has been committed by the employer; -</p> <p>(f) bring to the notice of the Government defects found during inspection; and</p> <p>(g) exercise such other powers, as may be prescribed.</p> <p>Provided that, no person shall be compelled under this section to answer any question or give any evidence tending to indiscriminate him.</p> <p>(3) Any person required to produce any document or to give any information required by a Facilitator under sub-section (3) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.</p> <p>(4) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to the search or seizure under sub-clause (e) of clause (ii) of sub-section (2) as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.</p>
25.	<p style="text-align: center;">Chapter IX</p> <p>MISCELLANEOUS</p> <p>Sec.30 Maintenance of registers and records and display of notices</p> <p>Subject to the general or special orders of the State Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept in the premises of the establishment to which they relate.</p>	<p style="text-align: center;">CHAPTER VII</p> <p style="text-align: center;">Records and Returns.</p> <p>25. Maintenance of Registers and Returns.</p> <p>(1) Every employer shall maintain the registers and records, in such form and in such manner as may be prescribed.</p> <p>(2) The records may be maintained electronically or manually:</p> <p>Provided that, at the time of inspection by a Facilitator, a hard copy of such records, if demanded, shall be submitted duly signed by the employer or his representative.</p> <p>(3) Every employer and in his absence the manager shall, on demand, produce for inspection of Facilitator all registers, records and notices required to be kept under and for the purposes of this Act.</p> <p>(4) All such registers and records shall be kept in the premises of the shop or establishment to which they relate.</p>

29		<p>29. Penalty for obstruction or refusal to provide register, etc.</p> <p>(1) Whoever wilfully obstructs a Facilitator in exercise of any powers conferred on him by or under this Act or refuses or wilfully neglects to afford the Facilitator any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to a shop or an establishment, shall be punishable with fine which may extend to two lakh rupees.</p> <p>(2) Whoever wilfully refuses to produce on the demand of a Facilitator any register or other document kept in pursuance of this Act or the rules made there under, or prevents or attempts to prevent or does anything which he has reason to believe to prevent any person from appearing before, or being examined by, a Facilitator acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to two lakh rupees:</p> <p style="padding-left: 40px;">Provided that the total amount of fine shall not exceed two thousand rupees per worker employed.</p>
30		<p>30. Cognizance of Offences by Companies.</p> <p>(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>(2) Notwithstanding anything contained in sub section(1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.</p> <p style="text-align: center;">Explanation. – For the purpose of this section,-</p>

31		<p>(a) “company” means anybody corporate and includes a firm or other association of individuals; and</p> <p>(b) “director” in relation to a firm, means a partner in the firm.</p> <p>31. Cognizance of Offences.</p> <p>(1) No court shall take cognizance of any offence punishable under this Act and the rules made there under unless a complaint in respect thereof is made by the Facilitator within three months of the date on which the alleged commission of the offence came to the knowledge of the Facilitator and a complaint is filed in that regard thereby:</p> <p>Provided that where the offence consists of disobeying a written order made, by a Facilitator, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.</p> <p>(2) No Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act or the rules made thereunder</p> <p>(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Judicial Magistrate of the first call may impose fine and penalties under Section 27 of the Act.</p>
32	<p style="text-align: center;">CHAPTER VIII</p> <p>Sec29 Penalties Sub-Sec.2 No court shall take cognizance of any offence punishable under this Act or any rule or order made thereunder unless the complaint is made.</p> <p>(a) by the employee of an establishment either by himself or through the Union of which he is a member within three months from the date on which the offence is alleged to have been committed; or</p> <p>(b) by the Inspector within six months from the date on which the alleged offence comes to his knowledge.</p> <p>(c) No Court inferior to that of judicial Magistrate of the first class shall try any offence punishable under this Act or any rules or orders made thereunder</p>	<p>32. Compounding of offences.</p> <p>(1) Notwithstanding anything contained in the code of criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by such Officer, as the Government may, by notification in the Official Gazette, specify, with fine provided for such offence, in the manner as may be prescribed.</p>

<p>33</p>	<p>CHAPTER IX Miscellaneous.</p> <p>Sec 32 Indemnity No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act</p>	<p>(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date-</p> <p>(a) of commission of a similar offence which was earlier compounded;</p> <p>(b) of commission of a similar offence for which such person was earlier convicted.</p> <p>(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the State Government.</p> <p>(4) Every application for the compounding of an offence shall be made in such form and in such manner as may be prescribed.</p> <p>(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.</p> <p>(6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing, to the notice of the court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.</p> <p>(7) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty percent of the maximum fine provided for the offence, in addition to such fine.</p> <p>(8) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.</p> <p style="text-align: center;">CHAPTER IX Miscellaneous.</p> <p>33. Protection of action taken in good faith.</p> <p>(1) No suit, prosecution or other legal proceedings shall lie against any public servant or any other person in the service of the Central Government or the State Government, acting under direction of any such public servant, for anything in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made there under.</p>
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<p>34</p>	<p>Chapter-II Hours of work Sec.10 Opening and closing hours (1) No establishment shall on any day be opened earlier than and closed later than such hour as may be fixed by a general or special order of the State Government made under sub-section (2). Provided that any customer who was being served or was waiting to be served in any establishment at the hour fixed for its closing may be served during the quarter of an hour immediately following such hour,</p> <p>(2) The State Government may, by general or special order fix the time at which any establishment or class of establishments shall be opened or closed in any local area beyond the hour fixed for closing. Section 10 makes it obligatory for every establishment not to open before and close after the time fixed by the State Government. This Section further provides that in case any customer was being served or was waiting to be served in an establishment at the hour fixed for its closing may be served during the quarter of n hour beyond the hour fixed for closing. The opening and closing hours does not apply to certain categories of establishments specified in Section 3(1)(a) to 3(1)(e). The Government of Assam vide Notification No. GLR 290/76/3, dated. 21-6-1976 had fixed the opening hour and closing hour of all shops to which the said Act applies as follows: Opening hour 8 A.M and closing hour 7.45 P.M.</p> <p>Sec.5 Exemptions The State Government may, if they are satisfied that public interest so requires or that the circumstances of the case are such that it would be just and proper to do so having regard to the nature and capacity of the establishment, by notification in the Official Gazette, exempt either permanently or for any specified period, any establishment or classes of establishments in any area or persons or classes of persons to which or to whom this Act applies, from all or any of its provisions subject to such restrictions and conditions as the State Government may deem fit.</p>	<p>34. Opening and closing hours. (1) Notwithstanding anything contained in this Act, any shops or establishment if situated,- (a) (i) in Municipal Corporation Area, or (ii) on National Highway, or (iii) on Railway platform, or (iv) at State Roadways bus station premises, or (v) in Hospital premises, or (vi) on Petrol Pumps, may remain open 24 hours on any day of the week:</p> <p>Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;</p> <p>(b) in Municipality area or on State Highway may be opened except from 2.00 A.M to 6.00 A.M. Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act,</p> <p>(c) in the areas other than the areas mentioned in clauses (a) and (b) above in district or on minor road may be opened except from I 1.00 P.M. to 6.00 A.M. Provided that, the worker shall be allowed to work in accordance with the provisions of sections 13,15 and 17 of this Act;</p> <p>(2) Notwithstanding anything contained in sub-section (1), considering the circumstances relating to traffic, public health, public safety, public nuisance or such other reason which may affect law and order situation, the hours for opening and closing of different classes of shops or establishments and for different premises, shopping complex or mall or for different area or areas and for different period may be curtailed by such authority as the State Government may, by notification in the <i>official Gazette</i>, specify.</p>
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39	<p>period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of that session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rules or the Assam Legislative Assembly agree that no rules should be made, the rules 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 the rules.</p>	<p>(l) qualifications of the Facilitators under section (1) (m) scheme for random inspection of shop and establishment (n) conditions subject to which the Facilitator shall exercise his powers under sub-section (3) of section 24, (o) the registers and records to be maintained by the employers under sub-section (1) of section (25) (p) the form and manner (including electronic form) for furnishing of annual return and the authority to such returns shall be furnished under section 26: (q) the manner of compounding of offences under sub-section (1) and the form and manner for making application for such compounding under sub-section (4) of section 32: (r) any other matter which is required to be, or may be, prescribed.</p> <p>39. Power to Remove Difficulties</p> <p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:</p> <p>Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.</p> <p>(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.</p>
40	<p>Sec.37 Repeal and Saving</p> <p>(1) The Assam Shops and Establishments Act, 1948 (Assam Act XIII of 1948) is hereby repealed. (2) Notwithstanding the repeal of the Assam Shops and Establishments Act, 1948 (Assam Act XIII of 1948) any order made, any notification issued or any action taken under the Act so repealed. shall be deemed to have been made or taken under the corresponding provisions of this Act and shall continue to be in operation until cancelled or suspended by</p>	<p>40. Repeal and Saving</p> <p>The Assam Shops and Establishments Act, 1971 is hereby repealed:</p> <p>Provided that,-</p> <p>(a) every appointment, order, rule, bye-law, regulation, notification, registration or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded by</p>

	<p>order made or notification issued under the corresponding provisions of this Act.</p>	<p>any appointment, order, rule, bye-law, regulation, notification or notice made, issued or given under this Act;</p> <p>(b) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.</p>
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