

## ‘ Bombay Shops & Establishments Act 1948 ’

### Learning Objectives

- The definitions of commercial establishment, establishment, and shop.
- The procedure for registration of establishments
- The working hours of shops and commercial establishments, restaurants and theatres
- The obligations of employers as regards to health and safety of employees and statutory compliance thereof.

## ' Bombay Shops & Establishments Act 1948 '

### Structure

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### Structure

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## ' Bombay Shops & Establishments Act 1948 '

### 14.1 Introduction

Bombay Shops & Establishments Act 1948, extends to the whole of the State of Maharashtra. It came into effect on 11.01.1949 with a view to regulate the conditions of work & employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theaters other places of public amusement or entertainment and other establishments.

This Act is applicable within municipal limits & can be extended to local areas with population of 25,000 or more.

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### 14.2 Definitions

Apprentice – is a person who is employed, whether on payment of wages or otherwise, for the purpose of being trained in trade, craft or employment in any establishment.

Commercial Establishment – is an establishment that carries on any business, trade or profession, but does not include a factory, shop, residential hotel, restaurant & other eating places, theater or amusement places.

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### 14.2 Definitions

Employee - is a person who is employed whether directly or through any agency, for wages or some other considerations, in an establishment

Establishment - means a shop, commercial establishment, residential hotel, restaurant & other eating places, theater or amusement places & includes those notified by the government.

Factory - is any premises defined under section 2[m] of the Factories' Act 1948.

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### 14.2 Definitions

Restaurant or eating house – means any premises where meal or refreshments are sold to the public for consumption.

Shop – means any premises where goods are sold and includes an office, a store room, godown, warehouse, or work place mainly used for trading but excludes a factory, commercial establishment, residential hotel, restaurant & other eating places, theater or public amusement places.

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### 14.3 Registration of establishments

A shop or establishment is to be registered under the Act. The registration certificate obtained is valid for a year, application for renewal needs to be submitted 15 days before the expiry. Fees have been stipulated for registration & renewal.

A notice is also required to be given in case employer wishes to close down his establishment. Such notice is to be given within 10 days of such closing.



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### 14.4 Working Hours of Shops

Shops cannot be opened before 7 am, shops selling essential like milk, vegetables etc. can however open at 5 am or later.

Shops should close before 8.30 pm , but those selling pan, bidis etc. can remain open up to 11 pm

Commercial establishments should operate within 8.30 am to 8.30 pm.

Government can revise these working hours.

Employees should not be asked to work > 9 hours in a day or 48 hours in a week.

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### 14.4 Working Hours of Shops

Extra hours within stipulated limits can be worked for accounts, stock taking etc..

Rest intervals have to be offered in such a way that worker does not work > five hours at a stretch.

Where shops remain closed for some hours in a day, spread over of workers cannot exceed 12 hours.

Every commercial establishment has to remain closed for a day each week, and employee is to be paid for this weekly holiday.

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### 14.5 Working Hours of Restaurants

Working hours for restaurants & eating houses can be between 5 am until midnight. Employees there can start work from 4.30am and complete it latest by 12.30 am.

Rules on workers' working hours , rest intervals, spread over , weekly paid off day etc are identical to those for shops.

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### 14.6 Working Hours of Theaters

Working hours for theaters or other places of amusement can be until midnight.

Rules on workers' working hours , rest intervals, spread over , weekly paid off day etc are identical to those for shops.

### 14.7 Overtime Wages

Overtime wages are payable at twice the ordinary rate. They are payable for hours of work > nine hours a day or 48 hours a week.

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### 14.8 Employment of Children & Women

A child is a person who has not completed 15 years. No child is allowed to work as an employee or otherwise in any establishment.

A young person is one over 15 but below 18 years. Working hours for young persons or women are restricted to six in the morning to seven in the evening.

Maximum hours per day for young person can be six and rest interval of at least half an hour has to be offered within three hours of work.

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### 14.9 Leave with wages

Every employee who has been employed for not less than three months in any year has to be paid five days leave for every 60 days of work. If an employee has worked for more than 240 days in a year, 21 days leave has to be granted.

The leave salary shall be inclusive of basic salary & DA, but exclusive of OT.

It is to be paid prior to employee proceeding on leave. Leave can be accumulated for 42 days. In case employee quits or is discharged, salary has to be paid for leave due.

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### 14.10 Applicability of Other laws

Provisions of following Acts are applicable to establishments

Payment of Wages act 1936

Workmen's Compensation Act 1923

Industrial Employment [Standing Orders] Act 1946

Maternity Benefits Act 1961.

Model standing orders apply to all establishments in Maharashtra employing over 50 employees.

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### 14.11 Health & Safety

Every establishment must take measures to

[a] to keep premises clean

[b] to keep premises ventilated

[c] to keep premises sufficiently lighted during working hours

[d] to protect the premises against fire

[e] if manufacturing process is carried out in the premises to provide and maintain a first aid box.



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### Inspection

An inspector appointed under the Act has powers

[a] to enter any establishment

[b] to examine the premises, registers, records and notices

[c] to take evidence of any person

[d] if he suspects that the employer committed any offence, to seize required documents, records and retain them for investigation or prosecution.

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### 14.12 Inspection

Prosecution for the violation of the Act has to begin with a sanction of legal authority and the complaint has to be filed by the Inspector within three months from the date on which the alleged commission of the offences came to the knowledge of the Inspector.

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### 14.13 Termination of Service

Employee has to be given a notice of 30 days or salary in lieu thereof while terminating services under this Act if the employee has worked for a year or more. { 14 days if employee has worked for more than three months but less than a year }

No such notice or pay is applicable if employee is dismissed for misconduct.

Staying away from work without notice or sufficient reasons, abetting strike in contravention of law, causing damages to property are causes for misconduct.

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### Exemptions

Exemptions are of two types

a] temporary exemption from 'operation' of provisions of the Act

b] permanent exemption from application of the Act

The Government by issue of notification can temporarily exempt all establishments from certain provisions on account of say festivals. It can permanently exempt any establishment from application of some or all provisions of the Act.

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### 14.15 Maintenance of Registers

Employers need to maintain

register of employment

register of leave

a visit book

register showing lime washing etc.

Employer has also to display in a language understood by the majority of employees the extracts of the Act, rules framed there under & notice of the day of weekly off.

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### Obligations of Employers

1. Get the establishment registered & update registration
2. Observe opening, closing hours and closed day in a week, notified religious / national holidays
3. Comply with daily, weekly working hours, rest intervals, rules regarding employment of children, young persons and women, health, safety, overtime payment, notice for termination of service, & issue of appointment letters to employees etc

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### Obligations of Employers

4. Comply with Payment of Wages Act, Workmen's Compensation Act, Maternity Benefit Act
5. Maintain all registers and records and submit such annual and other returns and statements as may be required by the government.
6. Cooperate with Inspectors in inspecting the premises, and produce all registers and documents required for inspection to comply with provisions of the Act

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### 14.17 Miscellaneous

When this Act comes into force, employees who were in receipt rights & privileges which are better than the provisions of the Act , then they will continue to enjoy them.

Workers in factories continue to be governed by the provisions of the Factories' Act 1948.

Every Local Authority has to submit to the Commissioner of Labour, Mumbai a report on the working of the Act.



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### 14.18 Summary

The Bombay Shops & Establishments Act is a piece of State legislation. The Act has defined terms "apprentice", "commercial establishment", 'employee', "establishment" and 'shop'.

It is comprehensive legislation regulating working hours, rest intervals, weekly holidays, spread over, leave with wages, health, safety, and employment of women & children.

It provides for inspection of commercial establishments & shops by inspectors appointed under the Act.

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**The End!**

*In the next session we cover chapter fifteen on*

*‘Contract Labour [ Regulation & Abolition Act I,  
1970*

*Good Luck!*