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GOVERNMENT OF TAMIL NADU
2018

[Regd. No. TN/CCN/467/2012-14.
[R. Dis. No. 197/2009.
[Price: Rs. 4.80 Paise.



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

No. 227]

CHENNAI, WEDNESDAY, JUNE 27, 2018
Aani 13, Vilambi, Thiruvalluvar Aandu-2049

Part IV—Section 1

Tamil Nadu Bills

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Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 27th June, 2018 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 27 of 2018

A Bill further to amend the Tamil Nadu Shops and Establishments Act, 1947.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Shops and Establishments (Amendment) Act, 2018.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Tamil Nadu Act
XXXVI of 1947.

2. In section 2 of the Tamil Nadu Shops and Establishments Act, 1947 (hereinafter referred to as the principal Act), after clause (17), the following clause shall be inserted, namely:—

Amendment of Section 2.

“(17-a) “time” means the Indian Standard Time which is five and a half hours ahead of Greenwich Mean Time;”.

3. For section 3 of the principal Act, the following sections shall be substituted, namely:—

Substitution of section 3.

“3. Registration of shops and establishments.— (1) On and from the date of commencement of the Tamil Nadu Shops and Establishments (Amendment) Act, 2018, employer of every establishment employing ten or more workers shall, within a period of six months from the date of commencement of his business, apply for registration and obtain a registration certificate.

(2) Every application for registration under sub-section (1) shall be in such form and in such manner as may be prescribed.

(3) The inspector on receipt of an application under sub-section (2), register the establishment and issue a registration certificate to the employer in such form as may be prescribed.

(4) The inspector shall maintain the Register of establishments and, the registration certificate issued by the inspector shall be prominently displayed in the establishment by the employer.

(5) (a) The registration certificate shall be valid for a period of five years and shall be renewable once in five years on payment of such fees as may be prescribed and the provisions of sub-sections (2) and (3) shall apply for the renewal of registration certificate;

(b) Every employer shall apply for renewal of his registration certificate before thirty days from the date of expiry of the period of validity of the registration certificate.

(6) If registration or renewal of a registration certificate is not issued within a period of thirty days from the date of receipt of application by the inspector, the registration certificate shall be deemed to have been granted or renewed, as the case may be, under this Act.

(7) The employer shall give intimation to the inspector, of any change in any of the particulars furnished in the application form submitted under sub-section (2), within a period of thirty days of such change. The inspector shall on receipt of such intimation shall amend the registration certificate or issue a fresh registration certificate.

(8) The employer shall, within a period of thirty days of the closure of the establishment, give intimation of such closure to the inspector and on receipt of such intimation, he shall cancel the registration certificate:

Provided that where the inspector is satisfied otherwise than on receipt of such intimation, that the establishment has been closed, he shall cancel such registration certificate.

(9) Notwithstanding anything contained in sub-section (1) employer of every existing establishment employing ten or more workers on the date of commencement of the Tamil Nadu Shops and Establishments (Amendment) Act, 2018 shall intimate the details of the establishment along with a self declaration in such form as may be prescribed to the inspector, within a period of six months from the date of commencement of the Tamil Nadu Shops and Establishments (Amendment) Act, 2018. The inspector shall after recording the intimation furnished by the employer in the register, issue a registration certificate.

3-A. Intimation of shops and establishments employing less than ten workers.— (1) Employer of every establishment employing less than ten workers shall, within a period of six months from the date of commencement of the Tamil Nadu Shops and Establishments (Amendment) Act, 2018 or within a period of six months from the date of commencement of his business, give intimation of his business in such form and in such manner as may be prescribed, to the inspector. The inspector shall record the particulars furnished by the employer in such register as may be prescribed:

Provided that, if at any point of time, the numbers of workers engaged in the establishment become ten or more, then all the provisions of this Act shall apply to such establishment and the employer of such establishment shall apply for registration and obtain a registration certificate as per the provisions of section 3.

(2) The employer of an establishment employing less than ten workers shall, within a period of thirty days of the closure of the establishment give intimation of such closure to the inspector. The inspector, on receiving the information shall remove the entry of such establishment from the register maintained by him.”.

Amendment of section 9.

4. In section 9 of the principal Act, in the proviso to sub-section (1), for the expressions “ten hours” and “fifty-four hours”, the expressions “ten and a half hours” and “fifty-seven hours” shall, respectively, be substituted.

Amendment of section 14.

5. In section 14 of the principal Act, in the proviso to sub-section (1), for the expressions “ten hours” and “fifty-four hours”, the expressions “ten and a half hours” and “fifty-seven hours” shall, respectively, be substituted.

Amendment of section 45.

6. In section 45 of the principal Act, for the expression “sections 7 to 11, 13 to 23, 25, 26, 29 to 41 and 47”, the expression “sections 3, 3-A, 7 to 11, 13 to 23, 25, 26, 29 to 41 and 47” shall be substituted.

Insertion of new section 47-A.

7. After section 47 of the principal Act, the following section shall be inserted, namely:—

"47-A. **Annual Return.**— Every employer of an establishment shall furnish an annual return, in such form and manner to such authority as may be prescribed."

8. In section 49 of the principal Act, in sub-section (2), for the expression "which may extend to fifty rupees", the expression "which may extend to two thousand rupees" shall be substituted. Amendment of section 49.

9. After section 50 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 50-A.

"50-A. **Prohibition of discrimination against women employee.**— No woman employee shall be discriminated in matters of recruitment, training, transfers, promotions or wages."

STATEMENT OF OBJECT AND REASONS

The Tamil Nadu Shops and Establishments Act, 1947 (Tamil Nadu Act XXXVI of 1947) provides for working hours regulation, weekly rest, opening and closing hours of shops etc. But there is no provision for the registration of shops and establishments under the Tamil Nadu Act XXXVI of 1947.

2. The Government of India has suggested Model Shops and Establishment (Regulation of Employment and Conditions of Service) Bill, 2016, a suggestive piece of legislation that provides for freedom to operate 365 days in a year; freedom to prescribe opening and closing time of establishment; women can be permitted during night shift if the provision of shelter, rest room, adequate protection of their dignity and transportation etc., exists; no discrimination against women in the matter of recruitment, training, transfer or promotions; online Registration through a simplified procedure; Safety and Welfare measures etc., and has requested the State Government to modify the State Shops and Establishments Act either by adopting the said Model Bill as it is, or by modifying its provisions as per the requirement of the State.

Accordingly, after considering the present scenario and advent to technological development, it is felt necessary that the Tamil Nadu Act XXXVI of 1947 needs certain amendments for introduction of registration and renewal of shops and establishments, prohibition of discrimination against women employee etc.

3. The Bill seeks to give effect to the above decision.

Dr. NILOFER KAFEEL,
Minister for Labour.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 1(2) and the new section 3, 3-A and 47-A proposed to be inserted by clauses 3 and 7, of the Bill authorize the Government to issue notification or to make rules, as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

Dr. NILOFER KAFEEL,
Minister for Labour.

K. SRINIVASAN,
Secretary.