



Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019

A detailed review of the Act

Highlights of the New Act

- ✓ This Act replaces the Gujarat Shops and Establishment Act, 1948 extending to the whole of the State of Gujarat and shall come into force on such date as the State Government may by notification in the Official Gazette appoint.
- ✓ On and from the date of commencement of this new Act, the Gujarat Shops and Establishments Act, 1948 shall stand repealed.
- ✓ This Act is enacted on the lines of the Model Shops and Establishments (Regulation of Employment and Conditions of Service) Bill, 2016 circulated by the Central Government, for regulation of conditions of employment and other conditions of service of workers employed in various establishment.
- ✓ Applicable to Shops and Establishments employing ten or more workers.
- ✓ Establishment having less than ten employee shall give intimation of having commenced the business to the Inspector by submitting online application.
- ✓ The significant provisions of the Act inter-alia include freedom to operate 365 days in a year and opening/closing time of establishment
- ✓ Women to be permitted during night shift subject to certain conditions.

Applicability Redefined

Redefined, threshold of 10 employees

Sec.1(3)

Applicability of the Act –

The provision of this Act is applicable to those shops and establishments employing ten or more workers.

Registration not required up to 10 employee

Sec.6

Registration of the establishment –

Only those shops and establishments having 10 or more workers shall make an application for registration within a period of 60 days from the date of commencement of the business.

Up to 10 employees, only Intimation of commencement of business to the Inspector

Sec.7

Intimation to Inspector-

Establishment having less than 10 employee shall give intimation of having commenced the business to the Inspector by submitting online application together with a self-declaration and self-certified documents, containing details such as name of the employer, manager, establishment, nature of business, number of workers etc.

If at any point of time the number of workers engaged in the establishment becomes ten or more, then all provisions of the Act shall apply to such establishment and the employer shall obtain registration of his/her establishment.

Definition of Establishment - Section 2 (c)



The Gujarat Shops and Establishments Act, 1948 defined **Commercial Establishment, Establishment and Shop** independently . However, the new Act omits the word Commercial Establishment from the definition clause.

Residential hotels, restaurants, eating houses , theatres, places of public amusement or entertainment, is now covered under definition of “Establishment”

To be precise, Establishment means an establishment which carries on, any business, trade, manufacture or any:

- Journalistic or Printing work
- Business of Banking, insurance, Stocks and Shares, Brokerage
- Establishment of Medical Practitioner is defined in wider sense and includes hospital, dispensary, clinic, polyclinic, maternity home and such others.
- Architect, engineer, accountant, tax consultant or any other technical or professional consultant.
- Any Society or charitable trust.
- Shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.

Key Aspects of the New Act



Working Hour of Women- Women to be permitted during night shift subject to certain conditions.

Section	New Act	Section	Repealed Act
Section 13(2)	<p>Woman worker with her consent and by an order of the Inspector shall be allowed to work during 9 p.m. and 6-00 a.m. in any shop or establishment</p> <p>Provisions of shelter, rest room, night crèche, ladies toilet, adequate protection of their dignity, honor and safety, protection from sexual harassment and their transportation from the shop or establishment to the doorstep of their residence should exist. And conditions as may be specified in the order.</p>	Section 33	No woman shall work in any establishment before 6-00 a.m. and after 7 p.m.

Key Aspects of the New Act



Weekly Holiday: only provided to the employee but the establishment can remain open all 365 days

Section	New Act	Section	Repealed Act
Section 16 (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.	Section 18	Every shop and commercial establishment shall remain closed on one day of every week.

Key Aspects of the New Act



Opening and Closing Hour of Establishment : May remain open 24 hours on any day of the week

Section	New Act	Section	Repealed Act
Section 35	<p>Any Shop or establishment if situated in Municipal Corporation Area, or on National Highway, or on Railway Platform, or at State Roadways bus station premises, or in Hospital premises, or on petrol pumps, may remain open 24 hours on any day of the week.</p> <p>In Municipality area or on State Highway may be opened except from 2.00 A.M to 6.00 A.M</p> <p>In the areas other than the areas mentioned above in district or on minor road may be opened except from 11.00 P. M. to 6.00 A.M.</p> <p>Provided the workers shall be allowed to work in accordance with the working hours, spread-over hours of work and provided weekly holiday with wages in accordance with the Act.</p>	Section 10, 11, 13, 19	<ul style="list-style-type: none"> •Opening hour for shops dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods shall not be earlier than 5:00 A.M and for other shops it shall not be opened earlier than 5:00 A.M. and other shops not earlier than 7.00 a.m. •Shops dealing in pan, bidi, cigarettes, matches and other ancillary articles shall be closed latest by 11:00 P.M and other shops shall be closed latest by 8:30 P.M •No Commercial establishment shall be open earlier than 8:30 A.M and closed later than 8:30 P.M •No restaurant or eating house shall on any day be opened earlier than 5:00 A.M. and closed later than 11:00 PM for service



Welfare Provision



Crèche Facility for every shop & establishment with 30 or more women workers: Sec. 21

Every shop & establishment wherein thirty or more women workers are employed, there shall be provided and maintained a suitable room or rooms as crèche for the use of children of such workers. Provided that, if a group of shops & establishments, so decide to provide a common crèche within a radius of one kilometer, then, the same shall be permitted by the Inspector by an order, subject to such conditions as may be specified in the order



Canteen for every employees with 100 or more workers : Sec. 23

Shop or Establishment employing 100 or more workers to maintain a canteen for the use of its workers. If a group of shops or establishments, so decide to provide a common canteen, then the same shall be permitted by the Inspector by an order, subject to such conditions as may be specified in the order.



Drinking Water Facility : Sec. 19

Effective arrangements 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.



Penalty Clause



Section	New Act	Section	Repealed Act
Sec.29 Penalty for the contravention of provisions of the Act	General Violations will attract penalty up to Fifty Thousand Rupees. Total Fine capped to, rupees two thousand rupees per worker employed.	Sec. 52 Penalty for the contravention of provisions of the Act	Employer shall be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees
Sec. 30 Penalty for the contravention of provisions of the Act which results in accident	Imprisonment only if contraventions resulted in accident causing serious bodily injury or death of a worker. On conviction, Imprisonment which may extend to six months, or fine minimum of twenty-five thousand rupees and can be extended up to fifty thousand rupees, or with both	No comparable section	
Sec.32 Penalty for obstruction or refusal to provide register etc.	On conviction, be punished with fine which may extend to fifty thousand rupees	Sec.57 Penalty for obstruction or refusal to provide register etc.	On conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupee.

Comparative Analysis Of Existing And Repealed Provision



Section	New Act	Section	Repealed Act
Section 16 Weekly Holiday	As per the new Act, 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. However, the erstwhile S&E Act required an establishment to be closed mandatorily one day a week	Section 18 Weekly Holiday	The provisions of the existing Act of keeping a shop and commercial establishment closed for a business on one day of the week and to restrict the opening and closing hours of establishments have become obsolete
Sec. 14 Spread Over Hours of Work	The spread-over of a worker in any shop or establishment shall not exceed ten and half hours in any day, and in case a worker entrusted with intermittent nature of work or urgent work, the spread over shall not exceed twelve hours.	Sec. 16 & 17 Spread Over Hours	The spread over hour in the repealed Act is eleven hours in a day. .
Sec. 12 Interval of Rest in Shop & Establishment	No adult worker shall be compelled to work continuously for more than five hours unless he has been given a break of not less than half an hour	Sec. 15 Interval for Rest	Periods of work of an employee in a shop or commercial establishment each day, shall be so fixed that no period shall exceed five hours and that no such person shall work for more than five hours before he has had an interval of rest of at least one hour

Comparative Analysis Of Existing And Repealed Provision



Section	New Act	Section	Repealed Act
Sec. 15 Over Time	Total number of over time hour should not exceed one hundred and twenty-five hours in a period of three months	Sec14 (2). Over time	No employee shall be allowed to work for more than 3 hours of over time in any week.
Sec. 18 (2) & (3) Casual and Sick Leave	Every worker shall be entitled to seven days casual leave and 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 it shall lapse if un-availed at the end of the year	Sec. 35 (1B) Casual and Sick Leave	Every employee shall be entitled to leave with wages as casual leave for seven days in a year and leave on medical grounds for not more than seven days in a year.
Sec. 18 (7) National and Festival Holidays	A worker shall be entitled to eight paid festival holidays in a calendar year, namely, 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. 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	Sec 35(1B). Leave with pay	Every employee shall be entitled to leave with wages for not more than four days in a year on any of the days which the State Government may, by notification in the Official Gazette, specify to be the National and Festival holidays

Comparative Analysis Of Existing And Repealed Provision



Section	New Act	Section	Repealed Act
Sec 12 Working Hours .	No adult worker shall be required or allowed to work in any shop or establishment for more than nine hours in any day and forty-eight hours in any week.	Sec 14 (1) and Sec 21. Working Hour	No employee in any shop or commercial establishment (including residential hotels, restaurants and eating houses) shall be required or allowed to work for more than nine hours on any day and forty-eight hours in any week.
Sec. 18 (4) & (5) Leave encashment and Accumulations	<p>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. (18 holidays in a year)</p> <p>The worker can accumulate his earned leave up to a maximum of sixty-three days However, a worker shall have a right to encash leave in excess of sixty-three days, if the employer refuses to sanction the leave.</p>	Sec.35 Leave encashment and accumulations	<p>The employer shall provide leave to employees as prescribed :</p> <p>In case an employee has been in service for at least 3 months, 5 days leave for every 60 days worked shall be granted</p> <p>and</p> <p>In case an employee has been in service for at least 240 days in a year, 21 days leave shall be granted</p> <p>The repealed Act provides maximum leave accumulation up to sixty-three days.</p>

Comparative Analysis Of Existing And Repealed Provision



Section	New Act	Section	Repealed Act
<p>Section 17: Employer to furnish identity card to worker</p>	<p>The employer of an establishment shall furnish to every worker an identity card which shall be produced by the worker on demand by Inspector. Such card shall contain particulars as may be prescribed.</p>	<p>Section 62A: Employer to Furnish identity card to worker</p>	<p>The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely:</p> <ul style="list-style-type: none"> (a) name and address of the employer; (b) the name, if any and postal address of the establishment; (c) full name, address and designation of the employee; (d) date of birth of the employee; (e) the date on which the employee joined service in the establishment; (f) recent passport size photograph of the employee; duly signed by the employer; (g) hours of work, the interval for rest and holiday, of the employee; (h) signature (with date) of the employer or manager

Employment of a young person's/child

The new Act omits the definition of child and young person. Thus, the Act does not recognize Employment of Young Person or a Child.

As per the repealed Act defines Child" means a person who has not completed his fourteenth year of age and "Young person" means a person who is not a child and has not completed his seventeenth year.



- Application for intimation of commencement of business (*for establishment having less than 10 employees*) to the Inspector shall be made online
- **The record of the establishment (maintenance of registers and records) may be maintained electronically or manually.**
- Every employer shall notify to the Inspector, in the prescribed form, any change in any of the particulars contained in the application submitted for Registration of Establishment.
- Redefined the exemption clause for class of people or class of establishment.
- The employer of a shop or 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.

Thank You!

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