



**The Bombay Shops and Establishments (Gujarat Extension and Amendment)
Act, 1961**

11 of 1962

Keyword(s):

**Shops, Establishments, Local Authority, Wages, Commercial Establishment,
Penalty, Forfeiture**

Amendments appended: 26 of 1977, 35 of 1980, 27 of 1981

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The following Act of the Gujarat Legislature having been assented to by the President on the 28th February 1962 is hereby published for general information.

M. G. MONANI,
Secretary to the Government of
Gujarat, Legal Department.

GUJARAT ACT No. XI of 1962

(First published, after having received the assent of the President
in the "Gujarat Government Gazette" on the 1st March 1962.)

An Act to amend the Bombay Shops and Establishments Act, 1948 for the purpose of extending it to, and bringing it into force in, the rest of the State of Gujarat and for certain other purposes.

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

1. (1) This Act may be called the Bombay Shops and Establishments (Gujarat Extension and Amendment) Act, 1961. Short ti
and com
encement
(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

- Bom. 2. In section 1 of the Bombay Shops and Establishments Act, 1948 Amendme
of section
1 of Bom
LXXIX
1948.
LXXIX of
IX of
1948. (hereinafter referred to as "the principal Act")--
(1) for sub-section (2), the following shall be substituted, namely :--
“(2) It extends to the whole of the State of Gujarat.”;

(2) to sub-section (3), the following proviso shall be added, namely :—

“Provided that in the areas in which all or any of the provisions of the Saurashtra Shops and Establishments Act, 1955 were in force immediately before the commencement of the Bombay Shops and Establishments (Gujarat Extension and Amendment) Act, 1961, all the provisions of the Act shall come into force on such commencement”.

Sau.
Act
No. X
of
1955.
Guj.
of
1961.

Amendment
of section 2
of Bom.
LXXIX of
1948.

3. In section 2 of the principal Act, —

(a) for clause (3) the following shall be substituted, namely :—

“(3) ‘Closed’ means not open for the service of any customer, or for any business of the establishment, or for work, by or with the help of any employee, of or connected with the establishment;”;

(b) for clause (6) the following shall be substituted, namely :—

“(6) ‘Employee’ means a person wholly or principally employed, whether directly or through any agency and whether for wages or other consideration, in or in connection with any establishment; and includes an apprentice but does not include a member of the employer’s family;”;

(c) for clause (15) the following shall be substituted, namely :—

“(15) ‘Local authority’ means —

(i) a municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949;

Bom.
LIX
of
1949.

(ii) a municipality constituted under the Bombay District Municipal Act, 1901 or that Act as applied to the Saurashtra area of the State of Gujarat; or the Bombay Municipal Boroughs Act, 1925, or that Act as applied to the Saurashtra and Kutch areas of the State of Gujarat; or

Bom.
III of
1901,
Bom.
XVIII
of
1925.

(iii) a local board constituted under the Bombay Local Boards Act, 1923;

Bom.
VI of
1923.

and includes any other body which the State Government may by notification in the *Official Gazette*, declare to be a local authority for the purposes of this Act;”;

(d) for clause (18) the following shall be substituted namely :—

“(18) ‘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 employee, of or connected with the establishment;”;

(e) in clause (23), after the word “establishment” the words and figure “granted or renewed under section 7” shall be inserted;

(f) for clause (32) the following shall be substituted namely :—

“(32) ‘Year’ means a year commencing on the first day of January;”

4. In section 7 of the principal Act.—

(1) in sub-section (2), the words “The registration certificate shall be prominently displayed at the establishment,” shall be deleted;

Amendment
of section
of Bom.
LXXIX of
1948.

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

“(5) A registration certificate granted under sub-section (2) shall, unless it is cancelled earlier, remain in force from the date of its grant upto the end of the year in which it is granted, and shall be renewable from time to time for one year at a time :

Provided that a registration certificate granted before the commencement of the Bombay Shops and Establishments (Gujarat Extension and Amendment) Act, 1961 and in force immediately before such commencement shall remain in force upto the end of December 1961 unless it is cancelled earlier.

(6) An employer, holding a registration certificate shall, except in the circumstances mentioned in section 9, make an application for its renewal in the prescribed form to the Inspector not later than fifteen days before the date of its expiry. Such application shall be accompanied by such fee as may be prescribed.

(7) On receipt of an application in accordance with sub-section (6), the Inspector shall on being satisfied about the correctness of the particulars mentioned in the application renew the registration certificate in the proscribed form.

(8) The registration certificate renewed under sub-section (7) shall, unless it is cancelled earlier, remain in force for the year for which it is renewed.

(9) The registration certificate shall be prominently displayed at the premises of the establishment.”.

5. In section 11 of the principal Act, in sub-section (1) in clause (b) for the words “ dealing in ”, the words “ dealing mainly in ” shall be substituted.

Amendment of section 11 of Bom. LXXIX of 1948.

6. In section 12 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—

“ Provided that nothing in this sub-section shall apply to the sale of newspapers.”.

Amendment of section 12 of Bom. LXXIX of 1948.

7. Section 15 of the principal Act shall be renumbered as sub-section (1) of that section and—

Amendment of section 15 of Bom. LXXIX of 1948.

(1) in sub-section (1) as so renumbered, for the words “ an interval for rest of at least one hour ” the following shall be substituted, namely :—

“ an interval for rest of at least—

(i) half an hour, if he is employed in a commercial establishment engaged in any manufacturing process, and

(ii) one hour in any other case, subject, however, to the provisions of sub-section (2) ” ;

(2) after sub-section (1), the following sub-section shall be inserted, namely :—

“(2) In the case of employees other than those employed in a commercial establishment engaged in any manufacturing process, the State Government, on an application made in that behalf by the employees concerned, may permit the reduction of the interval for rest to half an hour.”.

Amendment
of section 18
of Bom.
LXXIX of
1948.

8. In section 18 of the principal Act,—

(1) in sub-section (I),—

(i) for the words “The employer shall” the words, brackets, figure and letter “ Except where the day is fixed under sub-section (IB) the employer shall ” shall be substituted ;

(ii) the words “ at the beginning of the year ” shall be deleted ;

(iii) the following shall be added at the end, namely :—

“ Such calendar or list shall be prepared at the beginning of the year but in the case of a shop or establishment to which this Act becomes applicable for the first time after the beginning of a year, the first calendar or list for the remaining part of the year shall be prepared before the expiry of one month from the date of the application of this Act thereto.” ;

(2) in sub-section (IA), after the words, brackets and figure “Notwithstanding anything contained in sub-section (I)” the words, brackets, figure and letter “ but except where the day is fixed under sub-section (IB) ” shall be inserted, and for the words “ closed day ” the words “ a closed day ” shall be substituted ;

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

“(IB) (a) Notwithstanding anything contained in sub-section (I) in respect of any area within the jurisdiction of a local authority the local authority and in respect of any other area, the State Government may by an order published in the prescribed manner, fix the day on which a shop or commercial establishment shall remain closed every week ; and different days may be fixed with reference to different classes of shops or establishments, different parts of the same area or different periods of the year.

(b) Every shop and commercial establishment to which such order applies shall remain closed accordingly :

Provided that nothing in this clause shall apply to a shop or commercial establishment, the employer of which has notified to the Inspector at the beginning of the year his intention to close the shop or establishment on a public holiday within the meaning of the Negotiable Instruments Act, 1881. ^{XXVI} of 1881.

(c) The making of an order under clause (a) shall be subject to the condition of previous publication”.

Amendment
of section
22 of Bom.
LXXIX of
1948.

9. To section 22 of the principal Act, the following proviso shall be added, namely :—

“ Provided that, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.”.

Amendment
of section
29 of Bom.
LXXIX of
1948.

10. To section 29 of the principal Act, the following proviso shall be added, namely :—

“ Provided that, the State Government may, on an application made in that behalf by the employees concerned, permit the reduction of the interval for rest to half an hour.”.

11. In Chapter VI of the principal Act, after section 34, the following section shall be inserted, namely :—

Insertion of new section 34A in Bom LXXIX of 1948.

“ 34A. No young person or woman working in any establishment whether as an employee or otherwise, shall be required or allowed to perform such work as may be declared by the State Government by notification in the *Official Gazette*, to be work involving danger to life, health or morals.”.

Prohibition of employment of young persons and women in dangerous work.

12. In section 35,—

(i) for sub-section (1), the following shall be substituted, namely :—

Amendment of section 35 of Bom. LXXIX of 1948.

“(1) (a) Subject to the provisions of clause (b), every employee who has been employed for not less than three months in any year, shall for every 60 days on which he has worked during the year be allowed leave, consecutive or otherwise, for a period of not less than five days ;

(b) every employee who has worked for not less than two hundred and forty days, during a year shall be allowed leave, consecutive or otherwise, for a period of not less than twenty-one days :

Provided that such leave may be accumulated up to a maximum period of forty-two days.

Explanation.— The leave allowed to an employee under clauses (a) and (b) shall be inclusive of the day or days during the period of such leave on which a shop or commercial establishment remains closed under section 18, or on which he is entitled to a holiday under sub-section (1) of section 24 or section 31.” ;

(ii) sub-section (1A) shall be deleted ;

(iii) in sub-sections (2) and (3) the word, brackets, figure and letter “ or (1A) ” shall be deleted.

13. In the principal Act, after section 38 the following section shall be inserted, namely :—

Insertion of section 38A in Bom LXXIX of 1948.

VIII of 1923.

“ 38A. The provisions of the Workmen's Compensation Act, 1923 and the rules made from time to time thereunder, shall *mutatis mutandis*, apply to every employee (other than an employee who is in receipt of monthly wages exceeding four hundred rupees) of an establishment to which this Act applies and in which at least five employees are employed on the date of the accident as if he were a workman within the meaning of that Act.

Application of Act VIII of 1923 to employees of establishments.

VIII of 1923.

Explanation.— For the purposes of this section the expression ‘ wages ’ shall have the same meaning as is assigned to it under the Workmen's Compensation Act, 1923.”.

Amendment of section 45 of Bom. XXIX of 1948. 14. In sub-section (1) of section 45 of the principal Act, after the words "subordinate to it" the words "in the area within the jurisdiction of the local authority" shall be inserted, and for the words, brackets and figures "Sub-section (2) of section 11" the words, brackets and figures "Section 6, sub-section (2) of section 11" shall be substituted.

Substitution of section 8 of Bom. XXIX of 1948. 15. For section 48 of the principal Act, the following shall be substituted, namely :—

Appointment of inspectors. "48. (1) For an area within the jurisdiction of a local authority the local authority and for other areas the State Government shall, subject to the provisions of sub-section (3), appoint as many Inspectors as the local authority or the State Government, as the case may be, may deem necessary for the purpose of carrying out the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), in the areas within the jurisdiction of a local authority, the State Government may appoint Inspectors for such supervision as the State Government may prescribe.

(3) A person possessing the prescribed qualifications shall be qualified for being appointed as an Inspector.

(4) A local authority or, as the case may be, the State Government may direct that the powers conferred on it by this section shall in such circumstances, and subject to such conditions (if any) as may be specified in the direction, be exercised—

(a) in the case of a local authority, by its standing committee or by any committee appointed by it in this behalf or, if such local authority is a municipal corporation, by its Municipal Commissioner or Deputy Municipal Commissioner, and

(b) in the case of the State Government, by any officer subordinate to it."

Amendment of section of Bom. XXIX of 1948. 16. In section 52 of the principal Act,—

(1) in clause (a) after the word and figure "section 7" the words, brackets and figures "or fails to apply for the renewal of his registration certificate as required by sub-section (6) of section 7" shall be inserted,

(2) in clause (d) for the word and figures "33 or 34" the figures, word and letter "33, 34 or 34A" shall be substituted, and

(3) at the end the following proviso shall be added, namely :—

"Provided that, if the contravention of any of the provisions of section 7 is continued after the expiry of the fifteenth day after conviction, the employer shall on conviction be punished with a further fine which may extend to ten rupees for each day on which the contravention is so continued."

Amendment of section of Bom. XXIX of 1948. 17. In section 56 of the principal Act for the figures "33" the figures, and letter "33, 34A" shall be substituted.

18. In the proviso to sub-section (1) of section 60 of the principal Act, after the words "Municipal Commissioner" the words "or Deputy Municipal Commissioner" shall be inserted.

Amendment of section 60 of Bom. LXXIX of 1948.

19. In section 66 of the principal Act,—

(1) for the portion beginning with "continuous employment for not less than three months" and ending with "in lieu of such notice", the following shall be substituted, namely :—

Amendment of section 66 of Bom. LXXIX of 1948.

"continuous employment —

(a) for not less than a year, without giving such person at least thirty days' notice in writing, or wages in lieu of such notice ;

(b) for less than a year but more than three months, without giving such person at least fourteen days' notice in writing, or wages in lieu of such notice." ;

(2) for the marginal note the following shall be substituted, namely :—

"Notice of termination of service."

20. In section 67 of the principal Act,—

(a) in sub-section (2) —

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

Amendment of section 67 of Bom. LXIX of 1948.

"(a) the form of application for the renewal of a registration certificate under section 7 ;"

(ii) clause (g) shall be deleted ;

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

"(4) All rules made under this Act shall be laid before the State Legislature as soon as possible after they are made, and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or in the session immediately following.

(5) Any modifications so made by the State Legislature shall be notified in the *Official Gazette* and shall, thereupon take effect."

21. For section 70 of the principal Act, the following shall be substituted namely :—

Substitution of new section for section 70 of Bom. LXXIX of 1948.

LXIII of 1948.

"70. Nothing in this Act shall be deemed to apply to a factory and the provisions of the Factories Act, 1948, shall, notwithstanding anything contained in that Act, apply to all persons employed in and in connection with a factory :

Persons employed in factory to be governed by Factories Act and not by this Act.

Provided that, where any shop or commercial establishment situate within the precincts of a factory is not connected with the manufacturing process of the factory, the provisions of this Act shall apply to it :

Provided further that, the State Government may, by notification in the *Official Gazette*, apply all or any of the provisions of the Factories Act, 1948, to any shop or commercial establishment situate within the precincts of a factory, and on the application of that Act to such shop or commercial establishment, the provisions of this Act shall cease to apply to it.”

LXIII
of
1948.

Amendment
of section
1 of Para.
XXIX of
1948.

22. In section 71 of the principal Act,—

(a) for the words “three months” the words “two months” shall be substituted;

(b) for the words “the State Government” the words “the Commissioner of Labour, Ahmedabad” and for the words “It shall also submit to it” the words “It shall also submit to him” shall, respectively, be substituted.

Repeal and
revival.

23. (1) On the commencement of this Act, the Saurashtra Shops and Establishments Act, 1955 (hereinafter referred to as “the repealed Act”) shall stand repealed:

Sau.
Act
X of
1955.

Provided that, such repeal shall not affect—

(a) the previous operation of the repealed Act or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed under the repealed Act; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that anything done or any action taken under the provisions of the repealed Act shall be deemed to have been done or taken under the corresponding provisions of the principal Act, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under the principal Act.

(2) Any exemptions granted by or under the repealed Act and in force immediately before the commencement of this Act shall continue in force as if granted under the corresponding provisions of the principal Act unless and until they are superseded by anything done or any action taken under the principal Act.



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Separate paging is given to this Part in order that it may
be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 17th August 1977 is hereby published for general information.

S. L. TALATI,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 26 OF 1977.

(First published after having received the assent of the Governor in the "Gujarat Government Gazette" on the 18th August, 1977).

An Act further to amend the Bombay Shops and Establishments Act, 1948 for certain purposes.

It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Shops and Establishments (Gujarat Amendment) Act, 1977. Short title
and commen-
cement.

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

Amendment
of section
2 of Bom.
LXXIX of
1948.

2. In the Bombay Shops and Establishments Act, 1948 (hereinafter referred to as "the principal Act"), in section 2, in clause (15), for sub-clauses (ii) and (iii), the following shall be substituted, namely:—

Bom.
LXXIX
of
1948.

"(ii) a municipality constituted under the Gujarat Municipalities Act, 1963;
or

Guj.
34 of
1964.

(iii) a district panchayat constituted under the Gujarat Panchayats Act, 1961;"

Guj.
6 of
1962.

Amendment
of section 4
of Bom.
LXXIX of
1948.

3. In the principal Act, section 4 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Every notification issued under the proviso to sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued."

Amendment
of section 7
of Bom.
LXXIX of
1948.

4. In the principal Act, in section 7,—

(1) in sub-section (5), for the words "for one year at a time" the words "for a period not exceeding three years at a time so however that any such period shall not include a fraction of a year" shall be substituted;

(2) in sub-section (8), for the words "for the year" the words "for the period" shall be substituted.

Deletion of
section 25
of Bom.
LXXIX
of 1948.

5. In the principal Act, section 25 shall be deleted.

Amendment
of section
35 of Bom.
LXXIX of
1948.

6. In the principal Act, in section 35,—

(1) in sub-section (1), in the proviso, for the words "forty-two days" the words "sixty-three days" shall be substituted;

(2) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) Every employee who has accumulated leave shall, when he goes on leave for a period of not less than twenty-one days, be entitled to surrender, out of the balance of leave remaining to his credit on the commencement of his leave, any period of leave, not exceeding twenty-one days; and such employee shall, for the period of leave so surrendered by him, be entitled to payment of wages as if the leave so surrendered had been allowed to him under sub-section (1):

Provided that no employee shall be entitled to surrender leave under this sub-section more than once in any period of two years.

(1B) In addition to the leave permissible under sub-section (1), every employee shall be entitled to leave with wages as follows:—

(i) casual leave for seven days in a year,

(ii) leave on medical grounds for not more than seven days in a year, and

(iii) leave 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.”;

(3) in sub-section (2), after the words, brackets and figure “under sub-section (1)” the words “retires, resigns or” shall be inserted.

7. In the principal Act, in section 38A,—

(i) for the words “four hundred rupees” the words “one thousand rupees” shall be substituted; Amendment of section 38A of Bom. LXXIX of 1948.

(ii) the portion beginning with the words “and in which at least five employees” and ending with the words “of that Act” shall be deleted. LXXIX of 1948.

8. In the principal Act, after section 43, the following new section shall be inserted, namely:— Insertion of new Section 43A in Bom. LXXIX of 1948.

“43A. Notwithstanding anything contained in section 43, the State Government may, by a notification in the *Official Gazette*, direct that in the areas subject to the jurisdiction of such local authority as may be specified in the notification the provisions of this Act shall be enforced by the State Government from such date and for such period as may be specified in the notification and thereupon such local authority and officers of such local authority shall be discharged from the duty of enforcing the provisions of this Act within such area from the date and for the period as so specified: Power of State Government to enforce provisions of Act within areas of local authorities.

Provided that the bye-laws, if any, made by the local authority under section 44 and in force in such area before the date so specified shall continue to be in force with amendments, if any, made therein, until such bye-laws are amended or superseded by the State Government.”.

9. In the principal Act, in section 47, for the words “or a local board” the words “or any other local authority” shall be substituted. Amendment of section 47 of Bom. LXXIX of 1948.

10. In the principal Act, in section 48, in sub-section (1), for the words “within the jurisdiction of a local authority” the words “within the jurisdiction of a local authority whose duty it is to enforce the provisions of this Act” shall be substituted. Amendment of section 48 of Bom. LXXIX of 1948.

11. In the principal Act, in section 60, in the proviso to sub-section (1), after the words “Deputy Municipal Commissioner” the words “or by any other officer as may be specified in the direction” shall be inserted. Amendment of section 60 of Bom. LXXIX of 1948.

12. In the principal Act, after section 62, the following new sections shall be inserted, namely:— Insertion of new sections 62A and 62B in Bom. LXXIX of 1948.

Employer to furnish identity card to employees.

"62A. (1) This section shall apply to every residential hotel, restaurant and eating house in the whole of the State and it shall apply to such other establishments or classes of establishments in the whole of the State or any part thereof as may be specified by a notification in the *Official Gazette*, from such date as may be specified in such notification.

(2) The employer of every establishment to which this section applies shall furnish each employee therein with 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 :—

- (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 employee;
- (g) hours of work, the interval for rest and the holiday, of the employee ;
- (h) signature (with date) of the employer or manager :

Provided that it shall not be necessary to furnish such identity card to any employee to whom an identity card containing similar particulars and information is furnished under any other law applicable to him.

(3) The cost of such identity card including the cost of the photograph shall be borne by the employer.

(4) If the identity card furnished by the employer is lost by the employee, a duplicate card shall be furnished free of charge by the employer immediately on production of his passport size photograph by the employee for being affixed on the card.

(5) No employee shall work as an employee in an establishment to which this section applies unless he holds an identity card required to be furnished under this section and no employer shall permit or require any person who does not hold such card to work in such establishment.

(6) If an employer of any establishment to which this section applies contravenes any of the provisions of this section, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees.

62B. Every employer shall conspicuously display on the main entrance of the establishment, a wooden or metal signboard of such size, painted in such manner and containing such particulars as may be prescribed.”

Exhibition
of signboard.
Amendment
of section
67 of
Bom.
LXXIX of
1948.

13. In the principal Act, in section 67,—

(i) in sub-section (2), after clause (k), the following clauses shall be inserted, namely:—

“(kk) the other particulars to be contained in an identity card under sub-section (2) of section 62A;

(kkk) the size of, the manner of painting of, and the particulars to be contained in, the signboard to be displayed under section 62B;”;

(ii) for sub-sections (4) and (5) the following shall be substituted, namely:—

“(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.”

