



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE FACTORIES
(GOA AMENDMENT)
BILL, 2019**

(Bill No. 12 of 2019)

(As introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2019

—

The Factories (Goa Amendment) Bill, 2019

(Bill No. 12 of 2019)

A

BILL

further to amend the Factories Act, 1948 (Central Act 63 of 1948), as in force in the State of Goa.

5 BE it enacted by the Legislative Assembly of Goa in the Seventieth Year of the Republic of India as follows:-

1. Short title and commencement.— (1) This Act may be called the Factories (Goa Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of section 65.— In section 65 of the Factories Act, 1948 (Central Act 63 of 1948), as in force in the State of Goa (hereinafter referred to as the “principal Act”),—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Chief Inspector may, by written order, exempt, on such terms and conditions as may be prescribed, any or all of the adult male workers in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.”;

(ii) in sub-section (3), -

(a) in clause (iii), for the word “sixty”, the word “seventy-two” shall be substituted;

(b) in clause (iv), for the word “seventy-five”, the words “one hundred and twenty-five” shall be substituted. 5

3. Amendment of section 66.— In section 66 of the principal Act, in sub-section (1), in clause (b), for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause (b), and also specify the conditions for ensuring the safety of women who work in any factory or manufacturing process between the hours of 7 P.M. and 6 A.M.”. 10 15

4. Insertion of new section 92A.— After section 92 of the principal Act, the following section shall be inserted, namely:—

“92A. Compounding of certain offences.— 20
(1) The State Government may, by notification in the Official Gazette, prescribe fine in respect of the offences specified in the Fourth Schedule which shall not be more than the fine specified under section 92, and the Chief Inspector or 25
the Inspector may compound such offence before or after institution of the prosecution for such amount:

Provided that, the offence to be compounded does not involve any contravention of any of the provisions of this Act or of any rules made thereunder resulting in an accident causing death or serious bodily injury or dangerous occurrence: 30

Provided further that, the State Government may, by notification in the Official Gazette, amend the Fourth Schedule by way of addition, omission or variation of any offence specified in the said Schedule.

(2)Where an offence has been compounded under sub-section (1),—

(i) before the institution of the prosecution, the offender shall not be liable to prosecution in respect of such offence;

(ii) after the institution of the prosecution, such compounding shall be brought by the Chief Inspector or the Inspector in writing, to the notice of the court in which the prosecution is pending and on such notice of the compounding of offence being given, the offender shall be discharged.”

5. Amendment of section 105.— In section 105 of the principal Act, in sub-section (1), for the expression “an Inspector” the expression “the Chief Inspector” shall be substituted.

6. Amendment of section 106.— In section 106 of the principal Act, for the expression “three months”, the expression “six months” shall be substituted.

7. Insertion of new Schedule – After Third Schedule appended to the principal Act, the following Schedule shall be inserted, namely:—

“THE FOURTH SCHEDULE
(See section 92A)

List of compoundable offences

Sr. No.	Section, rules and orders issued thereunder	Nature of offence
1.	Section 11 – Cleanliness	Not maintaining cleanliness as per the provisions.
2.	Section 18 – Drinking water	Not providing and maintaining arrangements for drinking water as per the provisions.
3.	Section 19 – Latrines and urinals	Not providing latrine and urinal accommodation as per the provisions.
4.	Section 20 – Spittoons	(a) Not providing the spittoons as per the provisions. (b) Spitting in contravention of sub-section (3) of section 20.
5.	Section 42 – Washing facilities	Not providing and maintaining washing facilities as per the provisions.
6.	Section 43 – Facilities for storing and drying of wet clothing	Not providing facilities as per the provisions.
7.	Section 44 – Facilities for sitting	Not providing facilities as per the provisions.
8.	Sub-sections (1), (2) and (3) of section 45 – First-aid appliances	Not providing and maintaining first-aid appliances as per the provisions.

9. Section 46 – Canteens Not providing and maintaining canteen as per the provisions.
10. Section 47 – Shelters, rest rooms and lunch rooms Not providing and maintaining shelters, rest rooms and lunch rooms as per the provisions.
11. Section 48 – Crèches Not providing and maintaining crèches as per the provisions.
12. Section 50 – Power to make rules to supplement this Chapter Not complying with the rules framed under section 50.
13. Sub-section (2) of section 53 – Compensatory Holidays Not displaying the notice and not maintaining the register for compensatory holiday.
14. Sub-section (5) of section 59 – Extra wages for overtime Not maintaining the prescribed registers.
15. Section 60 – Restriction on double employment Allowing a worker a double employment on any day.
16. Section 61 – Notice of periods of work for adults Not complying with the provisions.
17. Section 62 – Register of adult workers Not maintaining register as per the provisions.
18. Section 63 – Hours of work to correspond with notice under section 61 and register under section 62 Not complying with the . provisions

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| 19. Section 64 –
Power to make
exempting rules | Not complying with the rules
framed under section 64. |
| 20. Section 65 –
Power to make
exempting
orders | Not complying with the orders
issued under section 65. |
| 21. Section 79 –
Annual leave
with wages | Not complying with the
provisions. |
| 22. Section 80 –
Wages during
leave period | Not complying with the
provisions. |
| 23. Section 81 –
Payment in
advance in
certain cases | Not complying with the
provisions. |
| 24. Section 82 –
Mode of
recovery of
unpaid wages | Not complying with the
provisions. |
| 25. Section 83 –
Power to make
rules | Not maintaining registers as
per rules and not complying
with the provisions. |
| 26. Section 84 –
Power to
exempt factories | Not complying with the
conditions specified in the
exempting order. |
| 27. Section 93 –
Liability of
owner of
premises in
certain
circumstances | Not complying with the
provisions contained in sub-
section (1) and clauses (i) and
(vi) of sub-section (3). |
| 28. Section 97 –
Offences by
workers | Not complying with the
provisions. |

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| 29. Section 108 –
Display of
notices | Not complying with the
provisions. |
| 30. Section 110 –
Returns | Not complying with the
provisions. |
| 31. Section 111 –
Obligation of
workers | Not complying with the
provisions. |
| 32. Section 111A –
Right of workers,
etc. | Denial of rights of workers. |
| 33. Section 114 –
No charge for
facilities and
conveniences | Demanding charge from
worker for providing any
facility under the Act.”. |

Statement of Objects and Reasons

With a view to boost the manufacturing sector and to facilitate ease of doing business, the Factories (Goa Amendment) Bill, 2019 is proposed with following amendments to the Factories Act, 1948 (Central Act 63 of 1948), as in force in the State of Goa (hereinafter referred to as the “said Act”).

The Bill seeks to amend section 65 of the said Act, so as to empower the Chief Inspector to exempt, on such terms and conditions as specified in the rules, any or all of the adult male workers in any factory or group or class or descriptions of factories from the provisions of section 51, 52, 54 and 56 of said Act to deal with an exceptional press of work, and also to enhance the total hours of work per week from 60 to 72 and the total hours of overtime in any quarter from 75 to 125.

The Bill further seeks to amend section 66 of the said Act, so as to empower the Government to specify the conditions for ensuring the safety of women who work in any factory or manufacturing process between the hours of 7:00 P.M. and 6:00 A.M.

The Bill also seeks to insert a new section 92A in the said Act, so as to enable compounding of certain offences before or after the institution of prosecution.

The Bill also seeks to amend section 105 of the said Act, so as to enable the Chief Inspector, to file complaint under the Act before the Court.

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The Bill also seeks to amend section 106 of the said Act, so as to enhance the time allowed for making complaint from three months to six months.

The Bill also seeks to insert Fourth Schedule to the said Act, specifying therein the compoundable offences.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

There are no financial implications involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the Government to frame Rules for specifying terms and conditions based on which adult male workers in a factory shall be exempted from provisions of sections 51, 52, 54 and 56 of the Act.

Clause 3 of the Bill empowers the Government to issue notification specifying the conditions for ensuring the safety of women who work in any factory or manufacturing process, between the hours of 7:00 P.M. and 6:00 A.M.

Clause 4 of the Bill empowers the Government to issue notification to prescribe fine and to amend the Fourth Schedule.

These delegations are of normal character.

Porvorim – Goa.
16th July, 2019

CHANDRAKANT (BABU)
KAVLEKAR
Dy. Chief Minister/
Minister for Factories & Boilers

Assembly Hall
Porvorim–Goa.
16th July, 2019

NAMRATA A. ULMAN
Secretary to the
Legislative Assembly of Goa

ANNEXURE

Extract of sections 65, 66, 105 and 106
of The Factories Act, 1948 (Central
Act 63 of 1948)

Section 65

65. Power to make exempting orders.— (1) Where the State Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of sections, 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely :-

(i) the total number of hours of work in any day shall not exceed twelve;

(ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number

of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation: In this sub-section “quarter” has the same meaning as in sub-section (4) of section 64.

(4) Omitted.

Section 66

66. Further restrictions on employment of women.—

(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 54 may be granted in respect of any women;

(b) no women shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M. :

Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause (b), but so that no such variation shall authorize the employment of any woman between the hours of 10 P.M. and 5 A.M.;

(c) there shall be no change of shifts except, after a weekly holiday or any other holiday.

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to or deterioration in, any raw material.

(3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.

Section 105

105. Cognizance of offences.— (1) No Court shall take cognizance of any offence under this Act except on complaint by, or with the previous sanction in writing of, an Inspector.

(2) No Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

Section 106

106. Limitation of prosecutions.— No Court shall take cognizance of any offence punishable under this Act unless complaint thereof is made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector:

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

Explanation.— For the purposes of this section,-

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.

Porvorim – Goa.
16th July, 2019

CHANDRAKANT (BABU)
KAVLEKAR
Dy. Chief Minister/
Minister for Factories & Boilers

Assembly Hall
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