

Course Name	LL.B 4 <sup>th</sup> sem
Subject	Environment Law
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Concept	The Factories Act,1948

## **THE FACTORIES ACT, 1948**

### **INTRODUCTION**

The object of the Factories Act is to regulate the conditions of work in manufacturing establishments coming within the definition of the term "factory" as used in the Act. The first Act, in India, relating to the subject was passed in 1881. This was followed by new Acts in 1891, 1911, 1922, 1934 and 1948. The Act of 1948 is more comprehensive than the previous Acts. It contains detailed provisions regarding the health, safety and welfare of workers inside factories, the hours of work, the minimum age of workers, leave with pay etc. The Act has been amended several times. The Act is based on the provisions of the Factories Act of Great Britain passed in 1937. In 1976 the Act was amended extensively. The provisions of the Amendment have been quoted and summarized at the appropriate places in this chapter.

### **DEFINITIONS UNDER THE FACTORIES ACT**

Factory: The term Factory is defined in Section 2 (m) of the Act as follows:

"Factory means any premises including the precincts thereof -

- (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
- (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1952 (Act XXXV of 1952), or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.

Explanation.-For computing the number of workers for the purposes of this clause all the workers in different relays in a day shall be taken into account. [Clause 2(m) as amended in 1976.] Under Section 85, the State Government is empowered to declare any establishment carrying on a manufacturing process to be a factory for the purposes of the Act even though it employs less than the prescribed minimum number of workers, provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

Summary:

From Sec. 2(m) of the Act it follows that an establishment comes within the definition of a Factory if the conditions stated below are satisfied:

1. It is a place where a "manufacturing process" is carried on.
2. It employs the prescribed minimum number of "workers" viz., ten if "power" is used, and twenty if no "power" is used. It is sufficient if the prescribed number of workers were employed on any day of the preceding twelve months.
3. It is not a mine coming within the purview of the Indian Mines Act of 1952, a railway running shed, mobile unit belonging to the armed forces of the Union, a hotel, restaurant or eating place.

### **Manufacturing Process**

This term is defined in Section 2(k) in a very wide sense. It includes:

- (i) making, altering, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adopting any article or substance with a view to its use, sale, transport, delivery or disposal;

(ii) pumping oil, water, sewage or any other substance; or (Hi) generating, transforming or transmitting power; or

- (iii) composing types for printing, printing by letter press, lithography, photogravure or other similar processes or book binding ; or
- (iv) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels ;
- (v) preserving or storing any article in cold storage. For the corresponding section of the English Act, it was held that the different processes enumerated in the clauses are merely illustrative so that laundries, ,carpet beating, or bottle washing works come within the Act, if mechanical power is used.

### **Patterson**

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The following undertakings have been held to be manufacturing processes-bidi-making; conversion of raw-films into finished products; the preparation of eatables in the kitchen of a restaurant ; use of a refrigerator for adapting any article with a view to its sale. The scraping out of salt and grading them, even though done by, manual labour, is a manufacturing process.

### **Worker:**

"Worker means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected 'with, the manufacturing process" or the subject of the manufacturing process but does not include any member of the armed forces of the Union."-Sec. 2(1), as amended in 1976.

Explanation:

Worker means any person engaged in any work connected with or incidental to a manufacturing process. Thus the definition is wide. The term includes persons engaged directly and, also those who are engaged through an agency (including a contractor with or without the knowledge of the principal employer). The term includes clerical workers and persons paid by piece rates in a factory. The term 'worker' does not include any member of the armed forces of Union. ., In case of a factory worker there must be a relationship between the employer and the employed .Apprentices, whether remunerated or not, are workers within the meaning of the Act.

### **Power**

. "Power means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency."--Sec. 2(g).

### **Prime mover**

. "Prime mover means any engine, motor or other appliance which generates or otherwise provides power."--Sec. 2(h).

### **Transmission machinery**

. "Transmission machinery means any shaft, wheel, drum pulley ,system of pulleys, coupling, clutch, 'driving belt or other appliance or device by which the motion of a prime mover is transmitted to or received by any machinery or appliance"--Sec.2(i).

### **Machinery**

. "Machinery includes prime movers, transmission machinery and all other appliances whereby power is generated, transformed, transmitted or applied."--Sec. 2(j).

#### **Adult**

"Adult means a person who has completed his eighteenth year of age"--Sec. 2(a).

### **APPROVAL, LICENCING AND REGISTRATION**

It is necessary to obtain a" license before a factory is started. Section 6 provides that the State Government may make rules requiring, for the purposes of this Act, the submission of plans or any class or description of factories to the Chief Inspector or the State Government, and the plans and specifications of a factory and its location. The Amendment of 1976 provides that any replacement and addition to the factory will not be allowed if it does not reduce the I minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

#### **Notice by occupier**

Section 7 provides that the occupier of a factory must, at least 15 days before he begins to occupy or use any premises as a factory; send to the Chief Inspector of Factories a written notice containing the following particulars:

- 1.the name and situation of factory ;
- 2.the name and address of the occupier ;
- 3.the name and address of the owner of the premises or building (including the precincts thereof)
- 4.the address to which communications relating to factory may be sent ;
- 5.the nature of the manufacturing process to be carried on in the factory during the next twelve months ;
- 6.the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power or any separate stand-by plant;
- 7.the name of the manager of the factory for the purposes of this Act ;
- 8.the number of workers likely to be employed in the factory ;
- 9.Such other particulars as may be prescribed. The rules stated above are enforced. Because the plans and specifications of the factory must insure proper measures of health, safety and welfare of the workers.

### **5. THE INSPECTION STAFF**

The Factories Act empowers the State Government to appoint Inspectors, Chief Inspectors of Factories, Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors. Every District Magistrate is an Inspector for his district. No person can act as an Inspector if .he is or becomes directly or indirectly interested in a factory or in any processor business carried on therein or in any patent or machinery connected therewith.

#### **Powers of Inspectors.**

Section 9 provides that subject to any rules made in this behalf, an Inspector may exercise the following powers within the local limits for which he is appointed:

- (a) enter, with such assistants, being persons in the service of the Government or any local or other public authority, as he thinks fit, and place which is used, or which he has reason to believe is used, as a factory ;
- (b) make examination of the premises, plant and machinery;
- c) require the production of any prescribed register and any other document relating to the factory, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of the Act; and

(d)

exercise such other powers as may be prescribed for carrying out the purposes of this Act. No person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself. Under Section 91, an Inspector may take a sample of any substance, used or intended to be used in a factory, for the purpose of finding out whether the substance is injurious and if the factory is violating any of the provisions of the Act.

### **Obstructing an Inspector**

Whoever willfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any rules made there under, or conceals or prevents any worker in a factory from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to Rs. 300 or with both.-Sec. 95. The onus is on the prosecution to show that a person has obstructed an inspector.

### **Duties of Inspector**

It is the duty of factory inspectors to enforce the provisions of the Factories Act and other industrial laws. For this purpose they inspect factories periodically. If any rule is violated they take steps like prosecuting the guilty persons etc.

### **CERTIFYING SURGEONS**

Section 10 provides that the State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of the Act for specified local areas or for specified factories or class of factories.

No person can be a certifying surgeon for a factory or industry in which he is interested directly or indirectly.-Sec. 10(3)

The State Government may by order in writing and subject to specified conditions, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.

### **Duties**

The certifying surgeon has the following duties under the Act and the rules framed under it.

1. The examination and certification of young persons.
2. The examination of persons engaged in factories in dangerous occupations or processes..
3. Medical supervision of factories in cases where such supervision had been prescribed owing to the dangerous nature of the work carried on or for any other reason, viz.
  - .(i) cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing therein;
  - (ii) by reason of any change in the manufacturing process carried on or in the substances used therein there is a likelihood of injury to the health of workers employed in that manufacturing process ;
  - (iii) young persons are, or about to be employed in any work which is likely to cause injury to their health.

## **6. PROVISIONS REGARDING THE HEALTH OF WORKERS**

Sections 11 to 20 of the Act contain certain provisions intended to ensure that the conditions under which work is carried on in factories do not affect the health of the workers injuriously. The summary of the provisions are explained below:

Summary of the provisions of the Factories Act. Relating to the health of workers are stated below.

**Cleanliness**

. Every factory shall be kept clean and free from dirt, and the outflow of drained. The floors must be cleaned. Drainage shall be provided. Inside walls, partitions and ceilings must be repainted at least once in five years. When washable water paint is used they must be painted once every three years and washed at least every period of six months.-Sec. 11,' as amended in 1976.

**Disposal of wastes and effluents.**

The waste materials produced from the manufacturing process must be effectively disposed off-Sec. 12.

**Ventilation and Temperature.**

There must be provision for adequate ventilation by the circulation of fresh air: The temperature must be kept at a comfortable level. Hot parts of machines must be separated and insulated.-Sec. 13.

**Dust and Fume.**

If the .manufacturing process used. gives off injurious or offensive dust and fume steps must be taken so that they are not inhaled or accumulated. The exhaust fumes of internal combustion engines must be conducted outside the factory.--Sec. 14.

**Artificial humidification.**

The water used for this purpose must be pure. It must be. Taken from some source of drinking water supply. The State Government can frame rules regarding the process of humidification etc.-Sec. 15.

**Over Crowding.**

There must be no overcrowding in a factory. In factories existing before the commencement of the Act there must be at least 350 c.ft. (~r 55 cubic meters) of space per worker. For factories built afterwards, there must be at least 500 c.ft. (or 75cubic meters) of space. In calculating the space, an account is to be taken of space above 14 ft. (or 5 meters) from the floor.-Sec. 16.

**Lighting**

Factories must be well lighted. Effective measures must be adopted to prevent glare or formation of shadows which might cause eyestrain.-sec. 17.

**Drinking water.**

Arrangements must be made to provide a sufficient supply of whole some drinking water. All supply' points of such water must be marked "drinking water". No such points shall be within 20 ft. (or 7.5 meters) of any latrine, washing place etc. Factories employing more than 250 workers must cool the water during the hot weather.-Sec. 18. .

**Latrines and Urinals.**

Every factory must provide' sufficient number of latrines and urinals. There must be separate provision for male and female workers. Latrine and urinals must be kept in a clean and sanitary condition. In factories. Employing more than 250 workers, they shall be of prescribed sanitary types.--sec. 19.

**PROVISIONS REGARDING THE SAFETY OF WORKERS**

Sections 21 to 40A, 40B and 41 of the Act lay down rules for the purpose of securing the safety of workers. Summary of the provisions of the Factories Act regarding the safety of the workers are stated below: (Sections 21 to 41).

1. Fencing or machinery

All dangerous machinery must be securely fenced e.g moving parts- of prime movers and flywheels connected to every prime mover. electric generators.etc.-Sec. 21.

## **2. Work on or near machinery in motion**

Work on or near machinery in motion must be carried out only by specially trained adult male workers wearing tightly fitting clothes.-Sec.22.

## **3. Employment of young persons on dangerous machines**

No young person shall work at any dangerous machine' unless he has been specially instructed as to the dangers and the precautions to be observed has received sufficient training about the work. And is under the supervision of some person having thorough knowledge and experience of the machine.-Sec. 23.

## **4. Striking gear and devices for cutting off power.**

In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom.-. 24.

## **5. Self-acting machines**

Moving parts of a self-acting machine must not be allowed to come within 45 cms. of any fixed structure which is not part of the machine.-Sec. 25.

## **6. Casing of new machinery**

In all machinery installed after the commencement of the Act. certain parts must be sunk, encased or otherwise effectively guarded e.g.. set screw .bolt. toothed gearing etc. -sec. 26.

## **7. Women and children near cotton Openers**

Women and children must not be allowed to work near cot/On openers, except In certain cases.- Sec. 27

## **8. Hoists, lifts, chains etc**

Every hoist and lift must be so constructed as to be safe. There are detailed rules as to how such safety is to be secured. There are similar provisions regarding lifting machines. Chains, ropes and lifting tackle .Sec. 28. 29.

## **9. .Revolving machinery**

Where grinding is carried on the maximum safe working speed of every revolving machinery Connected therewith must be notified. Steps must be taken to see that the safe speed is not exceeded.-Sec. 30.

## **10. Pressure plant.**

Where any operation is carried on at a pressure higher than the atmospheric pressure steps must be taken to ensure that the safe working pressure is not exceed ~cL-. sec. 31.

## **11. Floors, stairs and means of access**

All floors, steps, stairs, passage and gangways shall be of sound construction and properly maintained. Handrails shall be provided where necessary. Safe means of access shall be provided to the place where the worker will carry on any work.-Sec. 32.

## **12. Pits, sumps. Openings in floors etc**

Pits. sumps. openings in floors etc. must be securely covered or fenced.-Sec. 33.

## **13. Excessive weights**

No worker shall be made to carry a load so heavy as to cause him injury.-Sec. 34.

## **14. Protection of eyes**

Effective screen or suitable goggles shall be provided to protect the eyes of the worker from fragments thrown off in course of any manufacturing process and from excessive light if any.- Sec. 35.

#### 15. Precautions against dangerous fumes

No person shall be allowed to enter any chamber, tank etc. where dangerous fumes are likely to be present, unless it is equipped with a manhole or other means of going out. In such space no portable electric light of more than 24 volts shall be used. Only a lamp or light of flame proof construction can be used in such space. For people entering such space suitable breathing apparatus, reviving apparatus etc. shall be provided. Such places shall be cooled by ventilation before any person is allowed to enter. -Secs. 36 and 36A.

#### 16. Explosive or inflammable gas etc

where a manufacturing process produces inflammable gas, dust, fume, etc. steps must be taken to enclose the machine concerned, prevent the accumulation of substances and exclude all possible sources of ignition.

Extra precautionary measures are to be taken where such substances are worked at greater than the atmospheric pressure. -Sec. 37.

#### 17. Precaution in case of fire.

Fire escapes shall be provided. Windows and doors shall be constructed to open outwards. The means of exit in case of the fire shall be clearly marked in red letters. Arrangements must be made to give warning in case of fire -sec. 38

#### 18. Specifications of defectives etc. and safety of buildings and machinery

If any building or machine is in a defective or dangerous condition, the inspector of factories can ask for the holding of tests to determine how they can be made safe. He can also direct the adoption of the measure necessary to make them safe. In case of immediate danger, the use of the building or machine can be prohibited. -Secs. 39, 40.

#### 19. Maintenance of Buildings.

If the Inspector of Factories thinks that any building in a factory, or any part of it, is in such a state of disrepair that it is likely to affect the health and welfare of the workers, he may serve on the occupier or manager or both in writing specifying the measures to be done before the specified date. Sec. 40A.

#### 20. Safety Officers.

The State Government may notify to the occupier to employ a number of Safety Officers in a factory

- (i) wherein one thousand or more workers are ordinarily employed. Or
- (ii) wherein any manufacturing process or operation which involves the risk of bodily injury, poisoning, disease or any other hazard to health of the persons employed in the factory. - Sec. 40B.

#### 21. Rules.

The State Government may make rules providing for the use of such further devices for safety as may be necessary. Sec. 41.

### **8. PROVISIONS REGARDING THE WELFARE OF WORKERS**

Summary of the provisions of the Factories Act regarding the welfare of workers are stated below:

#### 1. Washing



In every factory adequate and suitable facilities for washing shall be provided and maintained. They shall be conveniently accessible and shall be kept clean. There must be separate provisions for male and female workers.-Sec. 42.

## 2. Storing and drying

The State Government may make rules requiring the provision of suitable facilities for storing and drying clothing.-Sec. 43.

## 3. Sitting

Sitting facilities must be provided for workers who have to work in a standing position. So that they may take rest when possible. When work can be done in a sitting position efficiently the Chief Inspector may direct the provision of sitting arrangements. Sec.44.

## First aid.

Every factory must provide first aid boxes or cupboard. They must contain the prescribed materials and they must be in charge of persons trained in first aid treatment. Factories employing more than 500 persons must maintain an ambulance room containing the prescribed equipment and in charge of the prescribed medical and nursing staff-Sec.45.

## 5. Canteens.

Where more than 250 workers are employed. The state Government may require the opening of canteen or canteens for workers. Rules may be framed regarding the food served its management etc. -Sec. 46.

## 6. Shelters

In every factory where more than 150 workers are employed there must be provided adequate and suitable shelters or rest. rooms and a lunch room (with drinking water supply) where workers may eat meals brought by them. Such rooms must be sufficiently lighted and ventilated and must be maintained in a cool and clean condition~. The standards may be fixed by the State Government. -Sec. 47,

## 7. Crèches.

In every factory where more than 30 women are employed, a room shall be provided for the use of the children (below 6 years) of such women. The room shall be adequate size. well lighted and ventilated, maintained in a clean and sanitary condition and shall be in charge of a woman trained in the care of children and infants. The standards shall be laid down by the State Government. Sec. 48.

## 8. Welfare officers

Welfare officers must be appointed in every factory where 500 or more workers are employed. The State Government may prescribe the duties, qualifications etc. of such officers. Sec. 49.

## 9. Rules.

The State Government may make rules regarding the welfare of workers.-Sec. 50.

## **THE WORKING HOURS OF ADULTS**Weekly Hours.

No adult worker shall be required or allowed to-work in a factory for more than forty-eight hours in any week. Sec. 51.

## **Daily Hours**

No adult worker shall be required or allowed to work in a factory for more than nine hours in any working day. The daily maximum may be exceeded with the previous approval of the Chief Inspector, to facilitate change of shifts.-Sec. 54.

### **Intervals for Rest**

The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour. The State Government or the Chief Inspector may, by order in writing, and for reasons stated therein, increase the work period to six.-Sec. 55.

### **Spread over.**

The periods of work of an adult worker in a factory shall be arranged that inclusive of his intervals for rest under section 55, they shall not spread-over more than ten and half hours in any day. The Chief Inspector may for specified reasons increase the spread over up to twelve hours. - Sec. 56.

### **10. RULES REGARDING EMPLOYMENT OF ADULTS Night Shifts**

Where a worker in a factory works on a shift which extends beyond midnight,

(a) his weekly holiday and compensatory holiday means a period of holiday for 24 consecutive hours beginning when his shift ends, and

(b) the following day for him shall be deemed to be the period of 24 hours beginning when such shift ends and the hours he has worked after midnight shall be counted in the previous day.-sec. 57

### **Overlapping Shifts**

Work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time. The State Government or the Chief Inspector may grant exemption from this rule.-Sec. 58.

### **Double Employment**

. No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.- Sec. 60.

### **Notice of Periods of Work**

There must be displayed in every factory a notice showing periods of work of adults, classification of workers in groups according to nature of their work, shifts and relays etc. Change made in the system of work must be notified to the Inspector before change. The manager of every factory must maintain a Register of Adult Workers showing the name of each worker, the nature of his work, the group in which he is included, the relay in which he is allotted etc. The hours of work of an adult worker- must correspond with the notice referred to above and the Register.- Sections 61, 62, 63.No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered' in the register of adult workers.- Sec. 62 (1A) added by the Factories (Amendment) Act, 1976.

### **Exemptions**

By sections 64 and 65, the State Government has been given power to exempt for limited periods certain factories from compliance with some of the provisions relating to hours of work and employment .Such exemptions are necessary in special cases, for example in the case of workers engaged in urgent repairs or in preparatory and complementary work. In some industries work is of an intermittent character and the enforcement of all the rules stated above will create hardship. The nature of the work in certain industries requires exceptional treatment, e.g., workers engaged in engine rooms and boilers or in the printing of newspapers. The State Government may exempt persons holding positions of supervision and management or in confidential positions in a factory from the operation of the rules regarding working hours(except the rule against the employment of women at night).

### Confidential Position

The State Government may empower the Chief Inspector to declare a person other than any person defined by such rules, as a person holding position of supervision or management or employed in .a. confidential position in a factory, if, the Chief Inspector is of opinion that he can be employed. If any such person does not get more than Rs. 750 p.m. as wages. he will be entitled to extra wages for overtime work.-Sec. 64(1). added by The Factories (Amendment) Act,1976.

### Hours and Spread over

Any exemption granted under Sec. 65 (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-Sec.65(3), Factories (Amendment) Act, 1976.

### Quarter.

This is a period of three consecutive months beginning on the 1st January, the 1st of April, the 1st of July or the 1st of October.-Sec. 64.

## **11. RESTRICTIONS ON THE EMPLOYMENT OF WOMEN**

By section 66 the following restrictions have been imposed to women workers:

- (a) Maximum daily work is **9** hours. No exemption from the provisions of Section 54(which lays down that the maximum daily hours of work shall be nine hours) can be granted in respect of any women.
- (b) Prohibition of night work. No women shall be required or allowed to work in any factory except between the hours of 6 a.m. and 7 p.m. The State Government may by notification in the official Gazette vary the limits for any factory or group or class or description of factories. But such variation must not authorize the employment of women between the hours 10 p.m. and 5 a.m.
- (c) Change of shift only after holiday. There shall be no change of shifts for women except after a weekly holiday or any other holiday.

### Exception:

There is an exceptional case. The State Government may make rules providing for the exemption from the aforesaid restrictions (wholly or partially or conditionally) of women working in fish-curing or fish-canning factories. In factories, mentioned above, the employment of women beyond the hours specified is necessary to prevent damage to or deterioration in any raw material. But such rules shall remain in force for not more than three years at a time.

### Other restrictions:

There are other restrictions on the employment of women workers :

1. Work on or near machinery in motion.

No woman or young person shall be allowed to clean, lubricate or adjust any part of the machinery while the prime mover or transmission machinery is in motion or to work between moving parts, or between fixed and moving parts of any machinery which is in motion.-Sec. 22(2).

## 2. Cotton openers.

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work. If the feed-end of a cotton opener is in a room separated from the delivery-end by a partition extending to the roof or to such height as the Inspector may in a particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.-Sec. 27.

## 3. Excessive weights.

The State Government may make rules prescribing the maximum weights .which may be lifted, carried. or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.-Sec. 34.

## Creches.

In every factory wherein more than thirty women workers are ordinarily employed there shall be provided and main trained a suitable room or rooms for the use of children under the age of six years of such women.-Sec. 48.

## 5. Dangerous operations.

The State Government is empowered to make special rules for the purpose of controlling and regulating factories which carry on operations exposing women, young persons and other workers to a serious risk of bodily injury, poisoning or disease.-Sec. 87 (b).

## **12. EMPLOYMENT OF YOUNG PERSONS Employment of Children.**

No child who has not completed his fourteenth year shall be required or allowed to work in any factory.--sec. 67.

### **Certificate of Fitness and Token**

A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless

(a) he has been granted a certificate of fitness. which is in the custody of the manager, and

(b) such child or adolescent carries a token giving a reference to such certificate-Sec. 68.

The Certificate of Fitness is a certificate granted to a child or adolescent by a Certifying Surgeon after examination: The certificate is given to a child if the surgeon is satisfied that he has completed his fourteenth year and has attained the prescribed physical standards. The certificate is granted to an adolescent if the surgeon is satisfied that he has completed his fifteenth year and is fit for a full day's work in a factory. The certifying surgeon must have personal knowledge of the intended place of work and of the manufacturing process involved. The certificate is valid only for a period of 12 months .It may be granted subject to conditions

(e.g., that of periodical re-examination). The certificate may be renewed and, if necessary, revoked. Any fee payable for the certificate must be paid by the occupier of the factory all must not be recovered from the young person or his parent or guardian.-Sec. 69.

An adolescent who has been granted a certificate of fitness and who carries a token is deemed to be an adult for the purposes of Chapter VI and VIII of the Act. (Ch. VI deals with the hours of work of an adult and Ch. VIII deals with "annual leave). But no adolescent who has not attained the age of seventeen years shall be employed or permitted to work in any factory during night. "Night" means a period of at least 12 consecutive hours which shall include an interval of at least

seven consecutive hours falling between 10 p.m. and 7 a.m. An adolescent who has not been granted a certificate of fitness, shall be deemed to be a child for the purposes of the Act,-Sec. 70.

### **Working hours for Children**

The law regarding working hours for children are stated below.-Sec. 71:

1. No child shall be employed or permitted to work in any factory-

(a) for more than four and a half hours in any day;

(b) during the night, .

Explanation:

For the purpose of this sub-section "night" shall mean a period of at least twelve consecutive hours which shall include the interval between 10 p.m. and 6 a.m.

2. The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread-over more than five hours each, and each child shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

3. The provisions of section 52 shall apply also to child workers, and in respect of any child.

4. No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.

### **Notice and Register**

A notice must be displayed showing clearly the periods of work of children.-, -Sec. 72.

The manager of every factory must maintain a Register of child workers showing the name of each child worker, the nature of his work the group (if any) in which he is included the relay to which he is allotted and the number of his certificate of fitness.-Sec. 73.

No child worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of child workers.-Sec. 73 (IA). Factories (Amendment) Act, 1976. The hours of work of a child must correspond with the Notice and the Register.-Sec. 74.

### **Medical Examination**

Where an Inspector is of opinion that a person working as an adult is a young person, or that a young person is not fit to work, he may direct the manager of the factory to have the person medically examined by a certifying surgeon.--Sec. 75.

### **Other rules regarding the employment of young persons**

No young person shall work at any dangerous machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and

(a) has received sufficient training in work at the machine or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine. The State Government is to prescribe what machines are dangerous for the purpose of this section.-Sec. 23.

Certain restrictions and adolescents and children are stated in Sections 22(2), 27, 34 and 87(b). The State Government may make rules regarding the forms of the Certificate of Fitness, the procedure relating to their issue, and the physical standards to be attained by children and adolescents. Sec. 76.

The provisions relating to the employment of young person's shall be in addition to and noting derogation of, the provisions of the Children Act of 1933, 1960 and 1978.-Sec. 77.

## **13. CHILD-LABOUR**

Rules regarding child-labour are contained in the Factories Act, Mines Act etc. There are also two general Acts the subject. The Children (Pledging of Labour) Act (Act 11 of 1933) prohibits

the making of agreements to pledge the labour of children and the employment of children whose labour has been pledged. The Children Act of 1938, 1960 and 1978 prohibit the employment of a child who has not completed his fifteenth year of age in any occupation connected with the transport of passengers, goods or mails by railway or connected with a part authority within the limits of any part. The Act also prohibits the employment of a child, who has not completed his fourteenth year of age, in the processes set forth in the schedule to the Act. Children between 15 and 17 can be employed subject to certain restrictions as regards their periods of rest etc

#### **14. HOLIDAYS AND LEAVE**

The Factories Act provides for the following holidays, viz., Weekly holidays, Compensatory holidays and Annual leave with wages according to certain rules. The provisions are explained below.

##### **Weekly Holidays.**

Section 52 provides that an adult worker shall have a holiday on the first day of the week. But the manager of the factory may fix the holiday on any other day which is with three days before or after the first day of the week in case of such substitution; notice must be given to the Inspector of Factories and displayed in the factory. No substitution can be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day. The State Government may make rules providing for exemption from the above section in certain cases, e.g., for urgent repairs.