

# The Factories Act, 1948

The establishment of the first cotton mill in 1851 in Bombay and the first jute mill in Bengal in 1855 was the beginning of factory system in India.

Although the factory system was a major achievement in the industrial production in India, it also introduced many unfair labour practices with regard to working conditions.

However as the public opinion grew stronger against the pathetic working conditions in the factories the first factories Act was passed in the year 1881 for regulating the working conditions of labour in factories.

This Act was largely amended in the year 1891 after the report of enquiry made by the Bombay factory commission and factory labour commission in 1884. This Act restricted the employment of women during night and prohibited employment of children below nine years of age. The Act was further amended in the year 1911 and

The experience revealed that the protective provisions of the Act were also necessary for the smaller industrial establishments and the Act needed drastic overhauling. Hence, an entirely new Act relating to factory workers was passed in the year 1948 amending and consolidating the provisions of the earlier Acts. The present factories Act, 1948 thus came into force from 1st April 1949 and it extends to the whole of India.

The latest major amendment made to the Act is of 1987, this amendment was the result of the Bhopal Gas Tragedy in 1984.

## Manufacturing process

The definition of manufacturing process is one of the most important definitions in the factories Act. Any premises would not be factory unless there is a manufacturing process carried on. In the case of EST Corporation v/s New Empire Tailors, the issue was

whether ironing of stitched clothes with the aid of power by tailoring firms would be a manufacturing process. The Andhra Pradesh High Court held that - "It is not always necessary that a new product or substance would emerge from the manufacturing process. If power is used as aid in any process of manufacture, it becomes an integral part of the manufacturing process."

## Worker

The term "worker" refers to the person employed directly or by or through any agency in any manufacturing process, but does not include any members of the armed forces of the union. It can be thus seen that there is no distinction made between managers and other workers. Every person employed would be covered under the definition of worker. Thus, a turner working on a lathe machine is a worker as well as

watchman at the gate.

The definition of the term worker has such a wide sweep for the simple reason that provisions of the Act particularly relating to health and safety are for the people who are engaged to work in the factories irrespective of their nature of duties or amount of wages.

**factory** means any premises including the precincts thereof -

(1) 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.

(2) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of a manufacturing process is carried on without the aid of power, or is ordinarily so carried on.

3. But does not include a mine subject to the operation of the mines Act 1952 or a mobile unit belonging to the armed forces of the union, a railway running shed or a hotel restaurant or eating place.

## Occupier

Occupier of a factory means the person who has ultimate control over the affairs of the factory, provided that -

1. In the case of a firm or other association of individuals, any one of the individuals partners or members thereof shall be deemed to be the occupier
2. In the case of a company, any one of the directors shall be deemed to be the occupier

3. In the case of a factory owned or controlled by the central Government, the person appointed to manage the affairs of the factory by the central or State Government

## INSPECTORS: Administrative Authority

Inspectors are the administrative authorities appointed by the State Governments with the primary duty to ensure that the provisions of the factories Act are complied with by the occupiers. They are appointed for specified local areas and are deemed to be the public servant under the Indian Penal code.

The nomenclature of their designation has been changed long back. They are now called Asst. Directors, Industrial Health and Safety. However, for the sake of convenience they are called factory inspectors only.