

REPORT ON THE WORKING OF THE LEGISLATION GOVERNING CONDITIONS OF EMPLOYMENT IN SHOPS, COMMERCIAL ESTABLISHMENTS, THEATRES, HOTELS AND RESTAURANTS DURING THE YEAR 2010

1. Introduction

The conditions of employment of the persons working in Shops and Commercial Establishments in the country are being largely governed by the Acts passed by the respective State Governments and the rules framed thereunder. In addition, there is also a Central Act, viz., the Weekly Holidays Act, 1942 which facilitates grant of weekly holidays for the employees covered under the respective State Acts. Labour Bureau brings out the report on the working of the Legislation Governing Conditions of Employment in Shops, Commercial Establishments, Theatres Hotels and Restaurants every year on the basis of the annual Returns and the reports submitted by the State Governments/Union Territory Administrations to it. The present report is for the year 2010.

2. Scope, Coverage and Main Provisions of the Acts

(a) State Acts

The Acts passed by various State Governments and Union Territory Administrations and Rules framed thereunder regulate, *inter-alia*, the daily and weekly hours of work of the establishments, payments of wages, overtime, holidays with pay, annual leave, etc. These Acts apply in the first instance to Shops and Commercial Establishments, Restaurants, Hotels and Places of Amusement in certain notified urban areas and prohibit the employment of children below 14 years of age and working of women at night. The State Governments are, however, empowered to extend the application of the Acts to such other areas or to such categories of undertakings, as they may consider necessary. However, certain type of employees, such as those employed in a confidential capacity or where the work is of intermittent nature, are excluded from the provisions of the Acts.

(b) Central Act

The Central Act known as the Weekly Holidays Act, 1942, provides for the grant of weekly holidays to persons employed in Shops and Commercial Establishments, etc.,

and is operative only in those States which notify its application to specified areas within their jurisdiction.

Table I(A) and I(B) shows the areas covered by the various State Acts as well as the Central Act in different States and Union Territories during the year 2010.

3. Administration

There is no uniform pattern of departments/organisations in different States in administering these Acts. In the States of Andhra Pradesh and Punjab, these Acts are administered by the Chief Inspectors of Shops and Commercial Establishments whereas in other States they are administered by the Labour Commissioners or Factory Inspectors or by the Officials of the Health or Revenue Department.

4. Number of Establishments Covered and Persons Employed therein:

The number of Shops and Commercial Establishments, etc. covered under the Acts and the number of persons employed therein during 2010 are presented in Table-II. The total number of establishments covered under the Act and persons employed therein during 2010 were 61,13,989 and 1,20,40,130 respectively. Out of these 45,38,707 (74.24%) were Shops, 12,03,500 (19.68%) were Commercial Establishments, and 3,71,782 (6.08%) were Cinemas, Theaters, Hotels and Restaurants. The above establishments employed 44,02,559 (36.57%), 62,81,951 (52.17%) and 13,55,620 (11.26%) persons respectively.

It is observed from this Table that the total number of establishments covered under the Act was highest in Maharashtra (20,63,020 i.e 33.74%) followed by West Bengal (7,08,838 i.e. 11.59%) and Uttar Pradesh (6,69,101 i.e. 10.94%). The number of persons employed in the establishments was highest in Maharashtra (38,05,110 i.e. 31.60%) followed by Uttar Pradesh (18,73,483 i.e.15.56%) and Karnataka (14,14,553 i.e.11.75%). **In some States, the number of establishments was on the higher side as compared to the number of persons employed as some establishments, especially Shops, were run exclusively by the proprietors themselves without engaging any employee.**

The number of Shops being run independently by the owners and those being run with the help of employees are presented in Table-III. The Table shows that out of

45,38,707 Shops, as many as 30,47,301 i.e. 67.14% shops were run independently by the owners while the rest were being run with the help of employees with or without family members. The average number of persons employed per shop for all the reporting States / Union Territories works out to 3.0 persons approximately.

5. Enforcement

Normally, Administrative authorities follow the policy of persuasion for ensuring compliance with the provisions of the Acts and institute prosecutions only as a last resort in extreme cases of continuing defaults.

The data on inspections made, prosecutions launched, cases disposed of by Courts and the amount of fines realised during 2010 are presented in Table-IV. In all the States and Union Territories which have submitted returns during the year, the Agencies Administering the Act conducted 10,45,048 inspections, 2,91,772 prosecutions launched and the courts disposed off 2,23,383 cases and realised an amount of Rs.6,88,29,104 as fine from the defending establishments. During the year, Maharashtra has the highest number of inspections reported; i.e. 5,33,576 (51.06%), highest number of prosecutions launched (2,41,883 i.e. 82.90%), highest number of cases disposed off (1,75,955 i.e. 78.77%) and also has the maximum amount of fine realised i.e. Rs.5,28,53,329.

The irregularities detected during the period under report were attributed to non-payment of wages, arrears, bonus, overtime, leave with wages, non-maintenance of prescribed records and registers, non-display of notices and non-observance of working hours, weekly holidays, etc.

Limitations of the Statistics:

Furnishing of data is a statutory obligation under the Act. The agencies responsible for administering the Act are under obligation to submit the returns by 31st March of the following year. However, there are large number of States and Union Territories which do not submit the returns by the prescribed dates despite repeated reminders resulting in delay in bringing out the review.

The present review is based on the data supplied by 17 States and 3 Union Territories. Other States/Union Territories have either not submitted the returns or the data submitted by them were inadequate and inconsistent to include in the report. Similarly, the review does not include information pertaining to the States/Union Territories of Arunachal Pradesh, Mizoram, Nagaland, Sikkim, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep as these Acts are not in vogue in these States/Union Territories.

**Table-I (A) State-wise Coverage of Shops and Commercial Establishments Under the State Acts
During the year 2010**

Sl. No.	State / Union Territory	Name of the Act	Areas Covered
1	2	3	4
1.	Andhra Pradesh	The Andhra Pradesh Shops and Establishments Act, 1988	All the areas of the State
2.	Assam	The Assam Shops and Establishments Act, 1971	Guwahati Municipal Corporation, 127 Urban, Semi-urban and Rural Areas
3.	Bihar	The Bihar Shops and Establishments Act, 1953	182 Areas.
4.	Chhattisgarh	Coverage of Shops & Commercial Establishments Act, have not been reported.	Areas covered have not been reported.
5.	Goa	Goa Shops and Establishments (Amendment) Act, 2001	All Districts of Goa and Banks (Nationalised, Scheduled or Co-operative Banks)
6.	Haryana	The Punjab Shops and Establishments Act, 1958	91 Towns
7.	Himachal Pradesh	The Himachal Pradesh Shops & Commercial Establishments Act, 1969	58 Places
8.	Jammu & Kashmir	The J&K Shops and Commercial Establishments Act, 1966	55 Towns/Places
9.	Karnataka	The Karnataka Shops and Commercial Establishments Act, 1961	32 Sub-Divisions
10.	Kerala	The Kerala Shops and Commercial Establishments Act, 1960	283 places (which include Corporations, Municipalities and Panchayats)
11.	Maharashtra	The Bombay Shops and Establishments Act, 1948	241 Local areas
12.	Meghalaya	Shops and Commercial Establishments Act, 1948	The whole State of Meghalaya
13.	Punjab	The Punjab Shops and Commercial Establishments Act, 1958	130 Towns/Cities
14.	Rajasthan	The Rajasthan Shops and Commercial Establishments Act, 1958	35 Places
15.	Tripura	The Tripura Shops and Establishments Act, 1970	Municipal areas of Agartala town & Sub-Divisional Towns of Dharamanagar, Kailashahar, Khowai, Radhakishorepur (Udaipur) & Belonia in Tripura
16.	Uttar Pradesh	The Uttar Pradesh Dookan Aur Vanijaya Adhishthan Adhiniyam, 1962	603 Town, 184 Municipal areas, 362 Town areas and 59 Notified areas
17.	West Bengal	The West Bengal Shops and Establishments Act, 1963	239 places covering all the districts in West Bengal
18.	Chandigarh	The Punjab Shops and Commercial Establishments Act, 1958	City of Chandigarh and Town of Manimajra
19.	Delhi (NCT)	The Delhi Shops and Establishments Act, 1954	112 Village, 110 Census Town, 3 Statutory Towns, 27 Tehsil and 9 Districts

20.	Puducherry	The Puducherry Shops and Commercial Establishments Act, 1964, the Puducherry Catering Establishments Act, 1964 and the Puducherry Industrial Establishments (National and Festival Holidays) Act, 1964	The whole Union Territory which comprises four regions viz., Puducherry, Karaikal, Mahe and Yanam
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Note: The remaining States / Union Territories did not furnish the Annual Returns for the year 2010

Table – I (B) Coverage under the Weekly Holidays Act, 1942 during 2010

Sl.No.	State/Union Territory	Area Covered
1.	Karnataka	Murnad, Bhagamandala, Napoklu, Ammathi, Ponnampet and Hudikeri in Kudagu District and Munirabad and Kinnal in Raichur District

Table-II Number of Shops, Commercial Establishments, Cinemas, Theatres, Hotels, Restaurants, etc. and Total Number of Persons Employed therein during the year 2010 (by States)

State / Union Territory	Number of							
	Shops	Persons employed	Commercial Establishments	Persons employed	Cinemas, Theatres, Hotels and Restaurants	Persons employed	Total Establishments	Persons Employed
1	2	3	4	5	6	7	8	9
1. Andhra Pradesh	145230	405941	35785	317117	13793	94887	194808	817945
2. Assam	60561	56758	10346	31718	4425	13890	75332	102366
3. Bihar	176655	197890	71971	647534	8260	95331	256886	940755
4. Chhattisgarh	111811	106074	23341	24663	5430	7426	140582	138163
5. Goa	665	1027	698	3753	176	1178	1539	5958
6. Haryana	208782	253433	15237	140456	3931	13209	227950	407098
7. Himachal Pradesh	49782	14562	6580	12503	8668	13557	65030	40622
8. Jammu & Kashmir	187282	27021	13524	33404	13856	18686	214662	79111
9. Karnataka	206986	394902	120178	910868	15288	108783	342452	1414553
10. Kerala	243005	269068	36487	125491	19487	62464	298979	457023
11. Maharashtra	1531329	905265	456199	2544629	75492	355216	2063020	3805110
12. Meghalaya	7547	26317	416	2038	630	5040	8593	33395
13. Punjab	216094	104428	33817	92677	6747	16213	256658	213318
14. Rajasthan	392319	129540	67406	232032	14027	33919	473752	395491
15. Tripura	42350	22875	2741	3842	968	3123	46059	29840
16. Uttar Pradesh	334550	936741	200730	562044	133821	374698	669101	1873483
17. West Bengal	574529	439158	92476	266112	41833	104503	708838	809773
18. Chandigarh	15016	19399	5131	27241	2096	6981	22243	53621
19. Delhi (NCT)	18580	52184	8589	294629	639	17217	27808	364030
20. Puducherry	15634	39976	1848	9200	2215	9299	19697	58475
Total	4538707	4402559	1203500	6281951	371782	1355620	6113989	12040130
	(74.24%)	(36.57%)	(19.68%)	(52.17%)	(6.08%)	(11.26%)		

Note: (i) The remaining States/Union Territories did not furnish the Annual Returns for the year, 2010.
(ii) Percentages may not add up to 100 due to rounding off.

Table-III Ownership of Shops and Employment therein during the year 2010 (by States)

State/Union Territory	Number of Shops			Number of owners of shops shown in Col.4	Number of persons employed
	Independently run by owners	Others	Total		
1	2	3	4*	5*	6
Andhra Pradesh	-	145230 (100.00)	145230	145230	405941
Assam	28703 (47.40)	31858 (52.60)	60561	31858	56758
Bihar	125964 (71.31)	50691 (28.69)	176655	176655	197890
Chhattisgarh	58682 (52.48)	53129 (47.52)	111811	107065	106074
Goa	326 (49.02)	339 (50.98)	665	665	1027
Haryana	143220 (68.60)	65562 (31.40)	208782	208782	253433
Himachal Pradesh	37467 (75.26)	12315 (24.74)	49782	49782	14562
Jammu & Kashmir	169228 (90.36)	18054 (9.64)	187282	127231	27021
Karnataka	108506 (52.42)	98480 (47.58)	206986	212496	394902
Kerala	138009 (56.79)	104996 (43.21)	243005	234554	269068
Maharashtra	1131110 (73.86)	400219 (26.14)	1531329	1531329	905265
Meghalaya	5534 (73.33)	2013 (26.67)	7547	7547	26317
Punjab	166034 (76.83)	50060 (23.17)	216094	216094	104428
Rajasthan	313506 (79.91)	78813 (20.09)	392319	368720	129540
Tripura	26714 (63.08)	15636 (36.92)	42350	42350	22875
Uttar Pradesh	226535 (67.71)	108015 (32.29)	334550	404806	936741
West Bengal	353591 (61.54)	220938 (38.46)	574529	670156	439158
Chandigarh	9136 (60.84)	5880 (39.16)	15016	15016	19399
Delhi (NCT)	952 (5.12)	17628 (94.88)	18580	1382	52184
Puducherry	4084 (26.12)	11550 (73.88)	15634	15634	39976
Total	3047301 (67.14%)	1491406 (32.86%)	4538707	4567352	4402559

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2010. Figures in brackets indicate percentage to total.

Note: The Total of Col.4 may not tally with Col.2 of Table-II because of discrepancy of the data supplied by the States/Union Territories.

* Figures in Col.5 may not strictly tally with Col.4 as for shops owned by partner each partner is counted as a separate owner. A Co-operative Store and the like are treated as a shop without owner.

Table-IV The Number of Inspections Made, Prosecutions Launched, Cases Disposed off by the Courts and Amount of Fine Realised Under the Shops and Commercial Establishments Acts during the Year 2010 (by States)

State/Union Territory	Inspections made	Prosecutions launched	Cases disposed off by the courts	Amount realised as fine (in Rs.)
1	2	3	4	5
Andhra Pradesh	155442 (14.87)	3992 (1.37)	3743 (1.68)	7,06,440
Assam	30976 (2.96)	632 (0.22)	3942@ (1.76)	51,950
Bihar	9338 (0.89)	51 (0.02)	78 (0.04)	2,600
Chhattisgarh	5035 (0.48)	828 (0.28)	1355@ (0.61)	2,38,920
Goa	3090 (0.30)	109 (0.04)	99 (0.04)	1,24,100
Haryana	31017 (2.97)	1297 (0.45)	1620@ (0.73)	17,93,502
Himachal Pradesh	6282 (0.60)	810 (0.28)	534 (0.24)	2,52,550
Jammu & Kashmir	14664 (1.40)	1070 (0.37)	1546@ (0.69)	5,01,700
Karnataka	37332 (3.57)	2646 (0.91)	2434 (1.09)	57,15,375
Kerala	66450 (6.36)	1734 (0.59)	1440 (0.64)	12,74,625
Maharashtra	533576 (51.06)	241883 (82.90)	175955 (78.77)	5,28,53,329
Meghalaya	62 (0.01)	-	-	-
Punjab	11637 (1.11)	1190 (0.40)	848 (0.38)	4,68,540
Rajasthan	8343 (0.80)	128 (0.04)	247@ (0.11)	73,000
Tripura	20845 (2.00)	80 (0.03)	23 (0.01)	1,79,500
Uttar Pradesh	12828 (1.23)	6546 (2.24)	2824 (1.26)	1,83,000
West Bengal	33250 (3.18)	3321 (1.14)	917 (0.41)	4,69,825
Chandigarh	54320 (5.20)	25450 (8.72)	25778 (11.54)	39,40,148
Delhi (NCT)	231 (0.02)	5 (0.00)	-	-
Puducherry	10330 (0.99)	-	-	-
Total	10,45,048	2,91,772	2,23,383	6,88,29,104

@ = Includes previous cases

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2010.

Figures in brackets indicate percentage to total.