

**REPORT ON THE WORKING OF THE LEGISLATION GOVERNING CONDITIONS
OF EMPLOYMENT IN SHOPS, COMMERCIAL ESTABLISHMENTS, THEATRES,
HOTELS AND RESTAURANTS DURING THE YEAR 2008**

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 territories Administrations to it. The present report, which is for the year 2008, has been brought out on the basis of returns/reports submitted by the States and Union Territories.

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 there under 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.

Tables I (A) and I (B) show the areas covered by the various State Acts as well as the Central Act in different States and Union Territories during the year 2008.

3. Administration

There is no uniform pattern of departments/organisations in different states in administering these Acts. In the States of Andhra Pradesh, Jammu and Kashmir, Orissa 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 total number of establishments covered under the Act and persons employed therein during 2008 were 51,77,589 and 96,26,757 respectively. Out of these 38,57,334 (74.50 per cent) were shops, 10,61,752 (20.51 per cent) were commercial establishments, and 2,58,503 (4.99 per cent) were Cinemas. Theaters, Hotels and restaurants employed 36,50,121 (37.92 per cent), 49,73,389 (51.66 per cent) and 10,03,247 (10.42 per cent) persons respectively.

The number of Shops and Commercial Establishments, etc. covered under the Acts and the number of persons employed therein by States and Union Territories during the year under review are presented in Table-II. It is observed from this Table that the total number of establishments covered under the Act was highest at 10,78,985 (20.83 per cent) in Gujarat followed by 7,57,193 (14.62 per cent) in Maharashtra and 6,89,705 (13.32 per cent) in West Bengal. The number of persons employed in the establishments was highest 30,69,590 (31.89 per cent) in Maharashtra followed by 12,47,537 (12.96 per cent) in Gujarat and 11,42,388 (11.87 per cent) in Karnataka. In some States / Union Territories, 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 40,57,320 Shops, as many as 24,56,243 i.e. 60.54 per cent 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 2.5 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 2008 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 13,63,918 inspections, launched 1,07,239 prosecutions and the courts disposed off 33,730 cases and realised an amount of Rs.5,69,13,060 as fine from the defending establishments. The state of Maharashtra has the highest number of inspections reported; i.e. 6,44,127 (47.22 per cent); prosecution launched; i.e. 28,087 (26.19 per cent); number of cases disposed off; i.e. 12,281 (36.41 per cent) as well as amount of fine realised Rs.4,83,45,500.

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. Annexure-I depicts delay in receipt of returns in Labour Bureau from the respective States/Union Territories.

The present review is based on the data supplied by 14 States and 2 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 2008**

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 Muncipal Corporation, 127 Urban, Semi-urban and Rural Areas
3.	Bihar	The Bihar Shops and Establishments Act, 1953	182 Areas.
4.	Gujarat	The Bombay Shops and Establishments Act, 1948	134 Local Authorities
5.	Himachal Pradesh	The Himachal Pradesh Shops & Commercial Establishments Act, 1969	58 Places
6.	Jammu & Kashmir	The J & K Shops and Commercial Establishments Act, 1966	55 Towns / Places
7.	Karnataka	The Karnataka Shops and Commercial Establishments Act, 1961	29 Sub-Divisions
8.	Kerala	The Kerala Shops and Commercial Establishments Act, 1960	283 places (which include Corporations, Municipalities and Panchayats)
9.	Maharashtra	The Bombay Shops and Establishments Act, 1948	241 Local areas
10.	Meghalaya	Shops and Commercial Establishments Act, 1948	The whole State of Meghalaya
11.	Punjab	The Punjab Shops and Commercial Establishments Act, 1958	130 Towns/Cities
12.	Rajasthan	The Rajasthan Shops and Commercial Establishments Act, 1958	35 Places
13.	Tamil Nadu	The Tamil Nadu Shops and Establishments Act, 1947	City of Chennai, in all Municipalities, Towns, Panchayats and in certain areas specially notified by the Government
14.	West Bengal	The West Bengal Shops and Establishments act, 1963	239 places covering all the districts in West Bengal
15.	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

Note: The remaining States / Union Territories did not furnish the Annual Returns for the year 2008.

Table – I (B)
Coverage under the Weekly Holidays Act, 1942 during 2008

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
2.	Andaman and Nicobar Islands	Port Blair Municipal Areas

Table-II
Number of Shops, Commercial Establishments, Cinemas, Theatres, Hotels, Restaurants, etc. and
Total Number of Persons Employed therein during the year 2008 (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	377587	397402	35467	372947	18778	94568	431832	864917
2. Assam	61342	55159	10053	29463	4554	14070	75949	98692
3. Bihar	168668	192928	71721	645693	7950	93746	248339	932397
4. Gujarat	800685	681006	254191	470045	24109	96486	1078985	1247537
5. Himachal Pradesh	46639	13360	5841	11245	7512	11397	59992	36002
6. Jammu & Kashmir	167995	21850	11354	29102	12910	15334	192259	66286
7. Karnataka	193884	263159	102052	776791	15276	102438	311212	1142388
8. Kerala	224628	255148	36205	104750	18422	58804	279255	418702
9. Maharashtra	330371	763691	359563	1993864	67259	312035	757193	3069590
10 Meghalaya	5565	20710	368	1814	438	3531	6371	26055
11 Punjab	213847	98569	33672	90934	6391	15076	253910	204579
12 Rajasthan	521885	187661	39286	133603	30527	66656	591698	387920
13 Tamil Nadu	167103	236404	13268	88012	1008	7004	181379	331420
14 West Bengal	560996	426507	87036	217193	41673	102691	689705	746391
15 A & N Islands	602	2624	104	366	45	170	751	3160
16 Puducherry	15537	33943	1571	7567	1651	6742	18759	48252
Total	3857334	3650121	1061752	4973389	258503	1003247	5177589	9626757
	(74.50%)	(37.92%)	(20.51%)	(51.66%)	(4.99%)	(10.42%)		

Note: (i) The remaining States/Union Territories did not furnish the Annual Returns for the year, 2008.
(ii) Percentages may not add up to 100 due to rounding off.

Table-III
Ownership of Shops and Employment therein during the year 2008 (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	Run with the help of employees	Total		
1	2	3	4	5	6
Andhra Pradesh	227377 (60.22)	150210 (39.78)	377587	377587	397402
Assam	33304 (54.29)	28038 (45.71)	61342	61342	55159
Bihar	119694 (70.96)	48974 (29.04)	168668	168668	192928
Gujarat	546112 (68.21)	254573 (31.79)	800685	800685	681006
Himachal Pradesh	37788 (81.02)	8851 (18.98)	46639	46639	13360
Jammu & Kashmir	153352 (91.28)	14643 (8.72)	167995	167995	21850
Karnataka	106172 (54.76)	87712 (45.24)	193884	193884	263159
Kerala	120989 (53.86)	103639 (46.14)	224628	223474	255148
Maharashtra	-	330371 (100.00)	330371	330371	763691
Meghalaya	3882 (69.76)	1683 (30.24)	5565	5565	20710
Punjab	167294 (77.87)	46553 (22.13)	213847	213847	98569
Rajasthan	416343 (79.78)	105542 (20.22)	521885	383446	187661
Tamil Nadu	-	167103 (100.00)	167103	167103	236404
West Bengal	351239 (62.61)	209757 (37.39)	560996	667501	426507
A & N Islands	44 (7.31)	558 (92.69)	602	610	2624
Puducherry	5359 (34.49)	10178 (65.51)	15537	15537	33943
Total	2456243 (60.54%)	1601077 (39.46%)	4057320	40214240	3710026

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2008. 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.

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 2008 (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	259360 (19.02)	12924 (12.05)	6200 (18.38)	8,93,565
Assam	39408 (2.9)	1330 (1.24)	222 (0.66)	56,035
Bihar	14084 (1.03)	164 (0.15)	89 (0.26)	22,250
Gujarat	10093 (0.74)	31719 (29.58)	6475 (19.20)	14,82,810
Himachal Pradesh	4998 (0.37)	1178 (1.10)	902 (2.67)	5,17,100
Jammu & Kashmir	-	-	-	-
Karnataka	33931 (2.49)	3199 (2.98)	3168 (9.39)	31,35,035
Kerala	46041 (3.38)	1101 (1.03)	872 (2.59)	3,71,220
Maharashtra	644127 (47.22)	28087 (26.19)	12281 (36.41)	4,83,45,500
Meghalaya	645 (0.05)	-	-	-
Punjab	44661 (3.61)	2323 (2.17)	1630 (4.83)	2,85,735
Rajasthan	13484 (0.99)	395 (0.37)	543@ (1.61)	1,09,065
Tamil Nadu	207372 (15.20)	21954 (20.47)	338 (1.00)	12,05,370
West Bengal	33720 (2.47)	2863 (2.67)	1008 (2.99)	4,89,375
A & N Islands	114 (0.01)	-	-	-
Puducherry	11880 (0.87)	2 (0.00)	2 (0.01)	-
Total	1363918	107239	33730	5,69,13,060

@ = Included previous cases

The remaining States/Union Territories did not furnish the Annual Returns for the year, 2008.

Figures in brackets indicate percentage to total.

Annexure - I

State/Union Territory	Delay in submission of return (in months)
1	2
1. Andhra Pradesh	11
2. Assam	9
3. Bihar	3
4. Gujarat	6½
5. Himachal Pradesh	-
6. Jammu & Kashmir	12½
7. Karnataka	5½
8. Kerala	12
9. Maharashtra	5½
10. Meghalaya	6
11. Punjab	-
12. Rajasthan	4
13. Tamil Nadu	8½
14. West Bengal	5½
15. A & N Islands	2
16. Puducherry	8½