MAHARASHTRA SHOPS AND ESTABLISHMENTS
(REGULATION OF EMPLOYMENT AND CONDITIONS OF
SERVICE) RULES, 2018

1. Members are aware of the enactment of Maharashtra Shops And
Establishments (Regulation of Employment And Conditions of
Service) Act, 2017, the provisions of which have been made
enforceable as per notification dated 19.12.2017 in the Official
Gazette.

2. The Government of Maharashtra has now notified draft Rules
under the Act and has invited any objection/suggestion from
persons likely to be affected within 15 days after which they
will be taken up for consideration.

3. The following are the salient features of the notified draft Rules:

   a) In Rule 2(f) “managerial functions” have been defined
to mean all such functions which are inherently
supervisory in nature and are bestowed with powers and
authority to take all policy and administrative decision in
an organisation, e.g., power to sanction leave, award
increment, take disciplinary action, to terminate, suspend
or dismiss a worker or indulge in policy making decision
regarding any aspect of the business or service conditions
of workers and such other similar powers.
b) **Registration of Establishments:**

(i) Every establishment engaging 10 or more workers shall submit an application for registration by payment of electronic transaction charges.

(ii) Procedure for renewal of registration and an online intimation are provided in detail.

(iii) Where the establishment engages less than 10 workers online intimation is to be given by the employer.

(iv) Changes, if any, to the certificate of registration are to be sent online to the Facilitator within 30 days of the change.

(v) An employer engaging 10 or more workers on closing his establishment permanently must communicate the same in the prescribed form.

c) **Opening & Closing of Establishments:**

Rules 12 empowers the Government, in the public interest after obtaining the views of the Municipal Commissioner or District Collector and concerned Police Commissioner to change the opening & closing timings of any or all classes of establishments.

d) **Conditions of Employment of Women in Night Shifts:**
The following conditions have been stipulated for employing women workers in night shifts:

i) A woman worker shall be allowed to work during 9.30 p.m. and 7.00 a.m. in any establishment only after obtaining her consent in the prescribed form.

ii) Employer shall take all the measures and safeguard to prevent or deter the commission of acts of sexual harassment at the place of work by implementation of the Sexual Harassment of Women at Workplace, Prevention, Prohibition and Redress) Act, 2013.

iii) In case of sexual harassment at the instance of a third party the employer must take all necessary and reasonable steps to assist the affected women worker.

iv) Provide proper lighting and illumination inside the establishment and surroundings and all places where the woman worker may move out of necessity.

v) Not less than 3 women workers shall be employed in the night shift at any point of time.

vi) Separate urinals and latrines to woman workers with safety locking facility only from inside and women should be provided with sanitary napkins.
vii) Safe and secure separate transportation facility for women workers in the night shift from workplace to doorstep of their residence and vis-a-vis. Employer must have all details of drivers, guards and all such employees engaged by themselves or through any agency or contractor with police verification duly complied.

viii) In case the menstruation period of any woman worker starts during her duty in the night shift, she shall be eligible for one extra paid holiday apart from those mentioned in the Act.

ix) Not less than 12 consecutive hours of rest or gap must be there between the last shift and night shift whenever a woman worker is changed from day shift to night shift and also from night shift to day shift.

x) No woman worker shall be allowed to work in night shift during the period of 24 weeks before and after her child birth, of which at least 12 weeks shall be before the expected child birth, and for further period as specified in the medical certificate stating that it is necessary for the health of a woman worker or her child, provided the said period may be relaxed at the request of the woman worker duly supported by medical certificate from a qualified medical
practitioner stating that neither her health not that of her child will be endangered.

e) Employer shall display notice on website and on notice board showing the day of rest with electronic intimation to the Facilitator.

f) **Prohibition of overlapping of shifts:**

   Work shall not be carried out in shifts so arranged that more than one relay of workers is engaged in work of same kind at the same time.

g) **List of Persons Engaged in Shifts:**

   i) where there are more than one shift operating the shift schedule showing names and designation of all persons working in that shift shall be displayed well in advance and made available to the Facilitator.

   ii) Not less than 12 consecutive hours of rest is permitted between the last shift and night shift whenever the worker is changed from day to night shift and vice-versa.

h) **Part Time Employment:**

   Such engagement is permitted provided that he shall not be allowed to work more than 5 hours in a day.

i) **Identity Card:**
Must be issued with particulars prescribed including emergency contact number of the workers.

j) **Leave Book:**

Employer to provide to each worker leave book, a copy to be retained by the employer and all the entries sanctioned must be noted in the leave book including any earned leave applied for and is refused. However, employer is free to maintain leave book either manually or electronically.

k) **Notice by the Employer on Accumulated Leave:**

A notice must be displayed of names of all workers whose leave which has been carried forward has reached the maximum limit allowed in the first quarter of each calendar. The notice stating that no further leave can be carried forward must be given to each worker concerned.

l) **Health, Safety and Welfare Committee:**

i) Every establishment with 100 or more workers must constitute health, safety and welfare committee.

ii) The representatives of the employer and workers on the committee shall include a senior official of the Organisation as a Chairman, a representative or Head of the Department in an establishment, e.g., working in sales, purchase material etc., and a maximum of 10 workers’
representative nominated by the workers as members of the committee.

iii) The duties, functions and responsibilities of the committee have been elaborated to include survey of the premises for any accident prone points, rectification of risks, conducting health care and wellness schemes once in a year, creating awareness about contagious disease, natural calamities, conducting recreation cultural sports activities annually, conducting social and educational awareness programmes like Swaccha Bharat Abhiyaan, Tree Plantation, Family Welfare, Beti Bachavo, Beti Padavo, etc.

iv) **Cleanliness, lighting and ventilation**: Every premises to be kept clean and free from infection with proper ventilation and lighting. No accumulation of rubbish, filth or debris in the establishment or surroundings shall be allowed to accumulate.

v) **Precautions against fire**: Employer to take all measures to protect the premises and workers from danger of fire, implement measures suggested/directed by Fire Department and follow all norms and guidelines as per law.

vi) **First Aid Appliances**: Every employer to maintain first aid box with the prescribed appliances and medicines.
vii) **Latrines and Urinals:** Every employer, either individual or group of employers shall provide and maintain a common, neat and clean urinal and latrine facility with supply of anti-bacterial liquid soap for men and women workers separately with proper ventilation and provision of water supply and flushing of waste.

**m) Maintenance of Registers and Records:**

i) To be maintained in the prescribed register, provided where the employer maintains muster roll-cum-register under Rule 27 of Maharashtra Minimum Wages Rules, 1963, it shall not be necessary to maintain Muster Roll-cum-Wages Register under the Act.

ii) Every entry in the register or records shall be authenticated digitally or manually by the employer and entries related to overtime shall be made immediately after completion of such overtime work.

iii) Employer shall preserve the inspection records of the Facilitator for a period of 5 years to be produced when demanded by the Facilitator.

**n) Annual Returns:**

Employer to upload Annual Return within 2 months of close of the financial year.

**o) Duties and Powers of Facilitator:**
The Facilitator is empowered to conduct examination to satisfy himself that the provisions of the Acts and Rules are duly observed for which purpose he can carry out inspections noting on his diary, call for monthly reconciliation of fees received online, maintain Court cases register, advice the employer on compliances and irregularities noticed, and inter-alia, guide the workers in establishments about their rights and the remedies available to them.

p) **Compounding of Offences:**

Procedure for compounding of offences with time limits and fees for the same are duly incorporated.

q) **Intimations of Persons discharging managerial functions:**

Every employer has to inform the Facilitator on prescribed form the names, designations and brief nature of duties of such persons who are discharging managerial functions.

r) **Intimation of persons doing confidential work:**

Every employer shall inform in the prescribed form names of persons occupying position of confidential character, provided that the number of such persons shall be not more than 1% of the total strength of the workers of the establishment, subject to maximum of 50%.
s) **Name Board to be in Marathi:**

The Name Board of every establishment shall be in Marathi language in Devanagari script in prescribed font size.

t) **Cancellation of Registration Certificate:**

The Registration Certificate will be liable to cancelled by the Facilitator after considering the say of the employer in reply to the notice issued by the Facilitator.

4. Members are requested, in their own interest, to carefully peruse the above draft rules and send their objections/suggestions, if any, by post or E-mail to the Principal Secretary (Labour), Industries, Energy and Labour Department, Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya, Mumbai 400 032, on E-mail [psec.labour@maharashtra.gov.in](mailto:psec.labour@maharashtra.gov.in) or by the Commissioner of Labour, Kamgar Bhavan, “E” Block, C-20, Bandra-Kurla Complex, Bandra (East), Mumbai-400 051, on E-mail: [mahalabourcommr@gmail.com](mailto:mahalabourcommr@gmail.com), from any person with respect to the said draft, within the aforesaid period, which will be considered by the Government.

A copy of your response may please be forwarded to the Labour Department of Bombay Chamber of Commerce & Industry on E-mail: [ld@bombaychamber.com](mailto:ld@bombaychamber.com) to enable the Chamber to
send a detailed collective representation to the Government on behalf of the Members.

A copy of the above draft Rules is available on the Chamber’s website.