

# The Weekly Holidays Act, 1942

## 1. Short title, extent and commencement:-

(2) It extends to the whole of India <sup>1</sup>[\*\*\*].

(3) It shall come into force in a <sup>2</sup>[State] or in a specified area within a <sup>2</sup>[State] only if the <sup>3</sup>[State] Government by notification in the Official Gazette so directs.

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1. The words “except the State of Jammu & Kashmir” subs. for “except Part B States” by Act 3 of 1951, sec. 3 and Sch. which were subsequently omitted by Act 51 of 1970, sec. 2 and Sch.

2. Subs. by the Adaptation of Laws Order, 1950, for “Provinces”.

3. Subs. by the Adaptation of Laws Order, 1950, for “Provincial”.

## 2. Definitions –

In this Act, unless there is anything repugnant in the subject or context, –

(a) “Establishment” means a shop, restaurant or theatre;

(b) “Day” means a period of twenty-four hours beginning at midnight;

(c) “Restaurant” means any premises in which is carried on principally or wholly the business of supplying meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre;

(d) “Shop” includes any premises where any retail trade or business is carried on, including the business of a barber, or hair dresser, and carried o, including the business of a barber, or hair dresser, catalogues, and other similar sales at theatres;

(e) “Theatre” includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances or stage entertainments;

(f) “Week” means a period of seven days beginning at midnight on Saturday.

### **3. Closing of shops. –**

(1) Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop.

(2) The day so specified shall not be altered by the shop-keeper more often than once in three months.

### **4. Weekly holidays in shops, restaurants and theatres. –**

Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day;

Provided that nothing in this section shall apply to any person whose total period of employment in the week including any days spent on authorised leave is less than six days or entitle to an additional holiday a person employed in a shop who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of section 3.

#### COMMENTS

Every employee other than the one employed in a confidential capacity or managerial position is entitled to a holiday of one whole day in each week.

### **5. Additional half-day closing of holiday –**

(1) The State Government may, by notification in the Official Gazette, require in respect of shops or any specified class of shops that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day provided for by section 3 as may be fixed by the State Government, and, in respect of theatres and restaurants or any specified class of either or both. that every person employed therein otherwise than in a confidential capacity or in a position of management shall be allowed in each week an additional holiday of half-day commencing at such hour in the afternoon as may be fixed by the State Government.

(2) The State Government may, for the purposes of this section, fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(3) The weekly day on which a shop is closed in pursuance of a requirement under subsection (1) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop and shall not be altered by the shop-keeper more often than once in three months.

## COMMENTS

The weekly day off has to be specified by the shop-keeper by a notice permanently exhibited in a conspicuous place in the shop, which is not to be changed by the shop-keeper more than once in three months.

## **6. No deduction or abatement to be made from wages –**

No deduction or abatement of the wages or any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed in accordance with sections 3, 4 and 5, and if such person is employed on the basis that he would not ordinarily receive wages for such day or a part of a day he shall nonetheless be paid for such day or part of a day the wages he would have drawn had the establishment not remained closed or the holiday not been allowed on that day or part of a day.

## **7. Inspectors –**

(1) The State Government may, by notification in the Official Gazette, appoint persons to be inspectors for the purposes of this Act within such local limits as it may assign to each such persons.

(2) Every inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

## COMMENTS

Section 21 of the Indian Penal Code is given below for ready reference:

21. “Public servant”—The words “public servant” denote a person falling under any of the description hereinafter following, namely:—

Second.—Every Commissioned Officer in the Military, Naval or Air Forces of India;

Third.—Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

Fourth.—Every officer of a Court of Justice (including a liquidator, receiver or commissioner) whose duty it is as such officer, to investigate or report on any matter of law or fact or to make, authenticate, or keep any document, or to take charge or dispose of any property or to execute any judicial process, or to administer any oath, or to interpret or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;

Sixth.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or conveyance;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government. or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interest of the Government or to make, authenticate or keep any document relating to the pecuniary interest of the Government, or to prevent the infraction of any law of the protection of the pecuniary interests of the Government;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep or expand any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

Eleventh.—Every parson who holds any office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

Twelfth.—Every person—

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) in the service or pay of local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

Illustration

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Whatever the words “public servants” occur, they shall be understood of every person who is in actual possession of the situation, of public servant, whether legal defect there may be in his right to hold that situation.

Explanation 3.—The word “election” denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by or under, any law prescribed as by election.

## **8. Powers of inspectors –**

(1) Subject to any rules made in this behalf by the <sup>1</sup>State Government, an inspector may, within the local limits for which he is appointed, –

(a) Enter and remain in any establishment to which this Act applies with such assistants, if any, being servants of the <sup>2</sup>Government as he thinks fit;

(b) Make such examination of any such establishment and of any record, register or notice maintained therein in pursuance of rules made under clause (c) of sub-section (2) of section 10, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act;

(c) Exercise such other powers as may be necessary for carrying out the purposes of this Act.

(2) Any person having the custody of any record, register or notice maintained in pursuance of rules made under clause (c) of sub-section (2) of section 10 shall be bound to produce it when so required by the inspector, but no person shall be compellable to answer any question if the answer may tend directly or indirectly to criminate himself.

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1. Subs. by the Adaptation of Laws Order, 1950, for “Provincial”.

2. Subs. by the Adaptation of Laws Order, 1950, for “Crown”.

## **9. Penalties –**

In the event of any contravention of the provisions of section 3 or section 4, of a requirement imposed by notification under sub-section (1) of section 5, or section 6, or of the rules made under clause (c) for sub-section (2) of section 10, the proprietor or other person responsible for the management of the establishment in which such contravention takes place shall be punishable with fine which may extend, in the case of the first offence, to twenty-five rupees, and, in case of second or subsequent offence, to two hundred and fifty rupees.

### **COMMENTS**

Contravention of the relevant provisions of the Act is punishable with fine upto twenty-five rupees, in the case of first offence and upto two hundred and fifty rupees in the case of second or subsequent offence.

## **10. Rules –**

(1) The <sup>1</sup>State Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may –

(a) Define the persons who shall be deemed to be employed in a confidential capacity or in a position of management for the purpose of sections 4 and 5;

(b) Regulate the exercise of their powers and the discharge of their duties by inspectors;

(c) Require registers and records to be maintained and notices to be displayed in establishment to which this Act applies and prescribe the form and contents thereof.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

<sup>2</sup>[(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

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1. Subs. by the Adaptation of Laws Order, 1950, for “Provincial”.

2. Ins. by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).

## **11. Power of exemption and suspension –**

The Central Government in respect of establishments under its control, and the <sup>1</sup>State Government in respect of all other establishments within the <sup>2</sup>State may, subject to such conditions, if any, as it thinks fit to impose, exempt any establishment to which this Act applies from all or any specified provisions of this Act, and may, on any special occasion in connection with a fair or festival or a succession of public holidays, suspend for a specified period the operation of this Act.