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The Tamil Nadu Catering Establishments Act, 1958

Act 13 of 1958

Keyword(s):

Catering Establishment, Child, Employee, Employer, Family, Inspector, Leave, Period of work, Registration Certificate, Residential Hotel, Restaurant, Spread Over, Wages, Week, Young Person

Amendment appended: 43 of 2000

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[TAMIL NADU] ACT No. XIII OF 1958.²[THE ¹[TAMIL NADU] CATERING ESTABLISHMENTS ACT, 1958.]

[Received the assent of the President on the 1st July 1958; first published in the Fort St. George Gazette on the 9th July 1958 (Asadha 18, 1880).]

An Act to provide for the regulation of conditions of work in catering establishments and for certain other purposes in the ³[State of Tamil Nadu].

WHEREAS it is expedient to provide for the regulation of conditions of work in catering establishments and for certain other purposes in the [State of Tamil Nadu].

BE it enacted in the Ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the ¹[Tamil Nadu] Catering Establishments Act, 1958.Short title,
extent and
commencement.(2) It extends to the whole of the ³[State of Tamil Nadu].

(3) (a) It shall come into force on such*date as the State Government may, by notification, appoint—

(i) in the City of Madras ;

⁴[(i-a) in the City of Madurai as defined in clause (9) of section 2 of the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971)];(ii) in all the municipalities constituted under the ¹[Tamil Nadu] District Municipalities Act, 1920 (¹[Tamil Nadu] Act V of 1920), and under the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116); and¹These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.² For Statement of Objects and Reasons, see *Fort St. George Gazette* Extraordinary, dated the 25th October 1957, Part IV-A, pages 110-111.

This Act was extended to the added territories by section 3 of, and the First Schedule to, the Tamil Nadu Added Territories Extension of Laws (No. 2) Act, 1961 (Tamil Nadu Act 39 of 1961), repealing the corresponding law in force in those territories.

³This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.⁴This item was inserted by section 2(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

*Came into force on the 8th April 1959 in the areas specified in clause (a) of sub-section (3) of section 1.

¹[(iii) in all areas within the jurisdiction of—

(a) panchayats which are classified or deemed to have been classified as town panchayats under the Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958) including town panchayats reconstituted under that Act; and

(b) townships constituted under section 4-A of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), section 4 of the Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958), the Mettur Township Act, 1940 (Tamil Nadu Act XI of 1940), the Courtallam Township Act, 1954 (Tamil Nadu Act XVI of 1954) and the Bhavanisagar Township Act, 1954 (Tamil Nadu Act XXV of 1954).]

(b) The State Government may, by notification, direct that this Act shall come into force in any other area on such date as may be specified in such notification.

Definitions. 2. In this Act, unless the context otherwise requires—

²[(1) “catering establishment” means a restaurant or residential hotel and includes a restaurant or canteen attached to, or run or managed by, any society registered under any law for the time being in force but does not include a restaurant or canteen attached to, or run or managed by, any educational institution;]

(2) “child” means a person who has not completed ³[sixteen] years of age ;

¹This item was substituted for the original item (iii) by section 2(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975), the words “Tamil Nadu” having been earlier substituted for the word “Madras” occurring in original item (iii) by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

²This clause was substituted for the original clause (1) by section 3(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

³This word was substituted for the word “fourteen” by section 3(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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(3) "day" means the period of twenty-four hours beginning at midnight :

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning from the time when such employment commences ;

¹[(4) "employee" means a person wholly or principally employed directly or through any agency whether for wages or not in, or in connection with the business of, any catering establishment, but does not include a member of the employer's family ;

(5) "employer" means a person owning or having charge of the business of a catering establishment and includes any person who holds a licence issued under the Madras City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919), the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), or the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), or the Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958), authorising him to carry on the business of a catering establishment, the manager, agent or other person acting in the general management or control of a catering establishment ;]

(6) "family" in relation to an employer means the husband or wife, son, daughter, father, mother, brother or sister of such employer who lives with him and is dependent on him ;

(7) "Inspector" means an Inspector appointed under section 20 for the area ;

(8) "leave" means leave provided for in section 12 ;

(9) "period of work" means the time during which an employee is at the disposal of the employer ;

(10) "registration certificate" means a certificate showing the registration of a catering establishment ;

(11) "residential hotel" means any premises in which the business of providing dwelling accommodation and supply of meals to any member of the public or a class of the public is carried on ;

¹These clauses were substituted for the original clauses (4) and (5) by section 3(3) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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(12) "restaurant" means any premises in which is carried on the business of the supply of refreshments or meals to the public or a class of the public for consumption on the premises ;

(13) "spread over" means the period between the commencement and the termination of the work of an employee on any day ;

¹[(13-A) "wages" means the basic wages, dearness allowance, the cash equivalent of the meals and tiffin supplied to the employees free of charge and the value of any other amenity or of service or of any concessional supply of food grains or other articles which can be computed in terms of money, but does not include a bonus ;]

(14) "week" means the period of seven days beginning at midnight on Saturday or on such other day as may be specified for a particular area or for a particular class of catering establishments by the prescribed authority ;

(15) "young person" means a person who has completed ²[sixteen] years of age but has not completed eighteen years of age.

Exemptions. 3. (1) The provisions of this Act except section 21 and section 22 shall not apply to any catering establishment in which only members of the employer's family are employed.

(2) The provisions of sections 7 to 11 shall not apply to the persons occupying positions of management in catering establishments.

(3) The State Government may, by notification, exempt either permanently or for any specified period, any catering establishment or class of catering establishments or any person or class of persons to which or to whom this Act applies, from all or any of its provisions, subject to such conditions as the State Government deem fit.

¹This clause was inserted by section 3(4) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

²This word was substituted for the word "fourteen" by section 3(5) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

¹[3-A. Save as otherwise provided in this Act, no Catering place or premises shall, on and after the date of expiry of the period specified in this behalf in sub-section (1) of section 4, be used as a catering establishment without a registration certificate and except in accordance with the terms and conditions specified therein.]

²[4. (1) Every employer shall make an application to the Inspector for the grant of a registration certificate in such form together with such fees as may be prescribed,—

(a) in the case of a catering establishment existing on the date of coming into force of this Act, within thirty days from such date ; and

(b) in the case of any new catering establishment, within thirty days from the date of commencement of work.

(2) The Inspector shall, in deciding whether to grant or refuse a registration certificate, have regard to the following matters, namely :—

(a) the suitability of the place or premises which is proposed to be used as catering establishment ;

(b) the previous experience of the employer ;

(c) the financial resources of the employer including financial capacity to meet the demands arising out of the provisions of the law for the time being in force relating to the welfare of labour ;

(d) whether the application is made *bona fide* on behalf of the employer himself or *benami* on behalf of any other person ;

(e) welfare of the labour in the locality and the interest of the public generally ; and

(f) such other matters as may be prescribed.

¹This section was inserted by section 4 of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

²Sections 4 and 4-A were substituted for the original section 4 by section 5 of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

(3) (a) Subject to the foregoing provisions of this section, the Inspector may grant a registration certificate in the form prescribed on such terms and conditions as may be prescribed and where the Inspector refuses to grant a registration certificate, he shall do so by an order communicated to the employer, giving the reasons in writing for such refusal.

(b) The Inspector shall, before granting a registration certificate, register the catering establishment in the register of catering establishments maintained for the purpose.

(c) The registration certificate shall be prominently displayed at the catering establishment.

(4) A registration certificate shall be valid for a year and shall be renewable yearly on payment of such fees as may be prescribed and the foregoing provisions of this section shall apply to the renewal of a registration certificate as they apply to the grant thereof.

(5) The Inspector may, after giving the employer an opportunity of being heard, by order revoke or suspend any registration certificate granted or renewed under this Act, if it appears to him that such registration certificate has been obtained by misrepresentation or fraud or that the employer has failed to comply with, or contravened, any of the provisions of this Act or the rule made thereunder or any of the terms and conditions of the registration certificate.

(6) The acceptance by the Inspector of the prepayment of the fees shall not entitle the employer making such prepayment to the grant or renewal of a registration certificate but only to the refund of the fees in case of refusal to grant or renew a registration certificate.

(7) An employer who has applied for the grant or renewal of a registration certificate shall, until communication of orders on his application, be entitled to act as if the registration certificate had been granted or renewed.

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(8) If orders on an application for the grant or renewal of a registration certificate are not communicated to the employer within three months after the date of receipt of the application by the Inspector, the registration certificate shall be deemed to have been granted or renewed subject to the conditions ordinarily imposed under this Act or the rules made thereunder.

4-A. Any employer aggrieved by an order of the Appeal. Inspector refusing to grant or renew a registration certificate or revoking or suspending a registration certificate may, within a period of thirty days from the date of receipt of the order sought to be appealed against and on payment of such fees as may be prescribed, appeal in writing to such authority as the State Government, may, by notification specify in this behalf, and such authority may, by order, confirm, modify or reverse the order appealed against :

Provided that such authority may in its discretion allow further time not exceeding thirty days for filing of any such appeal, if it is satisfied that the employer had sufficient cause for not filing the appeal in time.]

5. It shall be the duty of an employer to notify to the Inspector, in the prescribed form, any change in respect of any information contained in his ¹[application] under section 4 within seven days after the change has taken place. The Inspector shall on receiving such notice and on being satisfied about its correctness, make the change in the register of catering establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary ²[on application being made by the employer in such form together with such fees as may be prescribed].

¹ This word was substituted for the word "statement" by section 6(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² These words were added by section 6(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

Removal of catering establishments from the register.

6. An employer closing a catering establishment shall, within ten days of his doing so, notify to the Inspector in writing of such closure. The Inspector shall, on receiving such notice and on being satisfied about its correctness, remove such catering establishment from the register of catering establishment and cancel the registration certificate.

Daily and weekly hours of work in catering establishments.

7. (1) No young person shall be required or allowed to work in any catering establishment for more than five hours in any day.

(2) No other employee shall be required or allowed to work in any catering establishment for more than nine hours in any day or for more than forty-eight hours in any week :

Provided that, subject to the payment of overtime wages, the total number of hours of work including overtime shall not exceed ten hours in any day and the total number of hours of overtime work shall not exceed ¹[fifty-four hours] in any quarter.

²[*Explanation I.*—For the purposes of this sub-section, the expression “quarter” means a period of three consecutive months beginning on the 1st January, 1st April, 1st July or 1st October of every year.

Explanation II.—Where an employee is employed on a date other than the 1st January, 1st April, 1st July or 1st October, the number of hours of overtime work in any quarter shall not exceed the number which bears to fifty-four the same proportion as the number of days during which the employee was employed in that quarter bears to the total number of days in the same quarter.

Explanation III.—In calculating the number of hours of overtime work, any overtime work of half an hour or more shall be treated as one full hour's overtime work and any fraction of less than half an hour shall be omitted.]

¹ These words were substituted for the words “fifty hours” by section 7(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² These explanations were added by section 7(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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8. Where an employee works in any catering establishment for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of such overtime work, be ¹[entitled to twice the wages]. Extra wages for overtime work.

²[* * * * *]

9. The period of work of an employee each day shall be so fixed that he shall not have to work continuously for more than five hours before he has had an interval for rest of at least half an hour. Interval for rest.

10. The periods of work of an employee shall be arranged that along with his intervals for rest they shall not spread over more than fourteen hours in any day : Spread over.

Provided that the number of intervals for rest for an employee in any day shall not exceed two.

11. (1) Every employee shall be allowed in each week a holiday of one whole day. Holidays.

(2) Every employee shall be allowed in each calendar year a holiday of one whole day on ³[the 26th January, the 1st May, the 15th August and the 2nd October] and five holidays each of one whole day for such festivals as the Inspector may, in consultation with the employer and the employees, specify in respect of any catering establishment.

(3) (a) Notwithstanding any contract to the contrary, no deduction shall be made from the wages of any employee on account of any holiday allowed to him under sub-section (1) or sub-section (2).

¹ These words were substituted for the words "entitled to wages at twice the ordinary rate of wages" by section 8(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² The explanation to section 8 was omitted by section 8 (2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

³ These words, figures and letters were substituted for the words, figures and letters "the 26th January and the 15th August" by section 9(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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(b) Every employee shall be paid wages ¹[* * *] for each of the holidays allowed to him under sub-section (2).

²[(4) (a) Notwithstanding anything contained in sub-section (2), any employee may be required by the employer to work on any holiday allowed under that sub-section, if the employer has, not less than twenty-four hours before such holiday,—

(i) served in the prescribed manner on the employee a notice in writing requiring him to work as aforesaid; and

(ii) sent to the Inspector and exhibited in the premises of the catering establishment a copy of such notice.

³[(b) Where an employee works on any holiday allowed under sub-section (2), he shall, at his option, be entitled to—

(i) twice the wages for such day, or

(ii) wages for such day and to avail himself of a substituted holiday with wages on one of the three days immediately before or after the day on which he so works.]

¹ The expression "at the ordinary rates of wages as defined in the Explanation to section 8" was omitted by section 9 (2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² This sub-section was substituted for the original sub-section (4) by section 2 of the Tamil Nadu Catering Establishments (Amendment) Act, 1961 (Tamil Nadu Act 42 of 1961).

³ This clause was substituted by section 9 (3) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975) for the following clause (b), which was substituted by section 2(4) of the Tamil Nadu Catering Establishments (Amendment) Act, 1961 (Tamil Nadu Act 42 of 1961) :—

"(b) Where an employee works on any holiday allowed under sub-section (2), he shall, at his option, be entitled—

(i) to wages at twice the ordinary rate of wages as defined in the Explanation to section 8 for such day, or

(ii) to wages at the ordinary rate of wages defined as aforesaid for such day and to avail himself of a substituted holiday with wages on any other day."

11-A. (1) There shall be correctly maintained and displayed in every catering establishment a notice of periods of work in such form and in such manner as may be prescribed showing clearly for everyday the periods during which employees may be required to work. Notice of period of work.

(2) No employee shall be allowed or required to work in any catering establishment otherwise than in accordance with the notice of periods of work displayed under sub-section (1).

(3) Every employer shall send to the Inspector and display in the catering establishment, a statement showing the holidays allowed in each calendar year under section 11, in such form, within such time and in such manner as may be prescribed.]

12. (1) Every employee who has worked for a period of not less than 240 days in a catering establishment during a calendar year shall be allowed in the subsequent calendar year, leave with wages for a number of days calculated—

(i) in the case of an adult, at the rate of one day for every 20 days of work performed by him during the previous calendar year ;

(ii) in the case of a young person, at the rate of one day for every 15 days of work performed by him during the previous calendar year.

Explanation 1.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at the beginning or at the end of the period of leave.

Explanation 2.—For the purpose of this sub-section—

(a) any days of lay off, by agreement or contract or as permitted under the Standing Orders of the catering establishment concerned ;

(b) in the case of a female employee authorised absence for maternity purposes for any number of days not exceeding twelve weeks ; and

¹ This section was inserted by section 10 of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975)

(c) the leave earned in the year prior to that in which the leave is enjoyed,

shall be deemed to be days on which the employee has worked for the purpose of computation of the period of 240 days but not for earning leave.

¹[(1-A) Every employee shall also be allowed in each calendar year leave with wages for a period not exceeding twelve days at the rate of one day for every month on the ground of any sickness incurred or accident sustained by him.]

(2) An employee whose service commences otherwise than on the first day of January shall be entitled to leave calculated in accordance with sub-section (1), if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If an employee is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1) even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earn leave.

(4) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(5) If an employee does not in any calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed ²[forty in the case of an adult or fifty] in the case of a young person.

¹ This sub-section was inserted by section 11(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² These words were substituted for the words "thirty in the case of an adult or forty" by section 11(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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(6) An application by an employee for the whole or any portion of the leave allowed under sub-section (1) or sub-section (2), shall be in writing and ordinarily be made reasonably in advance of the date on which he wishes his leave to begin.

(7) If the employment of an employee who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the employer before he has taken the entire leave to which he is entitled or if having applied for leave he has not been granted such leave or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 13 in respect of the leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

¹[(7-A) If an employee who is entitled to leave under sub-section (1-A) is discharged by the employer when he is sick or suffering from the result of an accident, or if the employee quits his employment during such period, the employer shall pay him the amount payable under this Act in respect of the period of leave to which he was entitled at the time of such discharge or quitting in addition to the amount, if any, payable to him under sub-section (7) and such payment shall be made, where the employee is discharged by the employer, before the expiry of the second working day after such discharge and where the employee quits his employment, on or before the next pay day.]

(8) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

¹This sub-section was inserted by section 11(3) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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Wages during
leave period

13. For the leave allowed to him under section 12 an employee shall be paid at a rate equal to the daily average of his total full time¹[wages] for the days on which he worked during the month immediately preceding his leave, exclusive of any overtime wages ²[* * *]

Payment in
advance in
certain cases

14. An employee who has been granted leave for a period exceeding four days shall, before his leave begins, be paid the wages due for the period of the leave allowed.

Dresses to be
supplied by
employer.

³[14-A. Every employer shall supply free of cost to the different classes of employees in his catering establishment, such number and type of dressess, and at such intervals, as may be prescribed.]

Mode of
recovery of
unpaid
wages

15. Any wages required to be paid by an employer but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (Central Act IV of 1936).

Application
of the Pay-
ment of
Wages Act,
1936, to
catering
establish-
ments

16. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936) (hereinafter in this section referred to as the said Act) the State Government may, by notification, direct that, subject to the provisions of sub-section (2), the said Act or any of the provisions thereof or the rules made thereunder shall apply to all or any class of employees in catering establishments to which this Act applies.

(2) On the application of the provisions of the said Act to any catering establishment under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

¹ This word was substituted for the word "earnings" by section 12(1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² The words "and bonus but inclusive of dearness allowance and the cash equivalent of the meals and tiffin supplied to the employee free of charge" were omitted by section 12(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

³ This section was inserted by section 13 of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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(3) The State Government may, by like notification, cancel or vary any notification issued under sub-section (1).

17. No child shall be required or allowed to work in any catering establishment.

Prohibition of employment of children.

18. No woman or young person shall be required or allowed to work whether as an employee or otherwise in any catering establishment between the hours of 9 p.m. and 5 a.m.

Prohibition of employment of women or young persons during night.

19. (1) No employer shall dispense with the services of an employee employed ¹[for a period of not less than one hundred and twenty days during a period of six months,] except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice, provided however that such notice shall not be necessary where the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose.

Notice of discharge or dismissal.

(2) (a) Any employee discharged, dismissed or retrenched may appeal to such authority and within such time and in such manner as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that the employer did not retrench him in good faith.

²[(aa) The appellate authority may, if it considers that any document or the testimony of any person is relevant or necessary for the discharge of its duties under this Act as appellate authority, call for and inspect such document or summon and examine such person. For the aforesaid purposes, it shall have the same powers as are

¹ These words were substituted for the words "continuously for a period of not less than six months" by section 14 of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² This clause was inserted by section 2 of the Tamil Nadu Catering Establishments (Amendment) Act, 1979 (Tamil Nadu Act 29 of 1979).

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vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely :—

- (i) summoning and enforcing the attendance of any person and examining him on oath ;
- (ii) compelling the production of documents ;
- (iii) issuing commissions for examination of witnesses.]

(b) The appellate authority, may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(3) The decision of the appellate authority shall be final and binding on both the parties, not be liable to be questioned in any Court of Law and be given effect to within such time as may be specified in the order of the appellate authority.

Appointment
of Inspectors.

20. (1) The State Government may by notification, appoint such persons or such class of persons as they think fit to be Inspectors for the purposes of this Act within such local limits as the State Government may specify.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

Powers and
duties of
Inspectors.

21. Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(a) enter, at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any place which is, or which he has reason to believe, is a catering establishment ;

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(b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or elsewhere the evidence of such person as he may deem necessary, for carrying out the purposes of this Act. ¹[]

²[(bb) seize or take copies of such registers, records or notices or portions thereof as he may consider necessary in respect of an offence under this Act which he has reason to believe has been committed by an employer, and shall give the employer a receipt for the same. The registers, records or notices or portions thereof so seized shall be retained by the Inspector only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act;

Provided that such registers, records or notices or portions thereof shall not be retained for more than thirty days at a time except with the permission of the next higher authority ; and]

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

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

22. Every employer shall, on demand, produce for inspection of an Inspector, all registers, records and notices required to be kept under and for the purposes of this Act. Employer to produce registers, records, etc., for Inspection Penalties.

23. ³[(1) Any employer who contravenes any of the provisions of sections 3A, 4, 5, 6, 7, 9, 10, 11, 11A, 12 and 14A or fails to pay wages or compensation in accordance with any order of the appellate authority, passed under clause (b) of sub-section (2) of section 19 shall, on conviction

¹ The word "and" was omitted by the section 15 (i) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² This clause was inserted by section 15 (ii) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

³ This sub-section was substituted for the original sub-section (1) by section 16 (1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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be punishable with fine which, for a first offence, shall not be less than fifty rupees, or more than one hundred and fifty rupees, for a second offence shall not be less than one hundred and fifty rupees or more than two hundred and fifty rupees and for a third or any subsequent offence shall not be less than two hundred and fifty rupees or with imprisonment which may extend to three months, or with both.]

(2) (a) Any employer who fails to reinstate an employee in accordance with any order of the appellate authority passed under clause (b) of sub-section (2) of section 19 shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(b) Any employer, who after having been convicted under clause (a), continues to fail to reinstate an employee in accordance with the order mentioned in that clause shall, on conviction, be punishable for each day after the previous date of conviction, during which he continues so to offend, with fine which may extend to twenty rupees.

(c) Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine realised from the accused shall be paid by way of compensation to the person who, in its opinion, has been injured by such failure.

[(2-A) Whoever fails to produce on demand by an Inspector, any register, record or other document in his custody kept in pursuance of this Act or of any rules made thereunder or conceals or prevents any employee in a catering establishment from appearing before or being examined by an Inspector shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.]

(3) Whoever contravenes any other provision of this Act or any of the rules made under this Act shall, on conviction, be punishable with fine which may extend to fifty rupees.

¹ This sub-section was inserted by section 16(2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

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(4) ¹[Any amount] required to be paid by an employer under clause (b) of sub-section (2) of section 19 but not paid by him shall be recoverable as delayed wages under the provisions of the Payment of Wages Act, 1936 (Central Act IV of 1936).

²[(5) Whenever an employer is convicted for contravention of section 3A, the Court shall in addition to any fine which may be imposed for such contravention, recover summarily and pay over to the Inspector the amount of the fee chargeable for the grant, or renewal of the registration certificate, as the case may be, and may in its discretion also recover summarily and pay over to the Inspector such amount, if any, as it may fix as the costs of the prosecution.

(6) (a) Where an employer is convicted of an offence punishable under this Act, the Court may in addition to awarding any punishment by order in writing require him within a period specified in the order (which the Court may, if it thinks fit and on application in such behalf from time to time extend) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(b) Where an order is made under clause (a), the employer shall not be liable for punishment under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the Court, but if on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the employer shall be deemed to have committed a further offence and may be sentenced therefor by the Court to undergo imprisonment for a term which may extend to three months or to pay a fine which may extend to fifty rupees for every day after such expiry on which the order has not been complied with or both to undergo such imprisonment and to pay such fine as aforesaid.]

24. (1) No court shall take cognizance of any offence Procedure. under this Act or any rule made thereunder except on a complaint made by, or with the previous sanction in writing of, an Inspector.

¹ These words were substituted for the words "Any compensation" by section 16 (3) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

² These sub-sections were added by section 16 (4) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).



(2) No court inferior to that of a Presidency Magistrate* or a Magistrate of the Second Class* shall try any offence punishable under this Act or any rule made thereunder.

Limitation of prosecution. 25. No court shall take cognizance of an offence punishable under this Act or any rule made thereunder unless the complaint is made within six months from the date on which the offence is alleged to have been committed or within six months from the date of its coming to the knowledge of the Inspector, whichever is later.

Onus as to age. 26. (1) When any question arises under this Act whether any person is under a certain age or not, the burden shall be on the employer concerned to prove that such person is not under such age.

(2) A declaration by a Government medical officer not below the rank of a Civil Assistant Surgeon that he has personally examined a person employed and believes him to be under the age stated in such declaration shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that person.

Saving of certain rights and privileges. 27. (1) Nothing contained in this Act shall affect any rights or privileges which an employee in any catering establishment is entitled to on the date this Act comes into force, under any other law, contract, custom or usage applicable to such catering establishment or any award, settlement or agreement binding on the employer and the employee in such catering establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

(2) If any question arises whether the rights or privileges aforesaid are more favourable to an employee than those to which he would be entitled under this Act or whether all or any of the provisions of this Act apply to a catering establishment or to a person employed therein, it shall be decided by the Commissioner of Labour and his decision thereon shall be final and not be liable to be questioned in any Court of Law.

* According to clauses (b) and (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), which came into force on the 1st April 1974, any reference to a Magistrate of the second class shall be construed as a reference to a Judicial Magistrate of the second class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate.

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28. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act. **Indemnity.**

29. (1) The State Government may ¹[* * *], make rules for the purpose of carrying into effect the provisions of this Act. **Power to make rules.**

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

(a) all matters expressly required or allowed by this Act to be prescribed ;

²[(aa) the terms and conditions subject to which a registration certificate may be granted or renewed under this Act and the fees to be paid for the grant or renewal of such registration certificate ;]

(b) the registers and records to be maintained in a catering establishment for the purposes of examination by Inspectors and of securing compliance with the provisions of this Act ;

(c) the form of notices to be exhibited in the premises of the catering establishment by the employer and the manner of exhibiting such notices ;

(d) the manner in which the cash equivalent of the meals and tiffin supplied to employees free of charge is to be computed ;

(e) matters relating to the health of employees in, and the sanitation of, a catering establishment.

¹ The words "by notification" were omitted by section 3 (i) of the Tamil Nadu Catering Establishments (Amendment) Act, 1961 (Tamil Nadu Act 42 of 1961).

² This clause was inserted by section 17 (1) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

¹[(3) (a) All rules made under this Act shall be published in the²[Tamil Nadu Government Gazette] and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act, shall unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.]

Certain enactments not to apply to catering establishments.

30. On and from the date of the commencement of this Act, the Weekly Holidays Act, 1942 (Central Act XVIII of 1942), the Factories Act, 1948, (Central Act LXIII of 1948) and the ³[Tamil Nadu] Shops and Establishments Act, 1947 ³[Tamil Nadu] Act XXXVI of 1947, shall not apply to catering establishments:

Provided that anything done under the said enactments which could have been done under this Act if it had been in force at the relevant time shall be deemed to have been done under this Act.

¹ These sub-sections were substituted for the original sub-sections (3) and (4) by section 3(ii) of the Tamil Nadu Catering Establishments (Amendment) Act, 1961 (Tamil Nadu Act 42 of 1961).

² This expression was substituted for the expression "*Fort St. George Gazette*" by section 17 (2) of the Tamil Nadu Catering Establishments (Amendment) Act, 1975 (Tamil Nadu Act 29 of 1975).

³ These words were substituted for the word "*Madras*" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

TAMIL NADU GOVERNMENT GAZETTE EXTRA

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 3rd December 2000 and is hereby published for general information:—

ACT No. 43 OF 2000.

An act further to amend the Tamil Nadu Catering Establishments Act, 1958.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Catering Establishments (Amendment) Act, 2000.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. After section 23 of the Tamil Nadu Catering Establishments Act, 1958 the following section shall be inserted, namely:—

Insertion of new section 23-A.

“23-A. *Compounding of offences.*— (1) Any offence punishable under sub-sections (1), (2-A) and (3) of section 23 may, either before or after the institution of the prosecution, be compounded by the Commissioner of Labour or such other officer as may be authorised in this behalf by the Commissioner of Labour, on payment, for credit to the State Government, of such sum as the Commissioner of Labour or such other officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of fine which may be imposed under this Act for the offence so compounded.

(2) Sub-section (1) shall apply for the first and any subsequent offence.

(3) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded and the offender, if in custody, shall be discharged forthwith.

(4) No offence punishable under this Act shall be compounded except as provided by this section.”

(By order of the Governor)

K. PARTHASARATHY,
Secretary to Government,
Law Department.