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Original

MASTER CIRCULAR

Master Circular No. 23

Factories Act, 1948.

At present the orders relating to "The Factories Act, 1948" are contained in a number of office Circulars/Orders issued from time to time. The question of consolidation of these existing orders/circulars into one Master Circular has been under the consideration of the Ministry of Railways (Railway Board). They have now decided to issue consolidated instructions in the form of a Master Circular on the subject as below for the information and guidance of all concerned.

2. All the Railways and Production Units must be having copy of the Factories Act, 1948 and the amendments issued from time to time. However, some of the important interpretations of the Act are reproduced below for information and convenience sake:

Interpretation

- a. "Adult" means a person who has completed his eighteenth year of age;
- b. "Adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year;
- c. "Child" means a person who has not completed his fifteenth year of age.;
- d. "Hazardous process" means any process or activity in relation to an industry specified in the First Schedule to the Act where, unless special care is taken, raw materials used therein or the intermediate or finished products, by-products, waste or effluents thereof would:
 - i. cause material impairment to the health of the person engaged in or connected therewith; or
 - ii. result in the pollution of the general environment.
- e. "Manufacturing process" means any process for—
 - i. making, altering, repairing ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or
 - ii. pumping oil, water, sewage or any other substance ; or
 - iii. generating, transforming or transmitting power; or
 - iv. composing types for printing, printing by letter press, lithography, photogravure of other similar process or book binding :
 - v. constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels ; or
 - vi. preserving or storing any article in cold storage.
- f. "Worker" means a person employed directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not in any manufacturing process or in cleaning any part of the machinery or premises used for a manufacturing process or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process (but does not include any member of the Armed Forces of the Union).

g. "Factory" means any premises including the precincts thereof—

where on 10 or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried out with the aid of power, or is ordinarily so carried on, or

where on 20 or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on;

but does not include a mine subject to the operation of the Mines Act, 1952 or a mobile unit belonging to the Armed Forces of the Union, a railway running shed or a hotel, restaurant or eating place;

h. "Occupier" of a factory means the person who has ultimate control over the affairs of the factory provided that—

xxx xxx xxx

in the case of a factory owned or controlled by the Central Government or any State Government or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government or State Government, or the local authority, as the case may be, should be deemed to be the occupier.

[Authority: Chapter I of the Factories Act, 1948]

3. The Chief Mechanical Engineers of Railway Production Units have been appointed as "Occupiers" of the respective units in terms of the provisions of the Factories Act, 1948.

[\[E\(LL\)88/AT/Fac/1-6, dated 15.02.1989 \(RBE 51/89\)\]](#)

3.1 The officers mentioned at Annexure 'A' have been appointed as "Occupier" of the respective Zonal Railways factories/workshops under the provisions of the Factories Act, 1948.

[\[E\(LL\)88/AT/Fac/1-6 dated 04.01.1991 \(RBE 4/1991\)\]](#)

4. In accordance with the Supreme Court Judgment, in the case of Jhansi Workshop of the Central Railway, the Time-keepers employed in Railway Workshops which come under the purview of the Factories Act, 1948 and who are at present governed by the provisions of the Hours of Employment Regulations on the Railways should be henceforth treated as "workers" under the Factories Act, 1948 for all purposes.

**[\[E\(LL\)70/AT/Fac/1-2, dated 25.07.1970](#)
and [\[E\(LL\)70/AT/Fac/1-2, dated 22.02.1971\]](#)**

5. Time-keepers and other categories of staff employed in workshops who are classified as "workers" under the Factories Act, 1948 but who are not regular workshop staff, their conditions of service in all respects other than those regulated by the statute, should be the same as were in force prior to their coming under the scope of the Factories Act, 1948. However, on the Railways/Production Units which have in the mean while introduced different practices by treating such categories of staff as workshop staff in matters not connected by the provisions of the said Act, before or after the Supreme Court judgment referred to in Board's letter at para 4 above, the status quo should be maintained.

[\[E\(LL\)73/AT/Fac/1-13 dated 26.10.1976\]](#)

6. The benefit of grant of Casual Leave in addition to the payment of overtime under the Factories Act, 1948 to Time Keepers employed in the workshops is

withdrawn with effect from 28.05.1971. Casual Leave taken before this date need not be reopened for adjustment.

[Nos. PC/69/HW/2/4 dated 28.05.1971
and [E\(G\)71/LE/17 dated 05.01.1972](#)]

7. The workshop authorities concerned may decide, in consultation with their FA&CAO and the Law Officer, the question of treating clerical and other allied categories of staff employed in different nature of the jobs in Railway workshops as "Workers" under the Factories Act, 1948 keeping in view: —

- a. nature of job performed by each category of such employees;
- b. definition of the term "worker" given in the Factories Act, i.e. whether their duties are incidental to or connected with manufacturing process;
- c. the decision given by the Supreme Court in the case of Time Keepers referred to above, i.e. the definition of "worker" under the Factories Act, 1948 does not exclude employees who are entrusted solely with clerical duties, if they otherwise fall within the definition of the word "worker"; and
- d. If necessary after ascertaining the position obtaining in this regard in major non-Railway workshops situated in the same State.

However, where clerical staff employed in workshops are already being treated as "workers" under the Factories Act, 1948, no change need be made in the decision taken by the Railway Administrations.

[\[E\(LL\)81/AT/Fac/1-7, dated 16.03.1982\]](#)

8. The recognised Unions may bring any issues arising out of the decision taken by the Railway Administrations in accordance with the guidelines laid down in para 7 above, in PNM Meetings with the Railways concerned and the Railways should deal with such issues themselves.

[\[E\(LL\) 81/AT/Fac/I-7, dated 09.06.1982\]](#)

9. The provisions of the Factories Act, 1948 more so with the introduction of provisions relating to "Hazardous processes", cast very important responsibilities on the "Occupier" which should be carefully studied and appropriate action taken to avoid any infringement of these provisions.

[\[E\(LL\)88/AT/Fac/1-2, dated 28.01.1988 \(RBE 19/1988\)\]](#)

10. Overtime under Section 59 (1) of the Factories Act, 1948 to the staff governed by the same should be calculated on a daily basis or weekly basis, whichever is more favourable to the employee. Past cases dealt with otherwise need not be opened.

[\[E\(LWA\)64/AT/Fac/1-7, dated 28.03.1967\]](#)

11. For purpose of payment of overtime to workshop staff sent out from shops with trial engines or vehicles and to those sent out from shops to work at outstation temporarily, no distinction should be drawn between the hours of duty put in by them beyond shop hours and the hours during which such staff actually work. Irrespective of whether they are actually engaged in work, the total period during which they remain on duty beyond shop hours should be counted as duty for payment of overtime.

[\[E\(LWA\)/65/AT/Fac/1-17, dated 05.09.1966\]](#)

12. General:

- a. While referring to this circular, the original letters referred to herein should be read for a proper appreciation. This circular is only a consolidation of the

instructions issued so far and should not be treated as a substitution to the originals. In case of doubt, the original circular should be relied upon as authority.

- b. The instructions contained in the original circulars referred to have only prospective effect from the date of issue unless specifically indicated otherwise in the concerned circular. For dealing with old cases, the instructions in force at the relevant time should be referred to; and
- c. If any circular on the subject, which has not been superseded, has not been taken into consideration while preparing this consolidated letter, the said circular, which has been missed through oversight should be treated as valid and operative. Such a missing circular, if any, may be brought to the notice of the Railway Board.

Original Orders/Circulars from which Consolidation has been made

1. No. [E\(LWA\)65 AT/Fac/1-17 dated 05.09.1966](#)
2. No. [E\(LWA\)64 AT/Fac /1-7 dated 28.03.1967](#)
3. No. [E\(LL\)70 AT/Fac /1-2 dated 25.07.1970](#)
4. No. [E\(LL\)70 AT/Fac /1-2 dated 22.02.1971](#)
5. No. [E\(G\)71 LE 17 dated 05.01.1972](#)
6. No. [E\(LL\)73 AT/Fac/1-13 dated 26.10.1976](#)
7. No. [E \(LL\)81 AT/Fac /1-7 dated 16.03.1982](#)
8. No. [E\(LL\)81 AT/Fac/1-7 dated 05/09.06.1982](#)
9. No. [E\(LL\)82 AT/Fac/1-2 dated 28.01.1988](#) (RBE 19/1888)
10. No. [E\(LL\)88 AT/Fac /1-6 dated 15.02.1989](#) (RBE 51/1989)
11. No. [E\(LL\)88 AT/Fac/1-6 dated 17.05.1990](#) (RBE 81/1990)
12. No. [E\(LL\)88 AT/Fac/1-6 dated 04.01.1991](#) (RBE 3/1991)

Railway Board's orders issued subsequent to issue of Master Circular

1. No. [E\(LL\)88 AT/Fac/1-6 dated 02.07.1992](#) (RBE 108/1992)
2. No. [E\(LL\)88 AT/Fac/1-6 dated 27.10.1992](#) (RBE 178/1992)
3. No. [E\(LL\)88 AT/Fac/1-6 dated 29.01.1993](#) (RBE 21/1993)