U.P. SHOPS & COMMERCIAL EST. ACT, 1962

PRESENTED BY
RUPENDRA PORWAL
FCS, LL.M. (UNIVERSITY OF MANCHESTER, UK)
rupendraporwal@rallymarklegal.com
M-+91 9838597775
www.rallymarklegal.com
INTRODUCTION:

The U.P Shops & Commercial Establishment Act, 1962 ("U.P S&C Act") has been enacted for regulating the conditions of service of employees working in shops and commercial establishments.

APPLICABILITY OF THE ACT:

The Act shall be applicable to all shops and commercial establishments located in the State of Uttar Pradesh except those exempted by State Government.
EXEMPTIONS FROM THE ACT

Section 3 of Act provides exemption for:

1. Employees occupying positions of confidential, managerial or supervisory character;

2. Employees whose work is inherently intermittent;

3. Offices of the Government or local authorities;

4. Offices of the Reserve Bank of India;

5. Establishments for the treatment or care of the sick, infirm, destitute or mentally unfit; and

6. Members of the family of an employer.

Over the years, Government has exempted various kinds of shops and commercial establishment from applicability of this Act.
REQUIREMENT FOR REGISTRATION:

1. The owner of shop or commercial establishment shall, within a period of 3 months of commencement of such business, make an application in Form “L” to the Chief Inspector concerned for the registration of his shop or commercial establishment.

2. The application in Form “L” shall be accompanied with:

   In case of Company:
   - Memorandum and Articles of Association;
   - Address proof of shop or commercial establishment; and
   - An affidavit.

   In case of Individual
   - Address proof of shop or commercial establishment; and
   - An affidavit.

Continued to next page---
3. The Inspector, on being satisfied with the correctness of the details provided in the application, shall register the shop or commercial establishment and issue a registration certificate in “Form M”

4. Registration certificate shall be valid for a period of 5 years.

**RENEWAL OF REGISTRATION CERTIFICATE:**

1. The application for renewal can be made on plain paper (Preferably on Form “L”) to the Inspector and pay prescribed fee.

2. The renewed certificate shall be in “Form M”.

3. The renewed registration certificate shall be valid for a period of 5 years.
ISSUANCE OF DUPLICATE CERTIFICATE:

1. The application for issuance of duplicate certificate shall be made in “Form O” to the Inspector.

2. On payment of prescribed fee, the Inspector shall issue duplicate certificate in “Form M”.

3. Duplicate Registration Certificate shall be marked “Duplicate” in red ink.

TRANSFER OF REGISTRATION CERTIFICATE:

1. The registration certificate is not be transferable.

2. In case of transfer of ownership of shop or commercial establishment, the new owner shall have to apply afresh and obtain registration certificate.

DISPLAY OF REGISTRATION NUMBER:

The owner shall display the registration number on a plate at a conspicuous place in the shop or commercial establishment.
Working Hours and weekly holiday:

1. No employer shall allow its employee to work in excess of:
   - 5 hours to a Child;
   - 6 hours to an Young person; and
   - 8 hours to other Employees.

2. However an adult employee may be deployed on work for 10 hours in a day provided total number of overtime hours should not exceed 50 hours in a quarter.

3. An employee shall be paid twice the rate of wages for the overtime period.

4. An employee shall be provided not less than ½ hour rest after 5 hours of continuous work and total working hours including rest time shall not exceed 12 hours in a day.

5. Every shop or commercial establishment shall remain closed one day in every week and on public holidays.
ENTITLEMENT OF LEAVE:

1. An employee shall be entitled for:
   - Earned Leave = 15 days for each calendar year
   - Sickness Leave = 15 days for each calendar year
   - Casual Leave = 10 days for each calendar year

2. Maternity Leave:
   - 6 weeks immediately preceding the day of delivery; and
   - 6 weeks following the day of delivery.
1. Wage period may be monthly, fortnightly, weekly or daily. The wages shall be paid to the employees on a working day in the following manner:
   - For monthly wage period- before expiry of 7 days from the last day of wage period.
   - For fortnightly or weekly wage period- before expiry of 3 days from the last day of wage period.
   - Daily wage period- before expiry of 24 hours from the wage period.

2. On termination of employment, the payment of wages and remuneration in lieu of unavailed leave shall be paid:
   - Before expiry of second working day where termination is effected by employer.
   - On or before expiry of next pay day, where termination is initiated by the employee.
DEDUCTION FROM WAGES AND FINES:

1. The employer shall only deduct from the wages on account of:
   - Fines;
   - Absence from duty;
   - Damage or loss of goods or money where such loss or damage is directly attributed to the employees’ neglect or default;
   - House accommodation supplied by the employer to the employee
   - Recover of advance or of over payment of wages;
   - Income tax payable to the employee etc.

2. No fines shall be imposed on an employee:
   - Except for an act or omission specified by the employer with the approval of the Chief Inspector or the Deputy Chief Inspector; or
   - Without giving the employee concerned a reasonable opportunity of showing cause against the proposed fine.
Every employer shall maintain following registers and records:

- Register of Attendance and wages;
- Register of deductions from the wages;
- Register of Leave;
- Register of Fines and realisations; and
- Inspector Visit and Inspection Book.
RALLYMARK LEGAL
ADVOCATES & LEGAL CONSULTANTS
4th Floor, Premier Car Sales Building (Opp. St. Francis College) Shahnajaf Road, Lucknow- 226001-India

A corporate legal firm

Visit for further details:
www.rallymarklegal.com

In case of any query/clarification, please do write to us at:
rupendraporwal@rallymarklegal.com,

PHONE : + 91- 522-3075100

© 2012- RallyMark Legal (“RallyMark Legal”). All rights reserved
This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. RallyMark Legal shall not be liable for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, advice should be sought from appropriate consultant.