

Proposed changes in Factories Act

- The Factories (Amendment) Bill, 2014 was introduced in Lok Sabha on August 7, 2014. It proposes to amend the Factories Act, 1948.

Definitions: The Act defines a factory as any premises (with certain exceptions) where manufacturing was undertaken with aid of power and at least 10 people were employed during the last 12 months (20 or more people if no power was used). The Bill specifies that the state government may raise the minimum number of workers employed in the definition to 20 (if power is used) and 40 (if power is not used). The Act aims to ensure adequate safety measures and promote the health and welfare of the workers employed in factories. The Statement of Objects and Reasons states that the amendments proposed in the Bill are based on the changes in the manufacturing practices and technologies, ratification of ILO conventions, judicial decisions, recommendations of various Committees and decisions taken in the conferences of Chief Inspectors of Factories.

- **The Bill also amends the definitions of:** (i) hazardous process, (ii) manufacturing process, (iii) occupier, and (iv) prescribed. It adds the definitions of: (i) hazardous substance, and (ii) disability
- **Power to make Rules:** The Act allows the state government to make Rules regarding various matters. The Bill grants the central government power to make Rules regarding some of these matters.
- The Act permits the state government to make Rules regarding any matter which: (i) is covered by the Act or may be prescribed, or (ii) is appropriate to give effect to the purposes of the Act. The Bill states that the state government's power to make Rules will be restricted to matters where the central government does not have such powers. The central government may frame Rules in consultation with state governments, to bring uniformity in the areas of occupational safety, health or any other matter.
- **Compounding of offences:** The Bill seeks to permit the central or state government to prescribe the authorised officers and the amount, for compounding of the certain offences before commencement of the prosecution. The central or state governments may amend the list of compoundable offences.
- **Employment of women and persons with disability:** The Act prohibits women from working: (i) on certain machines in motion, (ii) near cotton-openers, and (iii) between 7:00 PM and 6:00 AM. The Bill seeks to remove the first two restrictions. It proposes to empower the state government to allow women to work during night hours in a factory or group of factories if: (i) there are adequate safeguards for safety, health and comfort of women (including night crèches, ladies' toilets and transportation from the factory to their residence), and (ii) it has held due consultations with and obtained the consent of the women workers, the employer and the representative organisations of the employers and workers.
- The Bill seeks to impose restrictions on employment of pregnant women and persons with disability in certain works or processes.
- **Manufacturer's liability to ensure safety:** The Act places the liability of ensuring that an article to be used in a factory is safe on the designer, importer, supplier or manufacturer. The Bill extends such liability to the designer, importer, supplier or manufacturer of any substance used in a factory.

- **Workers' safety:** The Bill introduces provisions for: (i) supply of protective equipment and clothing to workers exposed to hazards, and (ii) rules regarding hazardous processes. It modifies the provisions regarding: (i) precautions against dangerous fumes and gases, (ii) explosive or inflammable dust or gas, and (iii) dangerous operations.
- **Facilities for workers:** The Act mandates a factory employing more than 150 people to provide shelters or restrooms. The Bill states that a factory with more than 75 workers should provide separate shelters or restrooms for male and female workers.
- **Overtime and paid leave:** The Bill increases the maximum number of overtime hours allowed to a worker and relaxes the provisions regarding entitlement of workers to paid leave.
- **Penalties:** The Act specifies the penalties for various offences. The Bill raises the penalties for 12 of these offences (including contraventions by the occupier or manager, a worker, or a designer, importer, supplier or manufacturer of an article or substance).