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PART IV

**Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor.**

LABOUR AND EMPLOYMENT DEPARTMENT

Sachivalaya, Gandhinagar. Dated the 3rd July, 2020.

GUJARAT ORDINANCE NO. 6 OF 2020.

AN ORDINANCE

*further to amend the Factories Act, 1948 in its application to the State of
Gujarat.*

WHEREAS the Legislative Assembly of the State of Gujarat is not
in session;

AND WHEREAS the Governor of Gujarat is satisfied that
circumstances exist which render it necessary for him to take immediate
action to amend the Factories Act, 1948 in its application to the State of
Gujarat;

LXIII of 1948.

AND WHEREAS instructions of the President under the proviso to
clause (1) of article 213 of the Constitution of India have been obtained;

NOW, THEREFORE, in exercise of the powers conferred on him
by clause (1) of article 213 of the Constitution of India, the Governor of
Gujarat is hereby pleased to make and promulgate the following Ordinance,
namely: -

1. **Short title and commencement.**- (1) This Ordinance may be called the Factories (Gujarat Amendment) Ordinance, 2020.

(2) It shall come into force at once.

LXIII of 1948.

2. **LXIII of 1948 to be temporarily amended.**- During the period of operation of this Ordinance, the Factories Act, 1948 (hereinafter referred to as “the principal Act”), in its application to the State of Gujarat, shall have effect subject to the amendments specified in sections 3 to 5.

3. **Amendment of section 2 of LXIII of 1948.**-- In the principal Act, in section 2, in clause (m),-

(i) in sub-clause (i), for the word “ten”, the words “twenty” shall be substituted;

(ii) in sub-clause (ii), for the word “twenty”, the word “forty” shall be substituted.

4. **Amendment of section 85 of LXIII of 1948.**--In the principal Act, in section 85, in sub-section (1), in clause (i), for the words “ten” and “twenty”, the words “twenty” and “forty” shall be substituted, respectively.

5. **Insertion of new section 106 in LXIII of 1948.**--In the principal Act, after section 106A, the following section shall be inserted, namely:-

Compounding of offences.

“106B. The State Government may, by notification in the *Official Gazette*, specify such offences, which shall be compounded by such officer or authority for such amount as may be specified in the said notification:

Provided that such amount shall not exceed the maximum amount of fine fixed for the offence:

Provided further that where the offence is so compounded –

(a) before the institution of the prosecution, the offender shall not be liable to prosecution, for such offence;

(b) after the institution of the prosecution, the compounding shall amount to acquittal of the offender:

Provided also that no offence shall be compounded if a factory is involved in a hazardous process as specified in Chapter IV and Chapter IVA. ”.

STATEMENT

Under sub-clauses (i) and (ii) of clause (m) of section 2 of the Factories Act, 1948 “factory” has been defined as any premises, including the precincts thereof (i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve 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. Because of the existing limit, small units are also covered under the definition of “factory”. Due to increase in manufacturing activities by small units in the State, the existing threshold limit of “ten” and “twenty” is amended by “twenty” and “forty” respectively, so that establishing of small manufacturing units be promoted resulting in creation of more employment opportunities for workers. Consequently, the existing section 85 of the Act is amended.

The Factories Act, 1948 does not provide for compounding of offences and it results in higher number of prosecution cases. For speedy disposal of offences and to minimise the number of litigation, a new provision, *i.e.* section 106B is inserted in the said Central Act of 1948 for compounding of offences.

As the Legislative Assembly of the State of Gujarat is not in session, the Factories (Gujarat Amendment) Ordinance, 2020, in its application to the State of Gujarat, is promulgated to amend the said Central Act to achieve the aforesaid objects.

Gandhinagar.
Dated the 1st July, 2020.

ACHARYA DEVVRAT,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

VIPUL MITTRA,
Additional Chief Secretary to Government.
