

Comments/Suggestions on the proposed draft of the Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014.

Sr. No.	Section in the Bill	COSIA's Suggestion	Reasoning & Remark
1	2(f) "small factory" means any premises wherein a manufacturing process is carried on and which employs less than forty workers.	Small Factory means an enterprise as defined, 'Small Enterprise [Manufacture]' under the MSMED Act 2006 having more than 10 workers upto 50 workers.	The Govt. has defined small enterprise [manufacture] under the Micro, Small and Medium Enterprises Development Act 2006. The same may be accepted in this law also. Since currently most of the labour laws are applicable only when the number of workers exceeds 10. Therefore, this definition may be accepted. This will also give appropriate relief to the Micro enterprises.
2	2(j) "worker" means a person who is wholly or partly employed whether directly or through any agent or contractor for wages or reward in connection with the work of any small factory to which this Act applies*. *but does not include a person performing administrative, supervisory or managerial functions.	Definition of Worker should read as : worker means a person who is wholly employed whether directly or through any agent or contractor for wages or reward in connection with the manufacturing activity of any small factory to which this Act applies*. *but does not include a person performing administrative, supervisory or managerial functions. Provided that seasonal or hourly paid workers or service providers like electrician, computer repairers, plumbing and sanitary repairers, sweepers, painting and colouring workers, construction workers, watchmen etc. which are employed as per the need shall also be excluded from the definition of the workers.	A worker must be wholly employed for the manufacturing activity. Normally no worker is partly employed for the manufacturing activity and therefore this amendment is essential. Seasonal or causal workers for a particular work which is not related with the manufacturing activity also need to be deleted. Therefore, the proviso is being also added for the said purpose.
3	5. Powers of Inspectors.- (1) Subject to any rules made in this behalf, an Inspector may, within	Powers of Inspectors – Subject to any rules made in this behalf and only after obtaining	It is essential to control the Inspector Raj. The visits of inspectors at their sweet will must

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	<p>the local limits for which he is appointed,-</p> <p>(a) enter, at all reasonable hours, with such assistance (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place which is a small factory, for the purpose of conducting an inspection, examining any register or record or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;</p> <p>(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an worker of the small factory and ;</p> <p>(c) require any person to give any information, which is in his power to give with respect to the names and addresses of the persons;</p> <p>(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the employer; and</p> <p>(e) exercise such other powers as may be prescribed.</p>	<p>written permission from the Labour Commissioner/ Chief Inspector of Factories,</p> <p>(a) enter, at all reasonable hours, with such assistance (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place which is a small factory, for the purpose of conducting an inspection, examining any register or record or notices required to be kept or exhibited by or under this Act, and require the production thereof for inspection;</p> <p>(b) examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is an worker of the small factory and ;</p> <p>(c) require any person to give any information, which is in his power to give with respect to the names and addresses of the persons;</p> <p>(d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the employer; and</p> <p>Provided that the Commissioner of Labour /Chief Inspector of Factories shall give permission in writing only.</p>	<p>be stopped once for all. In normal course a police inspector visits only after a written complaint is received by him. The same principle be adopted here also.</p> <p>Not only that the trade union leaders do harasses the entrepreneurs and make a complaint even though the workers are not their members. To protect the small entrepreneur from such unfair practices the provision of written concept to visit the factory is essential.</p> <p>The sub clause e i.e. 'exercise such other powers as may be prescribed' is very vague and therefore needs to be deleted. The appropriate rules can take care of such powers.</p>
4	<p>6 Registration of small factory</p> <p>(2) After the receipt of an application under sub-section (1), the registering officer on being</p>	<p>6 Registration of small factory</p> <p>After the receipt of an application under sub-section (1), the registering officer on being satisfied</p>	<p>To ensure that the certificate of registration is issued immediately this law provision is essential.</p>

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	<p>satisfied about the correctness of the statement, shall register the small factory and issue a certificate of registration and Labour Identification Number (LIN) to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.</p> <p>(3) The Registration certificate shall be prominently displayed at the small factory and shall be renewed at such intervals as may be prescribed in this respect.</p>	<p>about the correctness of the statement, shall register the small factory and issue a certificate of registration and Labour Identification Number (LIN) to the employer thereof in such form and subject to conditions prescribed under the Rules under this Act within a period of 15 days from the date of receipt of the application.</p> <p>Provided that if the certificate is not issued within a period of 15 days from the date of receipt of this application, it shall be deemed to be issued by the registering authority to the employer concerned.</p> <p>The Registration certificate shall be a permanent certificate and will need no renewals thereafter.</p>	<p>The World Bank report on Doing of Business 2015 has specified that the ranking of India has slipped by two numbers again. The main reason is too much delay in the registration processes which hampers the starting of business itself. Therefore, a deemed provision is imperative.</p> <p>It must be noted that renewal calls for separate additional cumbersome process. In our country where there is permanent Adhar Card, PAN Number, TIN Number and so on. In such circumstances a small entrepreneur should not be involved in the processes of renewals.</p>
5	<p>9. Minimum Wages: The appropriate government shall extend the rates of minimum wages fixed under the provisions of the Minimum Wages Act, 1948, to the small factories and no employer shall pay less than the minimum wages, so fixed.</p>	<p>9. Minimum Wages: The appropriate govt. shall fixed minimum wages payable by the small factories to be paid by the employer which shall be 10% less than the minimum wages fixed under the minimum wages act.</p> <p>Provided that the rates of minimum wages shall not be decided and declared unless the organizations of micro and small industries are being consulted in advance.</p>	<p>At present the rates of minimum wages are different from factory to factory depending upon the class and product in which the factory falls. We suggest that the minimum wage should be identical irrespective of the class and product for the Small Factories.</p> <p>Similarly, it must be ensured that no such wages are determined unless the associations of Micro and Small Industries are being consulted.</p>

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<p>6</p>	<p>11. Authority to decide claims arising out of nonpayment of wages, illegal deductions or delayed payment of wages, penalties or penalty for malicious or vexatious claims and appointment of Authority to decide such claims.</p> <p>(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):</p> <p>Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:</p> <p>Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the</p>	<p>11. Authority to decide claims arising out of nonpayment of wages, illegal deductions or delayed payment of wages, penalties or penalty for malicious or vexatious claims and appointment of Authority to decide such claims.</p> <p>(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such Authority for a direction under sub-section (3):</p> <p>Provided that every such application shall be presented within One month from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:</p> <p>Provided further that any application may be admitted after the said period of One month when the applicant satisfies the authority that he had sufficient cause for not making the application within such period. In that situation however the penalty shall be appropriately reduced.</p> <p>(3) When any application under sub-section (2) is entertained, the</p>	<p>For early disposal of such cases it is essential that the period of application must not be six months but one month only. Therefore, this change is being suggested.</p>
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<p>application within such period. In that situation however the penalty shall be appropriately reduced.</p> <p>(3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 8, or give them an opportunity of being heard, and, after such further inquiry as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the worker, of the amount deducted, or the payment of the illegally deducted earned wages or delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount not paid or illegally deducted. Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to--</p> <p>(a) a bona fide error or bona fide dispute as to the amount payable to the worker, or</p> <p>(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or</p> <p>(c) the failure of the worker to apply for or accept payment.</p>	<p>Authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 8, or give them an opportunity of being heard, and, after such further inquiry as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the worker, of the amount deducted, or the payment of the illegally deducted earned wages or delayed wages, together with the payment of such compensation as the authority may think fit not exceeding twice the amount not paid or illegally deducted.</p>	<p>The penalty by way of compensation should be in proportion of the deduction and not too heavy providing scope for unfair practices.</p>
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7	<p>18. Fixing Hours for Normal Day, etc. (1) Hours of Work (iv) The total number of overtime hours shall not exceed 96 hours in a quarter.</p>	<p>18. Fixing Hours for Normal Day, etc. (1) Hours of Work (iv) The total number of overtime hours shall not exceed 150 hours in a quarter.</p>	<p>Recently the govt. has decided to provide for overtime upto 200 hours for the companies under Factories Act. Therefore, the small factories under this Act may be permitted for more overtime</p>
8	<p>19. Wages for overtime work (1) Where any worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of twice his ordinary rate of wages.</p>	<p>19. Wages for overtime work (1) Where any worker is required to work on any day in excess of the number of hours constituting a normal working day, he shall be entitled to wages at the rate of 1.5 his ordinary rate of wages.</p>	<p>It has been provided that except bonus all other allowances plus basic wages shall be the ordinary rate of wages. In such circumstances the rate of overtime may be 1.5 for the small entrepreneurs.</p>
9	<p>23. Leave and Holidays (1) Every worker shall be allowed a weekly holiday with wages. Provided that State Government may fix different days as weekly holidays for different small factories or areas. (2) Every worker shall be entitled to seven days' casual and seven days sick leave, with wages in every calendar year. Such leave shall be credited into the account of the worker on a quarterly basis. A worker may be permitted to avail casual leave for sickness if the worker does not have any sick leave. The sick leave will be sanctioned on the basis of the medical certificate issued by the qualified medical practitioner recognized under the Insurance policy issued under section 20(2) or such other medical practitioner recognized by the employer by an order displayed on the notice board of the small factory. (3) Every worker who has worked</p>	<p>23. Leave and Holidays (1) Every worker shall be allowed a weekly holiday without wages. Provided that State Government may fix different days as weekly holidays for different small factories or areas. (2) Every worker who has worked for at least 240 days in a calendar year, shall be entitled to 20 days earned leave in the following year however, a worker who has put in less than 240 days work in the previous calendar year shall be entitled to earned leave proportionate to the working days. (3) A worker shall be permitted to accumulate earned leave upto a maximum of 45 days. However if the employer refuses to sanction the leave due, when applied 15 days in advance, then the worker will have a right to encash leave in excess of 45 days. Provided further that if a worker entitled to leave under this section is discharged by his employer before he has been allowed the leave, or if, having</p>	<p>There is a difference between wages and salaries. Wages are paid to workers only when they work. Therefore, if they work on holiday they will be entitled for overtime wages. Therefore, permitting holiday without wages is the practice which should be continued as it is. It is essential to develop a work culture and to do so only such holidays and leave be permitted which is most essential. Currently the working of small factories is heavily affected due to many holidays and leaves like casual and sick which are taken care by health insurances also. Hence, this provision is being suggested.</p>

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	<p>for at least 240 days in a calendar year, shall be entitled to 20 days earned leave in the following year however, a worker who has put in less than 240 days work in the previous calendar year shall be entitled to earned leave proportionate to the working days.</p> <p>(4) A worker shall be permitted to accumulate earned leave upto a maximum of 45 days. However if the employer refuses to sanction the leave due, when applied 15 days in advance, then the worker will have a right to encash leave in excess of 45 days. Provided further that if an worker entitled to leave under this section is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.</p> <p>(5) A worker shall be entitled to three paid national holidays in a calendar year, namely, Independence Day, Republic Day and Gandhi Jayanti and five such other festival holidays as may be agreed to between employer and the worker, before the commencement of the year.</p>	<p>applied for and having been refused the leave, he quits his employment on account of retirement, resignation, death or permanent disability, the employer shall pay him full wages for the period of leave due to him.</p> <p>(4) A worker shall be entitled to three paid national holidays in a calendar year, namely, Independence Day, Republic Day and Gandhi Jayanti and five such other festival holidays as may be agreed to between employer and the worker, before the commencement of the year.</p>	
10	<p>Chapter VIII Social Security 25. Social Security (2) Health Insurance: Every</p>	<p>Chapter VIII Social Security 25. Social Security (2) Health Insurance: Every</p>	<p>The percentage suggested for contribution is very high and needs to be reconsidered. Normally, the health insurance</p>

	<p>employer shall ensure that all worker in the small factory are covered by a Health or Medical Insurance scheme, approved by the Insurance Regulatory and Development Authority set up under the Insurance Regulatory and Development Authority Act, 1999. Each employer and worker shall contribute ten percent of the wages, basic and DA to this fund, provided that this amount shall not be less than ten percent of the consolidated wages announced by the appropriate government under the Minimum Wages Act,1948, for that category of worker. The Insurance Scheme will include a component for insurance towards injury or death arising out of and in course of employment at a rate not less than that prescribed under the Employees Compensation Act 1923.</p>	<p>employer shall ensure that all worker in the small factory are covered by a Health or Medical Insurance scheme, approved by the Insurance Regulatory and Development Authority set up under the Insurance Regulatory and Development Authority Act, 1999. Each employer shall contribute Six percent and worker should Four percent of the wages, basic and DA to this fund. The Insurance Scheme will include a component for insurance towards injury or death arising out of and in course of employment at a rate not less than that prescribed under the Employees Compensation Act 1923.</p>	<p>covers all health and medical facilities. Therefore, we suggest that the contribution of employer should be more than that of a worker.</p>
11	<p>54. Non-Application Of Certain Laws: The following laws shall not apply to any small factory:</p> <ol style="list-style-type: none"> 1. The Factories Act,1947 2. The Industrial Disputes Act, 1947 3. The Industrial Employment (Standing orders) Act 1946. 4. The Minimum Wages Act,1948 5. The Payment of Wages Act, 1936 6. The Payment of Bonus Act, 1965 7. The Employees State Insurance Act, 1948 8. The Employees Provident Funds and Miscellaneous Provisions Act,1952 	<p>54. Non-Application Of Certain Laws: The following laws shall not apply to any small factory:</p> <ol style="list-style-type: none"> 1. The Factories Act,1947 2. The Industrial Disputes Act, 1947 3. The Industrial Employment (Standing orders) Act 1946. 4. The Minimum Wages Act,1948 5. The Payment of Wages Act, 1936 6. The Payment of Bonus Act, 1965 7. The Employees State Insurance Act, 1948 8. The Employees Provident Funds and Miscellaneous Provisions Act,1952 9. The Maternity Benefit Act 1961 10. The Employees compensation Act,1923 	<p>There are certain other acts of State Governments which should be included in the said list so as to achieve the objective of single Labour Act for the small factories.</p>

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<p>9. The Maternity Benefit Act 1961 10. The Employees compensation Act,1923 11. The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 12. (State) Shops and Establishments Act 13. The Equal Remuneration Act, 1976. 14. The Child Labour (Prohibition and Regulation)Act,1986</p>	<p>11. The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 12. (State) Shops and Establishments Act 13. The Equal Remuneration Act, 1976. 14. The Child Labour (Prohibition and Regulation)Act,1986</p> <p>1. State Labour Welfare Act 1973 2. Building & Other construction Labour (Employment & service regulation) Act 1996 3. Maharashtra Private Security Guard (Regulation of employment & welfare) Act 1981. 4. Maharashtra Mathadi, Hamal & Other manual worker (Regulation of Employment & welfare) Act 1969. 5.Contract Labour [Abolition and Regulation] Act</p>	
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Hon. Gen. Secretary