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PART VI

Bills introduced into the Council of the Governor General of India and
Bills published before introduction in that CouncilGOVERNMENT OF INDIA
LEGISLATIVE ASSEMBLY DEPARTMENT

L. A. BILL No. 19 of 1944

(BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Committee, asterisks indicate omissions)*A Bill further to amend the Factories Act, 1934*

WHEREAS it is expedient further to amend the Factories Act, 1934 (XXV of 1934), for the purposes hereinafter appearing ;

It is hereby enacted as follows:—

1. **Short title and commencement**—(1) This Act may be called the Factories (*Amendment) Act, 1945.(2) It shall come into force on the 1st day of January 1946.2. **Insertion of new section 35A in Act XXV of 1934**—After section 35 of the Factories Act, 1934 (XXV of 1934) (hereinafter referred to as the said Act), the following section shall be inserted, namely:—35A. *Compensatory holidays*—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 35, a worker is

deprived of any of the weekly holidays for which provision is made by sub-section (1) of that section, he shall be allowed, as soon as circumstances permit, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may make rules prescribing manner in which the holidays, for which provision is made in sub-section (1), shall be allowed."

3. **Insertion of new Chapter IVA in Act XXV of 1934**—After Chapter IV of the said Act the following Chapter shall be inserted, namely:—"CHAPTER IVA
HOLIDAYS WITH PAY49A. *Application of Chapter*—(1) The provisions of this Chapter shall not apply to a seasonal factory.

(2) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other enactment, or under the terms of any award, agreement or contract of service.

49B. *Annual holidays*—(1) Every worker who has completed a period of twelve months continuous service in a factory shall be allowed during the subsequent period of twelve months, holidays for a period of * seven or, if a child, fourteen consecutive days, inclusive of the day or days, if any, on which he is entitled to a holiday under sub-section (1) of section 35.

(2) If a worker fails in any one such period of twelve months to take the whole of the holidays allowed to him under sub-section (1), any holidays not taken by him shall be added to the holidays to be allowed to him under sub-section (1) in the succeeding period of twelve months, so however that the total number of days holidays which may be carried forward to a succeeding period shall not exceed seven or, in the case of a child, fourteen.

(3) If a worker entitled to holidays under sub-section (1) is discharged by his employer before he has been allowed the holidays, or if, having applied for and having been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under section 49C in respect of the holidays.

Explanation.—A worker shall be deemed to have completed a period of twelve months continuous service in a factory notwithstanding any interruption in service during those twelve months brought about by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by a lock-out, or by a strike which is not an illegal strike, or by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate; and authorised leave shall be deemed not to include any weekly holiday allowed under section 35 which occurs at the beginning or end of an interruption brought about by the leave.

49C. *Pay during annual holidays*.—Without prejudice to the conditions governing the day or days, if any, on which the worker is entitled to a holiday under sub-section (1) of section 35, the worker shall, for the remaining days of the holidays allowed to him under section 49B, be paid at a rate equivalent to the daily average of his wages as defined in the Payment of Wages Act, 1936 (IV of 1936), for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

49D. *Payment when to be made*.—A worker who has been allowed holidays under section 49B shall, before his holidays begin, be paid half the total pay due for the period of holidays.

49E. *Power of Inspector to act for worker*.—Any Inspector may institute proceedings on behalf of any worker to recover any sum required to be paid under this Chapter by an employer which the employer has not paid.

49F. *Power to make rules*.—(1) The Provincial Government may make rules to carry into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power rules may be made under this section prescribing the keeping by employers of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors.

(3) The Central Government may give directions to a Province as to the carrying into execution of the provisions of this section.

49G. *Exemption of factories from provisions of this Chapter*.—Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits substantially similar to those for which this Chapter makes provision, it may by written order exempt the factory from the provisions of this Chapter.

4. *Amendment of section 60, Act XXV of 1934*.—In section 60 of the said Act—

(a) at the end of clause (f), the word "or" shall be added;

(b) after clause (f) as so amended, the following clause shall be inserted, namely:—

"(g) there is any contravention of section 49B, 49C or 49D, or of any rule made under section 49F."

5. *Amendment of section 61, Act XXV of 1934*.—In section 61 of the said Act, for the brackets and letter "(f)", the brackets and letter "(g)" shall be substituted.

M. B. RAJI
Secy. to the Govt. of India