

**File No.S-25012/06/2015-ISH-II**  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR AND EMPLOYMENT

SHRAM SHAKTI BHAVAN, RAFI MARG, NEW DELHI  
Dated: 27.01.2016


**Office Memorandum**

Subject: Model Shops and Establishments (Regulation of Employment and Conditions of Services) Act, 2015.

The undersigned is directed to refer to the subject mentioned above and to forward herewith a copy of the draft Note for the Cabinet on the amendments to the Model Shops and Establishments (Regulation of Employment and Conditions of Services) Act, 2015.

2. All concerned Ministries/Departments are requested to furnish their comments/advice on the draft Note for the Cabinet to this Ministry within 15 days of receipt of the draft Note for the Cabinet in view of paragraph 57 of the Handbook on Writing Cabinet Note, which states that " Commencing from the date, the draft note is received by the Ministry/Department being consulted, the comments of consulted Ministries/Departments shall, in all cases, be finalized and communicated to the sponsoring Ministry/Department in 15 days".

Enclosures as above.

  
(Rajesh Kumar)

Under Secretary to the Government of India  
Fax No. 011-23473305.

- (i) The Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-110001.
- (ii) The Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, New Delhi-110001.
- (iii) The Secretary, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-110001.
- (iv) The Secretary, Ministry of Human Resources Development, Shastri Bhawan, New Delhi-110001.
- (v) The Secretary, Ministry of Chemicals and Fertilizers, Shastri Bhawan, New Delhi-110001,
- (vi) The Secretary, Ministry of Road Transport and Highways, Transport Bhawan, New Delhi-110001.
- (vii) The Secretary, Ministry of Coal, Shastri Bhawan, New Delhi-110001.
  
- (viii). The Secretary, Ministry of Mines, Shastri Bhawan, New Delhi-110001.
- (ix). The Secretary, Ministry of Agriculture, Krishi Bhawan, New Delhi-110001.
- (x). The Secretary, Ministry of Women and Child Development, Shastri Bhawan, New Delhi-110001.
- (xi). The Secretary, Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi-110001.
- (xii). The Secretary, Ministry of Textiles, Udyog Bhawan, New Delhi-110001.
- (xiii). The Secretary, Ministry of Steel, Udyog Bhawan, New Delhi-110001.
- (xiv). Director General, DGMS, Dhanbad.
- (xv). Director General, DGFASLI, Mumbai - **Member Secretary.**

  
(Rajesh Kumar)

Under Secretary to the Government of India  
Fax No. 011-23473305.

Copy to:

- 1. Prime Minister's Office, (Kind Attention: Shri Anurag Jain, Joint Secretary), South Block, New Delhi.
- 2. JS & FA.

Copy for information to:

- 1. Cabinet Secretariat (Kind Attention Ms. Sanjukta Ray, Director), Rashtrapati Bhawan, New Delhi.
- 2. PS to LEM (3). PPS to Secretary (L&E). (4). PS to AS (L&E).

Shram Shakti Bhawan, Rafi Marg,  
New Delhi, dated \_\_\_\_\_, 2015.

**DRAFT NOTE FOR THE CABINET**

**Subject: Model Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2015**

The Shops and Establishment Act is a state legislation enacted by various states which regulates operation of shops and establishment in that state. The Act is applicable to non-hazardous manufacturing units employing less than 10 workers. The existing law regulates opening and closing time of establishment, Attendance and Payment of Wages, Holidays and Leaves, Conditions of Employment, and includes provisions for Health, Safety and Welfare. The Government has been receiving suggestions from time to time to enact a model central law which the states could consider for enforcement either by adopting the central law or making necessary modifications by amending the state laws.

**2. Background**

It has been represented to the central government that the enforcement of the state Shops and Establishment Act by various states has brought about the following inadequacies that have affected the ease of doing business by the shops and establishments covered under the Act:-

1. Rigidity in Opening And Closing of establishments
2. Discourages Women in employment
3. Difficulties in Registration & Annual Renewal
4. Problems in Maintenance of Statutory Records
5. Arbitrariness in Statutory Inspections

### 3. Proposal

3.1. The present proposal, inter-alia, provides for the following:

1. A Model Shops and Establishment Act to be formulated by the Union Government, on the pattern of which states will modify their individual Act.
2. Covers only establishments employing ten or more workers except manufacturing units
3. Freedom to operate 365 days in a year.
4. Freedom for opening/closing time of establishment
5. Women to be permitted during night shift.
6. No discrimination against women in the matter of recruitment, training, transfer or promotions
7. Online one common Registration through a simplified procedure.
8. Power of Government to make rules regarding adequate measures to be taken by the employer for the safety and health of workers
9. Clean and safe drinking water
10. Lavatory, Crèche, First Aid and Canteen by group of establishments, in case, it is not possible due to constraint in space or otherwise by individual establishment
11. Twelve days casual cum sick leave.
12. One day earned leave for every twenty days of work performed (can be accommodated upto 45 days)
13. Five paid holidays for festivals in addition to three national holidays.
14. Exemption of highly skilled workers (for example workers employed in I.T., Bio-Technology and R&D division) from daily working hours of 9 hrs and weekly working hrs of 48 hrs subject to maximum 125 over-time hrs in a quarter.
15. Facilitators may be appointed by the Government with the following duties –
  - (i) Supply information and advice to employers and workers concerning complying with the provisions of the Act.

- (ii) inspect the establishment based on inspection scheme framed by the Government

#### 16. Offences

- 1. Opportunity for compliance of irregularities
- 2. Graded punishment
- 3. Irregularities other than safety related are compoundable

#### 4. **Justification:**

The Model Act would bring about uniformity in the legislative provisions, making it easier for all the states to adopt it and thereby ensuring uniform working conditions across the country.

5. Tripartite consultation meeting has also been held to discuss the Model Shop & Establishment Act was also held in which participant of the Trade union, Employees Organisation and state Government shared their views on the proposals. The Minutes of the Meeting is placed at Annexure-II.

6. **Inter-Ministerial Consultation:** (To be made after approval of competent authority).

#### 7. **Financial Implications**

7.1 There are no financial implications of the proposal for the Government sector.

#### 8. **Pre-Legislative Consultation Policy (PLCP)**

8.1. Legislative Department vide D.O. Letter No 11(35)/2013-LI dated 05.02.14 has informed that as per the decisions taken in the meeting of the Committee of Secretaries (CoS) held on 10.1.14 on PLCP, every Ministry shall proactively publish the proposed

legislations both on the internet as also through other means. Accordingly, it is proposed to put the draft bill in the public domain.

## **9. Approval of the Cabinet Sought**

**9.1.** Approval of the Cabinet is solicited to the proposals contained in para 4 and to consider the Model Shop and Establishments Act given at **Annexure-I (page ..... of the Note)****(to be vetted by the Legislative Department, Ministry of Law and Justice in consultation with the Ministry of Labour and Employment)** and to approve the same for circulation among State Governments to modify their existing Shops and Establishments Act on the pattern of the former.

**9.2.** The Statement of Implementation Schedule in respect of above proposals has been given at **Appendix-I. (page ....)** of the Note.

**9.3** The Statement of Equity, Innovation and Public Accountability is at **Appendix-II (page ....)** of the Note.

## **10. Approval of the Minister-In-Charge**

**10.1.** The proposals, Note for the Cabinet and the Model Act have been duly approved by the Hon'ble Minister of State (Independent Charge) Labour and Employment Minister.

**(P.P. Mitra)**  
**Principal Labour and Employment Advisor**  
**Tele fax No. 23731588**

**Director (Cabinet),**  
**Cabinet Secretariat,**  
**Room No.12, Rashtrapati Bhavan,**  
**New Delhi 110004.**

APPENDIX – I

(Reference paragraph ..... of the Note)

**STATEMENT OF IMPLEMENTATION SCHEDULE**

**SUBJECT: - Model Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2015**

Gist of decision required	Projected benefits/ results	Time frame and manner of implementation / report to the Cabinet Secretariat
(1)	(2)	(3)
Approval of the Cabinet is solicited to the proposals contained in para 3 and to consider the Model Shop and Establishments Act given at Annexure ..... page ..... of the Note)(to be vetted by the <i>Legislative Department, Ministry of Law and Justice in consultation with the Ministry of Labour and Employment</i> ) and to approve the same for circulation among State Governments to modify their existing Shops and Establishments Act on the pattern of the former.	The proposals would ensure uniformity of enforcement of the Act in the states and UTs and facilitate the ease of doing business and generate employment opportunities.	After approval of the Cabinet, the Model Act will be circulated among all states/UTs with a request to adopt or carry out necessary amendments in their respective state laws online with the model Act.

(P.P. Mitra)  
Principal Labour and Employment Adviser  
Tel.No.23731588

**APPENDIX - II**

(Reference paragraph ..... of the Note)

**STATEMENT OF EQUITY, INNOVATION AND PUBLIC ACCOUNTABILITY**

**SUBJECT: - Model Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2015**

Sl No.	The required goal	How does the proposal advance this goal?
1.	Equity or inclusiveness	The proposed changes through the Model Act would bring about uniformity and equity in the provisions of the law for enforcement and would also be inclusive in nature as it would provide social security benefits to all covered employees. It would also facilitate the ease of doing business and create more jobs
2.	Innovation	The on-line one common Registration through a simplified procedure would simplify business process and make them much more transparent.
3.	Public Accountability	Enforcement is likely to improve which would also help improve public accountability and transparency.

(P.P. Mitra)  
Principal Labour and Employment Adviser  
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**The Model Shops and Establishments (Regulation of Employment and  
Conditions of Service) Act, 2015**

An Act to regulate the employment and other conditions of service of workers employed in shops and establishments.

Whereas it is expedient to consolidate the laws relating to regulation of employment and other conditions of service in shops and establishments.

**Chapter I - Preliminary**

**1. Short title, extent, commencement and application**

(a) This Act may be called the Model Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2015.

(b) It extends to the whole of India.

(c) It shall apply to the shops and establishments employing ten or more workers.

**2. Definitions: In this Act unless the context otherwise requires: -**

(a) "government" under this Act shall be the Government of the State or the Union Territory in which such shop or establishment is situated.

(b) "day" means a period of 24 hours beginning at mid night.

(c) "worker" means any person (except an apprentice under Apprentice Act, 1961) employed to do any manual, unskilled, skilled, technical, operational, clerical work for hire or reward, whether the terms of employment be express or implied.

(d) "employer" means an owner or a person who has the ultimate control over the affairs of a shop or an establishment. –

Provided that-

(i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the employer ;

(ii) in the case of a company, any one of the directors shall be deemed to be the employer ;



(iii) in the case of an establishment owned or controlled by the Central Government or any Government, or any local authority, the person or persons appointed to manage the affairs of such an establishment by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the employer.

(e) "establishment" means any premises, not being the premises of a factory, or a shop, wherein any trade, business, manufacture, or any work in connection with, or incidental or ancillary thereto and includes a premises wherein journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or produce exchange is carried on, or which is used as theatre, cinema, or for any other public amusement or entertainment or where the clerical and other establishment of a factory, to whom the provisions of the Factories Act, 1948, do not apply, work;

(f) "shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, go-down, warehouse or workhouse or work place for distribution or packaging or repackaging or finished goods is carried on; but does not include a establishment or a shop attached to a factory where persons employed in such establishment are allowed the benefits provided under the Factories Act, 1948.

(g) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes: –

- i. any remuneration payable under any award or settlement between the parties or order of a court or tribunal;
- ii. any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

- iii. any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- iv. any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- v. any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;
- vi. house rent allowance;

*but does not include-*

- (i) any bonus payable under this Act, which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;
- (ii) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the Government;
- (iii) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (iv) any travelling allowance or the value of any travelling concession;
- (v) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
- (vi) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).

(h) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Chief Facilitator;

- (i) The terms used in this Act but not defined, shall have the same meaning as assigned to them in any other relevant labour laws unless it is repugnant to the context;

**3. The provisions of the Act not to apply to certain persons, shops and establishments.—**

(1) The provisions of this Act shall have no application to—

- a) workers occupying positions of confidential, managerial or supervisory character in a shop or in an establishment.
- b) worker whose work is inherently intermittent, as in the case of a traveler or canvasser;
- c) offices of Government or local authorities;
- d) offices of the Reserve Bank of India;
- e) establishments for the treatment or care of the sick, infirm, destitute or mentally unfit; and
- f) members of the family of an employer.

(2) A list of the workers referred to in clause (a) of sub-section (1) shall be displayed on the website of the shop or establishment and in absence of the website at a conspicuous place in the shop or establishment and a copy thereof shall be sent to the Facilitator concerned.

(3) Powers of the Government to exempt any class of shops and establishments from the operation of the Act.—The Government may, in public interest, by notification in the Gazette, exempt, subject to such conditions as it may impose in this behalf, any shop or establishment or any class of shops or establishments from the operation of all or any of the provisions of this Act.

(4) Withdrawal of exemption by the Government.—The Government may, likewise by notification in the Gazette, withdraw in whole or in part, permanently, or for such period as may be specified, any exemption granted under sub-section (3).

**4. Savings.—** Nothing contained in this Act shall adversely affect any right or privilege to which any worker may be entitled, under any law, award, agreement, contract, custom or usage, in force on that date.

**Chapter-II**  
**Registration of shops and establishments**

**5. Registration of Shop and Establishment:-** Every shop and establishment shall obtain a Unique Labour Identification Number (LIN) from the Government.

**Chapter III**  
**Responsibility of employer**

**6 (i). No Discrimination against female worker -**

No female worker shall be discriminated against in matters of recruitment, training, transfers or promotions or wages.

**(ii).** No woman shall be required or allowed to work in shops and establishments except between the hours of 6A.M. and 9 P.M.

Provided that where the Government or any person, authorized by it in this behalf, is satisfied that in shop or establishment, provision of shelter, rest room, night crèche, ladies' toilet, adequate protection of their dignity, honour & safety, protection from sexual harassment, and their transportation from the shop or establishment premises to the door step of their residence exists, it may, by notification in the Official Gazette, after obtaining the consent of the woman worker allow her to work between 9 PM to 6 AM subject to such conditions as may be specified therein.

**7. Health and Safety of Workers -** An employer shall be responsible for providing constant and adequate supervision of any worker employed in an establishment so as to ensure compliance with the provisions of this Act relating to health and safety and for taking all steps necessary to prevent accidents. The Government shall make rules regarding the adequate measures to be taken by an employer for the safety and health of its workers as may be prescribed.

**8. Fixing of hours of work and spread over.**

(1) (i) No adult worker shall be required to work for more than 48 hours in a week and 9 hours in a day and no worker shall be asked to work continuously for more than 5 hours unless he has been given a break of not less than half an hour provided that limit of working hours or of weekly rest may be relaxed in case of work of urgent nature.

(ii) The total number of hours of work in a shift including the rest interval shall not exceed 10½ hours in any establishment and in case a worker is entrusted with intermittent nature of work, urgent work, the spread over shall not exceed 12 hours.

(iii) Any working hour beyond nine hours a day or forty eight hours a week shall be treated as over time. However, the total number of overtime hours shall not exceed one hundred and twenty five hours in a quarter (three months).

(2) The Government shall make rules to,-

- (a) fix the number of hours of work which shall constitute a normal working day for the workers employed in the establishment, inclusive of one or more specified intervals;
- (b) provide for a day of rest in every period of seven days which shall be allowed to all the workers employed in the establishment and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment of work, on a day of rest, at a rate equal to the double the rate of his wages.

(3) The provisions of sub-sub-section of (i) & (ii) of sub-section (1) shall, in relation to the following classes of workers employed in such establishment, apply only to such extent, and subject to such conditions, as may be prescribed, namely :-

- (a) workers engaged on urgent work, or in any emergency which could not have been foreseen or prevented;
- (b) workers engaged in the nature of preparatory or complementary work which must necessarily be carried on outside the normal hours of work laid down in the rules;
- (c) workers engaged in any work which for technical reasons has to be completed before the day is over;

- (d) workers engaged in a work which cannot be carried on except at times dependent on the irregular action for natural forces.
- (e) Highly skilled workers (for example workers working in the establishments of Information Technology, Bio-Technology and Research & Development Divisions).

#### **9. Wages for overtime work**

Where any worker is required to work on any day in excess of 9 hours and 48 hours in a week, he shall be entitled to wages at twice the rate of wages.

#### **10. Shift working/rest**

- (i) More than one shift may be worked in a Department or any Section of a Department of the establishment at the discretion of the employer. If more than one shift is worked, the worker may be required to work in any shift at the discretion of the employer.
- (ii) An establishment may work on all days in a week subject to the condition that every worker shall be allowed weekly holiday of at least 24 consecutive hours of rest.
- (iii) If a worker is denied weekly holiday, the compensatory leave for this shall be given within two months of such weekly holiday.
- (iv) The period and hours of work in a week for all classes of workers in such shift shall be informed to all workers in writing and shall be sent to the Facilitator electronically or otherwise.

### **Chapter IV**

#### **Leave and holidays**

#### **11. Annual leave, casual and sick leave and other holidays**

- 1) Every worker shall be allowed a weekly holiday with wages. Provided that Government may fix different days as weekly holiday for different types establishments or areas.
- 2) Every worker shall be entitled to eight days' casual leave with wages in every calendar year. Such leave shall be credited into the account of the worker on a quarterly basis.

- 3) Every worker who has worked for a period of 240 days or more during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year;
- 4) 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 is 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.
- 5) A worker shall be entitled to eight paid festival 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 workers, before the commencement of the year.

**Explanation 1 :** For the purpose of sub-section (3)-

- a) any days of lay-off, by agreement or contract or as permissible under the model standing orders or standing order certified under Industrial Employment (SO) Act, 1946.
- b) in the case of a female worker, maternity leave as provided for in the Maternity Benefits Act, 1961.
- c) the leave earned in the year prior to that in which the leave is enjoyed;
- d) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment;

shall be deemed to be days on which the worker has worked in a shop for the purpose of computation of the period of 240 days or more, but shall not earn leave for these days.

**Explanation 2:** The leave admissible under sub-section (3) shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

**Chapter V**  
**Welfare provisions**

**12. Drinking water**

The employer shall make effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed in the establishment, a sufficient supply of wholesome drinking water.

**13. Latrines and urinals**

The employer shall provide sufficient latrine and urinal for male and female as may be prescribed and these shall be so conveniently situated as may be accessible for the workers employed in the establishment.

Provided that several employers, may provide common facilities, in case it is not possible, due to constraint in space or otherwise.

**14. Creche**

In every establishment wherein thirty or more woman workers or fifty or more workers are employed and even there shall be provided and maintained a suitable creche. Provided that if a group of establishments, so decide to provide a common crèche within a radius of one kilometer then the same shall be permitted by the Chief Facilitator, subject to such conditions as may be specified in the order.

**15. First Aid**

Every employer shall provide at the place of work first-aid facilities as may be prescribed.

**16. Canteen**

The Government shall require the employer to provide and maintain in the establishment, wherein not less than one hundred workers are employed or ordinarily employed to maintain a canteen for the use of its workers. Provided further that if a group of establishments, so decide to provide a common canteen, then the same shall be permitted by the Chief Facilitator by an order, subject to such conditions as may be specified in the order.



## Chapter VI

### Penalties and Miscellaneous provisions

#### **17. Appointment of Chief Facilitator and Facilitators and their powers (1).**

The Government may, by notification, appoint a Chief Facilitator and Facilitators who shall exercise the powers conferred on them under sub-section (4) throughout the State or such geographical limits assigned to them, in relation to establishments situated in such State or geographical limits, as the case may be.

(2) The Government may, by notification, lay down an inspection scheme which shall provide for generation of a web-based inspection schedule.

(3) Every Facilitator appointed under sub-section (1) shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Act 1860 (45 Of 1860).

(4) Subject to any rules made in this behalf by the Government, a facilitator may, within the local limits for which he is appointed –

- (i) (a) supply information and advice to employers and workers concerning the most effective means of complying with the provisions of this Act.
- (b) inspect the establishment based on inspection scheme referred to in sub-section (2);
- (ii) Subject to clause (i), the Facilitator may –
  - (a) examine any person who is found in any premises of the establishment and whom, the Facilitator has reasonable cause to believe, is a worker of the establishment;
  - (b) require any person to give any information, which is in his power to give with respect to the names and addresses of the persons;
  - (c) search, seize or take copies of such register, record of wages or notices or portions thereof as the Facilitator may consider relevant in respect of an offence under this Act and which the

Facilitator has reason to believe has been committed by the employer;

- (d) bring to the notice of the Government defects or abuses not covered by the law for the time being in force; and
- (e) exercise such other powers as may be prescribed.

(5) Any person required to produce any document or to give any information required by a Facilitator under sub-section (4) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(6) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to the search or seizure under sub-section (4) as they apply to the search or seizure made under the authority of a warrant issued under section 94 of the said Code.

#### **18. Maintenance of register and records**

Every employer shall maintain such registers and records as may be prescribed by the Government. Such records may be maintained electronically or manually. However at the time of inspection by a Facilitator, a hard copy of such records if demanded, shall be submitted duly signed by the employer.

#### **19. Annual Return**

Every employer of a shop or an establishment shall send an annual return in the prescribed form and as far as possible electronically to the authority as may be prescribed.

#### **20. Penalty for contravention of provisions**

(1) Whoever contravenes the provisions of the Act and the rules made thereunder shall be punishable with fine which may extend to two lakh rupees and in the case of a continuing contravention, with an additional fine which may extend to two thousand rupees for every day during which such contravention continues.