

I. Factories Act 1948

In India the first Factories Act was passed in 1881. This Act was basically designed to protect children and to provide few measures for health and safety of the workers. This law was applicable to only those factories, which employed 100 or more workers. In 1891 another factories Act was passed which extended to the factories employing 50 or more workers.

–Factory is defined in Section 2(m) of the Act. It means any premises including the precincts thereof-

i. Where on 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 .Where on 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;

But does not include a mine subject to the operation of the Mines Act, 1952 or a mobile unit belonging to the Armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.

Employer to ensure health of workers pertaining to

Cleanliness Disposal of wastes and effluents -Sec 12

Ventilation and temperature dust and fume -Sec 13

Overcrowding Artificial humidification Lighting – Sec. 14

Drinking water Spittoons.- Sec. 18

Safety Measures

Fencing of machinery – Sec. 21

Work on near machinery in motion. – Sec 22

Employment prohibition of young persons on dangerous machines. – Sec 23

Striking gear and devices for cutting off power. – Sec 24

Self-acting machines.- Sec 25

Casing of new machinery.- Sec 26

Prohibition of employment of women and children near cotton-openers.- Sec 27

Hoists and lifts.- Sec 28.

Welfare Measures

• Washing facilities – Sec 42

• Facilities for storing and drying clothing – Sec 43

• Facilities for sitting – Sec 44

• First-aid appliances – one first aid box not less than one for every 150 workers– Sec 45

• Canteens when there are 250 or more workers. – Sec 46

• Shelters, rest rooms and lunch rooms when there are 150 or more workers. – Sec 47

• Creches when there are 30 or more women workers. – Sec 48

• Welfare office when there are 500 or more workers. – Sec 49

Working Hours, Spread Over & Overtime of Adults

• Weekly hours not more than 48- Sec: 51

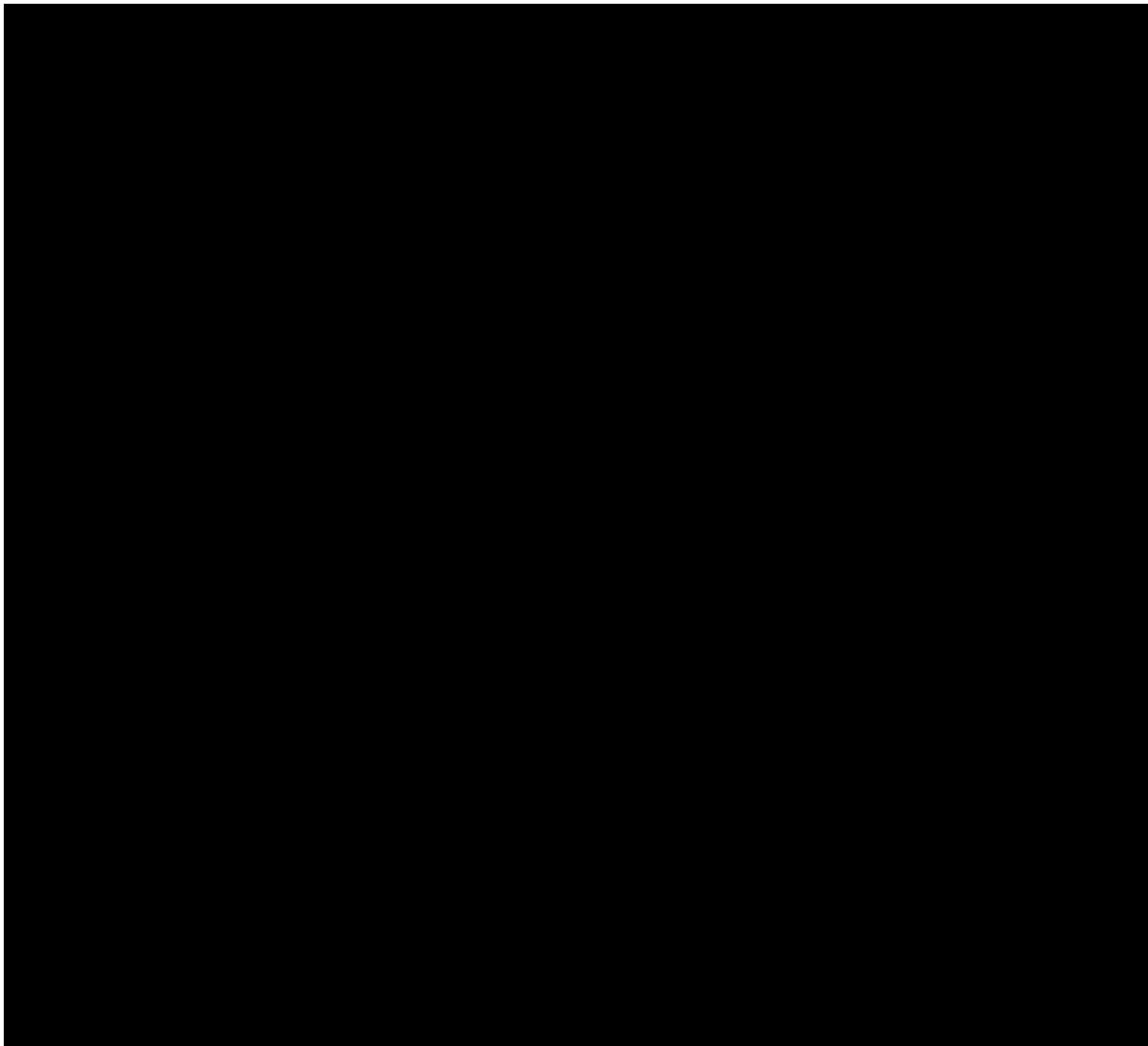
• Daily hours, not more than 9 hours. - Sec: 54

- Intervals for rest at least $\frac{1}{2}$ hour on working for 5 hours. - Sec: 55

- Spread over not more than 10½ hours. - Sec: 56
- Overlapping shifts prohibited. - Sec: 58
- Extra wages for overtime double than normal rate of wages - Sec:59
- Restrictions on employment of women before 6AM and beyond 7 PM. - Sec: 60

Annual Leave with Wages

- A worker having worked for 240 days @ one day for every 20 days and for a child one day for working of 15 days.
- Accumulation of leave for 30 days.



II. THE PAYMENT OF WAGES ACT, 1936

OBJECT OF THE ACT

To regulate the payment of wages to certain classes of employed persons. Two fold:-

First the date of payment of wages and

Secondly the deductions from wages whether as fine or otherwise.

APPLICABILITY OF THE ACT

Persons employed in:-

Any factory (a saw mill, ginning factory, godowns, yards etc as defined in Factories Act, 1948).

Tramway service or motor transport service engaged in carrying passengers or good or both by road for hire or reward.

Air transport service Dock, Wharf or Jetty, Inland vessel, mechanically propelled

Mine, quarry or oil-field plantation

Workshop or other establishment etc.

WAGE

Wage includes any remuneration:-

Payable under any award or settlement between the parties or order of a Court;

Over time work or holiday or any leave period;

Any additional remuneration under the terms of employment.

Wage does not includes any bonus, pension fund or provident fund, travelling allowance and any gratuity.

WAGES TO BE PAID IN CURRENT COINS OR CURRENCY NOTES

a . All wages shall be paid in current coins or currency notes or in both.

After obtaining the authorization, either by Cheque or by crediting the wages in employees banks Account {Section 6}

TIME OF PAYMENT OF WAGES

The wages of every person employed is paid. When less than 1000 persons are employed shall be paid before the expiry of the 7th day of the following month. When more than 1000 workers, before the expiry of the 10th day of the following month. (Section 5). Drawing average wage up to Rs.6500 pm as amended with effect from 6th September 2005.

COVERAGE OF EMPLOYEES

Deduction made from wages

Deductions such as, fine, deduction for amenities and services supplied by the employer, advances paid, over payment of wages, loan, granted for house-building or other purposes, income tax payable, in pursuance of the order of the Court, Provident Fund contributions, cooperative societies, premium for Life Insurance, contribution to any fund constituted by employer or a trade union, recovery of losses, Employees State Insurance contribution etc. (Section 7).

DEDUCTION FOR ABSENCE FROM DUTIES FOR UNAUTHORISED ABSENCE

Absence for whole or any part of the day – If ten or more persons absent without reasonable cause, deduction of wages up to 8 days {Section 9}

For default or negligence of an employee resulting into loss. Show cause notice has to be given to the employee. {Section 10}

DEDUCTION FOR DAMAGE OR LOSS DEDUCTIONS FOR SERVICE RENDERED
When accommodation amenity or service has been accepted by the employee. {Section 11}

Deductions for recovery of Advance.

Deduction for recovery of loans.

Deductions for payment to co-operative societies and Insurance schemes.

AUTHORITIES UNDER THIS ACT

INSPECTORS.

AUTHORITY TO HEAR CLAIMS.

Any commissioner for Workmen's Compensation; or Any Regional Labour Commissioner Any Assistant Labour Commissioner. Presiding Officer of any Labour Court or Industrial Tribunal.

PRESENTATION OF CLAIM APPLICATION

SINGLE APPLICATION IN RESPECT OF CLAIMS FROM UNPAID GROUP

APPEAL

III. Payment Of Bonus Act,1965.

Applicability:

Applicability every factory or an establishment employing not less than 20 employees during an accounting year. The establishment once covered under the Act shall continue the coverage even if the number of employees falls below 20 subsequently.

Employee :

Employee any person other than apprentice, engaged for hire or reward Includes supervisors Includes Managers. Includes all administrative staff. Includes a person who has worked not less than 30 days in an accounting year. But does not include any person whose salary exceeds 10000/- pm.

Can a person drawing wages more than 10000 make a claim? :

Can a person drawing wages more than 10000 make a claim? No. It is not maintainable under the Act.

Maximum salary:

Maximum salary Employees drawing salary up to Rs. 10000/- are eligible for Bonus. But their salary will be limited to Rs. 3500/- for the purpose of Bonus.

Max and Min Bonus:

Max and Min Bonus Maximum of 20% and Minimum of 8.33% of the Salary/ Wages. Maximum amount of Bonus is limited to Rs.84000/- (3500x12x20/100)

Can Bonus be denied to an employee on the condition that on the day of declaration of Bonus he was not in employment ? :

Can Bonus be denied to an employee on the condition that on the day of declaration of Bonus he was not in employment? NO. It violates the provisions of Sec. 8 of the Act.

Whether a Probationer is eligible for Bonus ? :

Whether a Probationer is eligible for Bonus ? A probationer will be eligible for bonus as there is no exclusion in the definition of 'employee' under the Act.

Forfeiture of Bonus. :

Forfeiture of Bonus. Sec. 9. Bonus can be forfeited to an employee who has been dismissed from service on grounds of fraud, theft, misappropriation, or sabotage of any property of the establishment.

IV. INDUSTRIAL DISPUTES ACT 1947**Purpose of the Act**

The Industrial Disputes Act, 1947 came into existence in April 1947. It was enacted to make provisions for investigation and settlement of industrial disputes and for providing certain safeguards to the workers.

AUTHORITIES UNDER THIS ACT Works Committee

In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer.

Conciliation officers

The appropriate Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Boards of Conciliation

(1) The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting, the settlement of an industrial dispute.

(2) A Board shall consist of a Chairman and two or four other members, as the appropriate Government thinks fit.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party: **Provided** that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number

Courts of Inquiry

(1) The appropriate Government may as occasion arises by notification in the Official Gazette, constitute a Court of Inquiry for inquiring into a matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number

Labour Courts

- (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.
- (2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.
- (3) A person shall not be qualified for appointment as the Presiding Officer of a Labour Court, unless -
- he is, or has been, a Judge of a High Court; or
 - he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or
 - he has held any judicial office in India for not less than seven years ; or
 - he has been the Presiding Officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

Tribunals

- (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter and for performing such other functions as may be assigned to them under this Act.
- (2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.
- (3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless:
- he is, or has been, a Judge of a High Court; or
 - he has, for a period of not less than three years, been a District Judge or an Additional District Judge.
- (4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

National Tribunals

- (1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.
- (2) A National Tribunal shall consist of one-person only to be appointed by the Central Government.
- (3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless he is, or has been, a Judge of a High Court.
- (4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

Disqualifications for the Presiding Officers of Labour Courts, Tribunals and National Tribunals

No person shall be appointed to, or continue in, the office of the Presiding Officer of a Labour Court, Tribunal or National Tribunal, if -

- he is not an independent person; or
- he has attained the age of sixty-five years.

V. THE TRADE UNIONS ACT, 1926

It extends to the whole of India.

Definitions

Appropriate Government: For the trade unions whose objects are not confined to one state, the appropriate government will be the Central Government, for others it'll be the State Government.

Trade dispute: It means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment, or non-employment or the conditions of labour, of any person.

Workmen: Means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises.

Trade Union: It means combination whether temporary or permanent formed primarily for the purpose of

- regulating the relations
- for imposing restrictive condition on the conduct of any trade or business,
- can be between workmen and employers or between workmen and workmen, or between employers and employers

It can include any federation of two or more Trade Unions.

Mode of registration

Any seven or more members of a Trade Union may apply for registration of the Trade Union under this Act:

- by subscribing their names to the rules of the Trade Union
- and by complying with the provisions of this Act with respect to registration.

An application for the registration of a Trade Union shall not become invalid merely for the reason that at any time after the date of the application, but before the registration of the Trade Union some of the applications (not exceeding half of the total number of the persons who made the application) have ceased to be members of the Trade Union.

Application for registration

Application for registration of a Trade Union shall be made to the Registrar and shall be accompanied by:

- copy of the rules of the Trade Union
- statement of the following particulars, namely:-
 - The names, occupations and addresses of the members making the application.
 - The name of the Trade Union and the address of its head office.

Where a Trade Union has been in existence for more than one year before the making of an application for its registration it needs to submit a statement of the assets and liabilities held by it.

Provisions to be contained in the rules of Trade Union

A Trade Union shall not be entitled to registration under this Act, unless the executive is constituted in accordance with the provisions of this Act, and the rules provided for following matters:

- the name of the Trade Union
- the object for which the Trade Union has been established
- the purposes for which the general funds of the Trade Union shall be applicable.

Power to call for further particulars and to require alteration of name

The Registrar can call for further information for the purpose of checking the compliance of the application with respect to Sec 5 and Sec 6 of the Trade Union Act.

- He may refuse to register the Trade Union until such information is supplied.
- If the name under which a Trade Union is proposed to be registered is identical or it nearly resembles with that of any other existing Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application.

Registration

The Registrar, on being satisfied that the Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union.

Certificate of Registration

The Registrar registering a Trade Union under Section 8, shall issue a certificate of registration which shall be conclusive that the Trade Union has been duly registered under this Act.

Cancellation of Registration

A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar: – On the application of the Trade Union

- If the Registrar is satisfied that the certificate has been obtained by fraud or mistake

Appeal

Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may appeal to the prescribed courts.

The Appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the registrar shall comply with such order.

Registered office

All communications and notice to a registered Trade Union may be addressed to its registered office.

- Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing.

Incorporation of registered Trade Unions

Every registered Trade Union:

- shall be a body corporate by the name under which it is registered – shall have perpetual succession and a common seal
- power to acquire and hold both movable and immovable property – it can, by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions

- The Societies Registration Act, 1863.
- The Co-operative Societies Act, 1912.
- The Companies Act, 1956

Rights and liabilities of registered trade unions

Objects on which general funds may be spent

- The payment of salaries, allowances and expenses to office bearers of the Trade Union.
- The payment of expenses for the administration of the Trade Union including audit of the accounts of the general funds.
- The compensation to members for loss arising out of trade disputes;
- Allowance to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;
- The provision of educational, social or religious benefits for members or for the dependants of members;
- The upkeep of a periodical published mainly for the purposes of discussing questions affecting employers or workmen;
- Any other object notified by the appropriate Government in the official Gazette.

Constitution of a separate fund for political purposes

A registered Trade Union may constitute a separate fund, from which payments may be made, for the promotion of the civic and political interest of its members.

- No member shall be compelled to contribute to the fund.
- Member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union
- Contribution to the said fund shall not be made a condition for admission to the Trade

Union.

- The account books of a registered Trade Union and the list of members shall be open to inspection by any member of the Trade Union.

Rights of minors to membership of Trade Union

Any person who has attained the age of fifteen years may be a member of registered Trade Union subject to any rules of the Trade Union to the contrary.

Disqualification of office bearers of Trade Union

A person shall be disqualified for being chosen as, and for being a member of the executive or any other office-bearer or registered Trade Union if-

- He has not attained the age of eighteen years;
- He has been convicted by a Court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of five years has elapsed since his release.

Change of name

Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of Section 25 change its name.

Amalgamation of Trade Union

Any two or more registered Trade Unions may become amalgamated together as one Trade Union provided that the votes of at least one-half of the members of each such Trade Union is recorded, and that at least sixty percent of the votes recorded are in favour of the proposal.

Notice of change of name or amalgamations

Notice in writing of every change of name and every amalgamation shall be sent to the Registrar, signed,

- in the case of change of name, by the Secretary and by seven members of the Trade Union changing its name
- in the case of an amalgamation by the Secretary and by seven members of each and every Trade Union which is amalgamating.

Dissolution

When a registered Trade Union is dissolved, notice for the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar.

Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution and funds, the Registrar shall divide the funds amongst the member in such manner as may be prescribed.

Power to make regulations

The appropriate Government may make regulations for the purpose of carrying into effect the provisions of this Act. Such regulations may provided for all or any of the following matters:

- The manner in which Trade Union and the rules of Trade Unions shall be registered and the fees payable on registration;
- The transfer of registration in the case of any registered Trade Union which has changed its head office from one State to another;
- The manner in which, and the qualifications of persons by whom, accounts of registered Trade Unions or of any class of such Unions shall be audited;
- The conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections;

Publication of regulations

- The Power to make regulations conferred by section 29 is subject to the condition of the

regulations being made after previous publications.

- Regulations so made shall be published in the Official Gazette and on such publication shall have effect as if enacted in this Act.

VI. THE WORKMEN'S COMPENSATION ACT, 1923 :

It applies from first day of employment till after death

–The Growing complexity of industry in this country, with the increasing use of machinery and consequent danger to workmen, along with the comparative poverty of the workmen themselves renders it advisable that they should be protected, as far as possible, from hardship arising from accidents|| Gazette of India 1922

OBJECT OF THE ACT :

To provide some means of livelihood for the workman who, by reason of accidental injury arising out of his employment, has suffered a loss of earning capacity.

This act is the important piece of social legislation.

Employer is legally responsible for work related injuries and deaths. This act is written in simple language to understand.

SCOPE & APPLICATION :

The Act applies to workmen employed in factories, mines, transport establishments, construction works, railways, plantations, ships and other hazardous occupations and employments specified in schedule II to the Act.

EMPLOYER'S LIABILITY FOR COMPENSATION:

An employer is liable to pay compensation to a workman- For personal injury caused to him by accident
For any occupational disease contracted by him

Facts must be proven

The concerned person must be a workman.

That the injury or death had arisen out off or during and in the course of employment.

During & in the course

Its covered for all official duties

If your boss instructs you to do any work apart from your usual scope of work, its official.

TYPES OF INCAPACITY

Temporary

Permanent

MINIMUM QUALIFICATION

3 & more consecutive days.

less then 3 days – work -man's does not cover.

must produce medical certificate.

WAGES PAYABLE

2/3rd of the weekly earnings

Until declared fit by doctor

MAXIMUM PERIOD

260 weeks, that is for 260 weeks one could be paid 2/3rd weekly

wages PERMANENT TOTAL INCAPACITY

260 weeks earnings

Or minimum of – \$6,000 – 00

Maximum of – \$32,000 - 00

PERMANENT PARTIAL INCAPACITY

Percentage of incapacity multiply by (x) 260 weeks earnings = compensation payable. AMOUNT PAYABLE

Minimum of \$6,000 : 00

Maximum of \$24,000 :00

–ops|| depending on wages

DEATH

Work—related

Not—related

Determined by doctors with the help of our investigation report.

Could occur @ home but still be work related

Could happen @ work but not work related

PROCEDURE IN REPORTING

Employers responsibility to report Injury – 14 days

Death – 7 days

FORMAT

LD form c/1 in case of work related injuries – 14 days LD form c/1 all death – 7 days

4 copies of l/d form c/1 is to be completed 1 copy – employer

1 copy – medical authority

2 copies – mlir&p

Percentage of permanent disability must be stated so compensation could be calculated This would be in addition to 2/3rd weekly payments – lump sum payment

PAYMENT'S

Injury – workman

Death – dependents of the deceased @ the time of death

TRUST FUND

Under 18 years, money kept in trust with mlir&p

Money usage is strickly controlled – for the education & welfare of the beneficiaries

VII. THE PAYMENT OF GRATUITY ACT.1972

INTRODUCTION

MEANING OF GRATUITY :

The term –gratuity was considered as an amount given freely and could not be demanded as a matter of right by the employees. In many cases gratuity was given as a matter of favour. Employers used to pay gratuity as a reward for long, continuous & meritorious service. With a view to ensure a uniform pattern of the payment of gratuity to the employees, the –central government enacted the ||the payment of gratuity act, 1972||. Meaning of gratuity

DEFINITION :

Definition so, in view of the above discussion, we may define the term, –gratuity as; ||by their length of service, employees are entitled to a claim a certain amount as a retrail benefit which is called as gratuity.

PROCEDURE FOR CLAIMING GRATUITY

Any authorised person date of superannuation/retirement on the death of an employee a legal heir after expiry any dispute

FORFEITURE OF GRATUITY

It gives the circumstances in which the gratuity payable to an employee may be forfeited either party or wholly :

It gives the circumstances in which the gratuity payable to an employee may be forfeited either party

or wholly partial forfeiture full forfeiture

PARTIAL FORFEITURE:

Partial forfeiture any act wilful omission negligence causing any damage or loss to or demolish of property belonging to the employer shall be forfeited to the extent of the damage or loss so caused. Services are terminated for :-

FULL FORFEITURE :

Full forfeiture if the services of an employee shall be wholly forfeited :- riotous or disorderly behaviour or any other act of violence on his part or if the services are terminated for any act which constitutes an offence involving moral turpitude .

NOMINATION

Nomination (s-6) means, naming persons, who shall be entitled to the amount of gratuity if the employee dies before receiving the amount. :

Nomination (s-6) means, naming persons, who shall be entitled to the amount of gratuity if the employee dies before receiving the amount. Family:[s.2(h)] —family in relation to an employee, shall be deemed to consist of : male employees- (a) himself. (b) his wife. (c) his children (d) his dependant parents. (e) dependant parents of his wife. (f) widow and children of her predeceased son,if any. Female employee- (a) herseif. (b) her husband. (c) her children. (d) her dependant parents. (e) dependant parents of her husband (f) widow and children of her predeceased son, if any.

THE RULES OF NOMINATION ARE AS FOLLOWS:- :

Employee to make nomination more than 1 nominee family members to be nominated no family family after nomination modification of nomination death of nominee safe custody of nomination

VII. EMPLOYEES PROVIDENT FUND & Misc. ACT, 1952**OBJECTS**

The basic purpose of providing p.f. is to make provisions for future of the industrial worker after his retirement or for his dependents in case of his early death.

It seems to cultivate the habit of saving among workmen

THERE ARE 3 SCHEMES UNDER THIS SCHEME :-

Employees provident funds
Employees deposit linked insurance scheme
Employees pension scheme.

APPLICABILITY :-

Every factory employing 20 or more persons.

Every other establishment employing 20 or more persons or class of establishments which the central government may notify.

Any other establishment so notified by the central government even if employing less than 20 persons.

Workmen are eligible to be covered from day one.

Every employee, including the one employed through a contractor (but excluding an apprentice engaged under apprentice act and casual labourers who is in receipt of wages upto rs. 6500 per month shall be eligible to becoming a member of the fund.

EMPLOYER'S CONTRIBUTION:-

In case of establishments⁴ employing 20 persons or a sick industrial (bfir) company or 'sick company' or any industrial establishment in the jute, beedi, brick, coir or gaur gum industry – 10% of the basic wages, dearness allowance.

In case of all other establishments employing 20 or more persons – 12% of the wages plus da.

TERM OF SCHEME

The employee attains the age of 58 years. He dies

The pension is vested in him.

The employer should send a consolidated return of employees entitled to become members of the new scheme.

Employee contribution – 10 or 12% as the case may be.

EMPLOYEES PENSION SCHEME :-

The employees' pension scheme was started w.e.f. 16.11.1995.

The new scheme envisages providing monthly pension to employees on superannuation. Pension of widows/widower given.

MODE OF RECOVERY :

The amount of contribution, damages, accumulations required to be paid by the employer can be recovered from him through : attachment and sale of movable or immovable property of the establishment, arrest of the employer and detention in prison.

Any person aggrieved by an order of determination may prefer an appeal to the pf appellate tribunal by depositing 75% of the amount determined for filing an appeal.

EMPLOYEES DEPOSIT LINKED INSURANCE SCHEME

Under this schme 1% of the aggregate of the baisc wages plus dearness allowance

The central government shall pay 0.5% of the pay plus d.a. towards the scheme.

The insurance fund money is used to provide insurance cover to the employees dying while being a subscriber to the p.f. scheme. Maximum of three times of the saving into the p.f. fund is given if an employee dies, subject to the maximum of rs.60,000/=.

THE EMPLOYER NOT TO REDUCE WAGES FOR P.F. CONTRIBUTION OR FOR THE INSURANCE SCHEME.

ACT NOT TO APPLY TO THE FOLLOWING:-

Not applicable for any establishments under co-operative societies act. 1912.

To any other establishment belonging to or under the control of central government or state government and whose employees are entitled to the benefit of contributory provident fund or old age pension etc.

Authorising certain establishments to maintain provident fund accounts

The central government may by order allow employer to maintain a provident fund account.

IX. THE EMPLOYEES' STATE INSURANCE ACT, 1948

OBJECTIVE :

The object of the Act is to secure sickness, maternity, disablement and medical benefits to employees of factories and establishments and dependents' benefits to the dependents of such employees.

APPLICABILITY :

To all Factories & establishments employing 20 or more employees. Every employee drawing wages upto Rs. 10,000/- per month.

Contribution under ESI Act,1948 :

1. Employees : 1.75% on total monthly wages
2. Employer : 4.75% on total monthly wages

Time & Method for payment of Contribution :

Both the employer's and the Employees' contribution are to be paid in cash or by cheque, into the State Bank of India or any other bank authorized by the ESI Corporation, by filling in a prescribed Challan in quadruplicate within 21 days following the end of the calendar month in which the contribution falls due. The Bank will retain two copies of the Challan and return other two to the employer, one for submitting to the Regional Office of the Corporation and the other for the record of the employer.

Procedure for Registration :

The employer of a factory or an establishment desirous of registering it under the Act has to send to the Regional Office within 15 days from the Act becomes applicable to it a Declaration of Registration in the prescribed form. Upon receipt of the Declaration of Registration the Regional Office shall if satisfied that the factory or the establishment is covered by the Act, allot to it a Code Number and thereupon the factory or the establishment shall stand registered under the Act.

Benefits under the Act :

Six kinds of benefits are provided under the Act: Sickness benefit Maternity benefit Disablement benefit Dependents' benefit Medical benefit and Funeral expenses.

1. **Sickness benefit** : Insured employees is entitled to receive for the period of his sickness as the daily –standard benefit rate. Minimum 78 days of the corresponding contribution is must. Benefit is not available for the first 2 days of sickness. Maximum period for benefit is 91 days in one year. Standard benefit rate : The daily rate which sickness benefit is payable to an insured employee during the period of his sickness. Lowest rate is Rs. 14/- Highest rate is Rs. 195/-
2. **Maternity benefit** : Confinement, miscarriage or medical termination of pregnancy, Sickness arising out of pregnancy, confinement, premature birth of child or miscarriage or medical termination of pregnancy. Minimum 80 days in the immediately preceding two consecutive contribution periods is must. Maximum period for benefit is 91 days in one year.
3. **Disablement benefit** : Permanent disablement, whether total or partial, as a result of an employment injury (personal injury caused by an accident arising out of and in the course of employment). Benefit for the whole of life.
4. **Dependents' benefit** : When an insured employee dies as a result of an employment injury, his widow and children and in case the employee does not leave behind him a widow or children, his other dependants, are entitled to receive periodical payments.
5. **Medical benefit** : Sickness of Insured employee or (where medical benefits is extended to his family) a member of his family. Available to the employee during any period for which contributions are paid in respect of him or in which he can claim sickness benefit.
6. **Funeral expenses** : In case of death of an insured employee, the eldest surviving member of his family, and if the employee had no family or was not living with his family at the time of his death, then the person who actually incurs expenditure on the funeral of the employee, is entitled to receive the a payment called –funeral expenses. Maximum permissible amount of such payment is Rs. 2500/-

Benefits cannot be combined :

An employee is not entitled to receive two benefits at the same time. That means he cannot receive for the same period. Both sickness benefit and maternity benefit; or Both sickness benefit and disablement benefit for temporary disablement; or Both maternity benefit and disablement benefit for temporary disablement.

FORMS :

Form 1 declaration form. Form 3 return of declaration form. Form 6 return of contribution [half yearly returns]. Form 16 application for accident report.

Form 37 certification of employment. Form 53 application for change of dispensary branch office. Form 72 application for duplicate ESI card. Form 1B change in family declaration report.

Offences :

If any person - Fails to pay any contribution payable by him under the Act; or Deducts from the wages of an employee the employer's contributions ; or Fails to submit any return required by the regulations, or makes a false return. He would be punished with imprisonment upto 1 year or with fine upto Rs. 4000/- or with both

Revision w.e.f. 01.12.2007 :

01.12.2007 The daily rates of sickness benefit as given under rules 55 has been increased by 20 per cent. Daily rates of disability benefits have been increased to 50 per cent from 40 per cent. Daily rates of dependent's benefit have been increased to 50 per cent from 40 per cent. Funeral expenses given under rule 59 has been increased to Rs. 3,000/- from Rs. 2,500/-

X. INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT 1946 :**Introduction:**

Objectives of the Act standing orders Scope & Application of the Act Matters to be provided in standing orders Procedure for certification of standing order

Objectives of the Act :

To ensure that the terms and conditions of the employment are known to the employee and thus to minimize exploitation of the workers. To have uniform standing orders in respect to workers, factories, and working relationship To promote industrial peace and harmony by promoting fair industrial practices.

standing orders :

Conditions of employment--- Conditions of recruitment, discharge, disciplinary actions, holidays, etc. To avoid disputes & vagueness in terms of employment. The rules made in this regard are known as -STANDING ORDERS||.

Scope & Application of the Act :

Applicable--- -Whole India [sec.1(2)] -Workers more or equal to 100 [sec.3(1)] Not Applicable--- - Provision chapter VII

Definitions :

Appellate Authority [sec.2(a)] Authority appointed by appropriate govt regarding to any appeal. Appropriate Govt [sec.2(b)] -central govt, Railway administration, Mine or Oilfield, Major port -State govt

certifying officer [sec. 2(c)] A labour commissioner or a regional labour commissioner and includes other officer appointed to perform the functions of a certifying officer. Employer [sec.2(d)] -Manager of the factory [sec.7(1)] - Head of the dept -owner

Industrial establishment is the same as : section 2(i) of Payment of Wages Act (ii) Factory as defined in section 2(m) of Factories Act (iii) Railway (iv) Establishment of contractor who employs workmen for

fulfilling contract with owner of an industrial establishment. [sec.2(e)]. Standing order [sec.2(g)] rules relating to matters set out in the schedule to the act.

Matters to be provided in standing orders secs 2(g) and 3(2) :

Classification of workers Manner of intimating hour of work, holydays, pay days & wage rates. Shift working Attendance & late coming Conditions of, procedure in applying leave & holydays

Termination of employment. Suspension or dismissal etc. Transfers, Vacancies, Confirmation, retirement, etc.

Procedure for certification of standing order :

Every employer covered under the Act has to prepare Standing Orders_, covering the matters required in the Standing Orders'. Five copies of these should be sent to Certifying Officer for approval. [section 3(1)]. Certifying Officer_ means Labour Commissioner and any officer appointed by Government to be Certifying Officer_. [section 2(c)].

The Certifying Officer will inform the Union and workmen and hear their objections. After that, he will certify the Standing Orders_ for the industrial establishment. [section 5]. Till standing orders are certified, Model Standing Order_ prepared by Government will automatically apply. [section 12A].

Standing order should be displayed in English and local language on special notice boards at or near entrance of the establishment. [section 9]. Modifications of Standing Order shall be done by following similar procedure. [section 10].

XI. THE APPRENTICES ACT, 1961

The Act extends to the whole of India.

Applies to those apprentices who are undergoing apprenticeship training in designated trades. From time to time, the Central Govt. has specified the designated trades.

Contract of Apprenticeship

- (1) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless such person or, if he is a minor, his guardian has entered into a contract of apprenticeship with the employer.
- (2) The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1).
- (3) Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract :

OBLIGATIONS OF APPRENTICES

Every graduate or technician apprentice, technician (vocational) apprentice undergoing apprenticeship training shall have the following obligations, namely :

- (a) to learn his subject field in engineering or technology or vocational course conscientiously and diligently at his place of training;
- (b) to attend the practical and instructional classes regularly;
- (c) to carry out all lawful orders of his employer and superiors in the establishment;
- (d) to carry out his obligations under the contract of apprenticeship which shall include the maintenance of such records of his work as may be prescribed.

OBLIGATIONS OF EMPLOYERS

To provide the apprentice with the training in his trade in accordance with the provisions of this Act, and the rules made there under;

If the employer is not himself qualified in the trade, to ensure that a person who possesses the prescribed qualifications is placed in charge of the training of the apprentice;

(bb) to provide adequate instructional staff, possessing such qualifications as may be prescribed, for imparting practical and theoretical training and facilities for trade test of apprentices; and

(c) to carry out his obligations under the contract of apprenticeship.

PERIOD OF APPRENTICESHIP TRAINING

The period of apprenticeship training, which shall be specified in the contract of apprenticeship, shall be as follows :

(a) in the case of trade apprentices who, having undergone institutional training in a school or other institution recognized by the National Council, have passed the trade tests or examinations conducted by that Council or by an institution recognized by that Council, the period of apprenticeship training shall be such as may be determined by that Council or by an institution recognized by that Council;

In the case of trade apprentices who, having undergone institutional training in a school or other institution affiliated to or recognized by a Board or State Council of Technical Education or any other authority which the Central Government may, by notification in the Official Gazette specify in this behalf, have passed the trade tests or examinations conducted by that Board or State Council or authority, the period of apprenticeship training shall be such as may be prescribed;

NUMBER OF APPRENTICES

The Central Government shall, after consulting the Central Apprenticeship Council, by order notified in the Official Gazette, determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade.

Duties of the Employer

Every employer shall make suitable arrangements in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the program approved by the Apprenticeship Adviser.

Where an employer employs 500 or more workers, the basic training shall be imparted in separate part of the workshop building or in a separate building set up by the employer.

EMPLOYERS to ensure

Placement of Training Officer with suitable qualification

Payment of stipend at a rate not less than the prescribed minimum rate Not to pay on the basis of piece work

Not to require to take part in any output bonus or other incentive scheme. Health, safety and welfare of apprentices.

In case of employment injury pay compensation in accordance with the provisions of the Workmen's Compensation Act,1923.

HOURS OF WORK, OVERTIME, LEAVE AND HOLIDAYS.

(1) The weekly and daily hours of work of an apprentice while undergoing practical training in a workshop shall be such as may be prescribed.

(2) No apprentice shall be required or allowed to work overtime except with the approval of the Apprenticeship Adviser who shall not grant such approval unless he is satisfied that such overtime is in the interest of the training of the apprentice or in the public interest.

(3) An apprentice shall be entitled to such leave as may be prescribed and to such holidays as are observed in the establishment in which he is undergoing training.

Leave Entitlement.

In continuation with the same, the apprentice should be entitled the leaves as prescribed. As per the latest notification, applicable Leaves are as follows;

- 15 Medical Leave.

- 08 Casual Leave

CONDUCT AND DISCIPLINE

In all matters of conduct and discipline, the apprentice shall be governed by the rules and regulations applicable to employees of the corresponding category in the establishment in which the apprentice is undergoing training.

APPRENTICES ARE TRAINEES AND NOT WORKERS.

- (a) Every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker; and
- (b) The provisions of any law with respect to Labour shall not apply to or in relation to such apprentice.

Rate of Stipend

As the Apprentice is a –Trainee & not the worker ; will be entitled for Stipend and not the Salary/Wages.

As per the Govt. notification the rate of Stipend is Rs. 1500/- p.m.

RECORDS AND RETURNS

Every employer shall maintain records of the progress of training of each apprentice undergoing apprenticeship training in his establishment in such form as may be prescribed.

OFFENCES AND PENALTIES.

- If any employer - (a) engages as an apprentice a person who is not qualified for being so engaged, or (b) fails to carry out the terms and conditions of a contract of apprenticeship, or (c) contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

If any employer or any other person

required to furnish any information or return

- (i) refuses or neglects to furnish such information or return, or
- (ii) furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true, or
- (iii) refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished by him, or
- (b) refuses or willfully neglects to afford the Central or the State Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorized by the Central or the State Apprenticeship Adviser in writing in this behalf any reasonable facility for making any entry, inspection, examination or inquiry authorized by or under this Act, or
- (c) requires an apprentice to work overtime without the approval of the Apprenticeship Adviser, or
- (d) employs an apprentice on any work which is not connected with his training, or
- (e) makes payment to an apprentice on the basis of piecework, or
- (f) requires an apprentice to take part in any output bonus or incentive scheme, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

TEST AND GRANT OF CERTIFICATE & CONCLUSION OF TRAINING

- (1) Every trade apprentice who has completed the period of training shall appear for a test to be conducted by the National Council to determine his proficiency in the designated trade in which he has undergone his apprenticeship training.
- (2) Every trade apprentice who passes the test referred to in sub-section (1) shall be granted a certificate of proficiency in the trade by the National Council.
- (3) The progress in apprenticeship training of every graduate or technician apprentice, technician (vocational) apprentice shall be assessed by the employer from time to time.
- (4) Every graduate or technician apprentice or technician (vocational) apprentice, who completes his apprenticeship training to the satisfaction of the concerned Regional Board, shall be granted a

certificate of proficiency by that Board.

Termination of Training

On the expiry of the period of apprenticeship training specified in the contract.

Premature termination by employer

the employer shall pay to the apprentice such compensation as may be prescribed. Premature termination by the apprentice

apprentice or his guardian shall refund to the employer as cost of training such amount as may be determined by the Apprenticeship Adviser.

Disputes

Any dispute between an employer and an apprentice arising out of the contract of apprenticeship shall be referred to the Apprenticeship Adviser for decision.

OFFER AND ACCEPTANCE OF EMPLOYMENT

(1) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.

(2) Notwithstanding anything in sub-section (1), where there is a condition in a contract of apprenticeship shall, after the successful completion of the apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract.

Provided that where such period or remuneration is not, in the opinion of the Apprenticeship Adviser, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer.

XII. EQUAL REMUNERATION ACT 1976

INTRODUCTION

The principle of equal work to men and women worker has been gaining increasing acceptance all over the world. In many countries, law have been passed prohibiting discrimination between men and women in matters relating to payment of wages for similar work.

The State Policy article 39 of the Constitution envisages that the State shall direct its policy, among other things, towards securing that there is equal pay for equal work for both men and women.

The International Women's Year, President of India promulgated the Equal Remuneration Ordinance, 1975 on 26th September, 1975 to provide for the payment of equal remuneration to men and women workers

Article 39(a) states that the citizens, men and women, equally, have the right to an adequate means of livelihood.

Article 39(d) –that there is equal pay for equal work for both men and women||.

Article 16(2) makes a specific mention that –no citizen shall on ground only ofsex ...be ineligible for or discrimination against in respect of any employment or office under state.||

(a) –Appropriate Government|| means –

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government, and

(ii) In relation to any other employment, the State Government;

(b) –Commencement of this Act|| means, in relation to an establishment or employment, the date on which this Act comes into force in respect of that establishment or employment;

(c) –Employer|| has the meaning assigned to it in clause (f) of Section 2 of the Payment of Gratuity Act, 1972 (39 of 1972);

(d) –Man|| and –woman|| mean male and female human beings, respectively, of any Age;

(e) –Notification|| means a notification published in the Official Gazette;

(f) –Prescribed|| means prescribed by rules made under this Act;

(g) – Remuneration || means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled;

(h) –Same work or work of a similar nature|| means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment

(i) –Worker|| means a worker in any establishment or employment in respect of which this Act has come into force;

(j) Words and expressions used in this Act and not defined but defined in the

Industrial Disputes Act, 1947 (14 of 1947), shall have the meaning respectively assigned to them that act.

– An act to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto. –

Duty of employer to pay equal remuneration (sec.2(h))

– Same work or work for similar nature||

The act define –work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a women and the difference, if any between the skill, effort and responsibility required of man and those required of a women are not of practical importance in relation to the terms and condition of employment .||

Prohibition of discrimination in recruitment or other condition of service(sec 5)

This Act, no employer shall while making recruitment for the same work or work of a similar nature, or in any condition of service subsequent to recruitment such as promotions, training or transfer, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation. for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

Advisory Committee (increasing employment opportunities for women)

Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

The Advisory Committee shall regulate its own procedure.

- The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations, issue such directions in respect of employment or women workers, as the appropriate Government may think fit.

Authorities for hearing and deciding claims and complaints

The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding

Maintenance of registers (Sec 8)

Every employer is required to maintain prescribed registers and documents in relation to workers employed by him

XIII. THE MATERNITY BENEFIT ACT, 1961

Object of the Act

To protect the dignity of motherhood and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working. To Provide Healthy Maintenance Of Pregnant Women Employee and her child

Coverage of the Act

All women employees either employed directly or through contractor.
Unmarried women is also eligible for maternity benefit when she is expecting a Child

APPLICABILITY

Every factory, mine or plantation (including those belonging to Government) and
To every shop or establishment wherein 10 or more persons are employed

CONDITIONS FOR CLAIMING BENEFITS

If she has worked for her employer for atleast 80 days in the 12 months {Section 5}
before the date of her expected delivery, she may ask the employer to give her light work for a month. At that time she should produce a certificate that she is pregnant

She should give written notice to the employer about seven weeks before the date of her delivery that she will be absent for six weeks before and after her delivery. She should also provide the name of person to whom payment will be made in case she cannot take it herself.

She should take the payment for the first six weeks before she goes on leave.

She will get payment for the six weeks after child-birth within 48 hours of giving proof of birth.

She will be entitled to two nursing breaks of fifteen minutes each in the course of her daily work till her child is fifteen months old.

Her employer cannot discharge her or change her conditions of service while she is on maternity leave {Section 5}

Cash Benefits

84 Days Leave with pay

A medical bonus of Rs. 1,000/-(As Per latest Amendment)

An additional leave with pay up to one month

In case of miscarriage **Six weeks leave** with average pay.

Non Cash Benefits

- Light work for 10 weeks** (6 weeks plus 1 month) before delivery.
- 2 Nursing breaks** of 15 Minutes until the child 15 months old.
- No discharge or dismissal** while on maternity leave.
- No charge to her disadvantage** while on maternity leave.

Records to be maintained

Every employer shall prepare and maintain a muster roll in **Form – A**
ANNUAL RETURN:- Before 31st Jan employer has to submit the return in FORM - L

Leave for Miscarriage & Tubectomy Operation

Miscarriage/Termination of pregnancy: Leave with wages @ of maternity benefit, for a period of 6 weeks
Tubectomy operation : Leave with wages @ of maternity benefit for a period of 2 weeks.

Dismissal During Absence of Pregnancy

Any discharge or dismissal of a woman during pregnancy for absence is entitled to maternity benefit/medical bonus.
In case of Gross misconduct the employer in written can communicate about depriving such benefit. Within 60 days from date of deprivation of maternity benefit, any Women can appeal to the authority prescribed by law.

Penalty for Contravention of Act

Imprisonment with minimum period of **3 months to maximum 01 year** Fine from Rupees **Two Thousand to Rupees Five Thousand**.

XIV -THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith. Be it enacted by Parliament in the Twenty-first Year of the Republic of India as follows: -

PRELIMINARY

1. Short title, extent, commencement and application. - (1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970.

(2) It extends to the whole of India.

(3) It shall come into force on such date 1* as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

(4) It applies--

(a) To every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employees or who employed on any day of the preceding twelve months twenty or more workmen:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

(5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall Received assent of the President on 5.9.1970; Published in Gazette of India on 7.9.1970 decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation.-- For the purpose of this sub-section, work performed in an establishment shall not

be deemed to be of an intermittent nature--

- (i) if it was performed for more than one hundred and twenty days in the preceding twelve months,
or
(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

2. Definitions.-

- a) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;
- (b) "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;
- (c) "principal employer" means--
- (i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf,
- (ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948) the person so named,
- (iii) in a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named,
- (iv) in any other establishment, any person responsible for the supervision and control of the establishment.

Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

THE ADVISORY BOARDS

3. Central Advisory Board.- (1) The Central Government shall, as soon as may be, constitute a board to be called the Central Advisory Contract Labour Board (hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of--

- (a) a Chairman to be appointed by the Central Government;
- (b) the Chief Labour Commissioner (Central), ex-officio;
- (c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

4. State Advisory Board.- (1) The State Government may constitute a board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State Board shall consist of--

- (a) a Chairman to be appointed by the State Government;
- (b) the Labour Commissioner, ex-officio, or in his absence any other officer nominated by the

State Government in that behalf;

(c) such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any

other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

5. Power to constitute committees.- (1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

(2) The committee constituted under sub-section (1) shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

Provided that no fees shall, be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

6. Appointment of registering officers.- The appropriate Government may, by an order notified in the Official Gazette--

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be registering officers for the purposes of this Chapter; and

(b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

7. Registration of certain establishments.- (1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment:

Provided that the registering officer may entertain any such application for registration after expiry of the period fixed in this behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed.

8. Revocation of registration in certain cases.- If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government, revoke the registration.

9. Effect of non-registration.- No principal employer of an establishment, to which this Act applies, shall--

(a) in the case of an establishment required to be registered under section 7, but which has not been registered within the time fixed for the purpose under that section,

(b) in the case of an establishment the registration in respect of which has been revoked under section 8, employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

10. Prohibition of employment of contract labour.- (1) Notwithstanding anything contained in this

Act, the appropriate Government may, after consultation with the Central Board or, as the case may

be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as--

- (a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;
- (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
- (c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;
- (d) whether it is sufficient to employ considerable number of whole-time workmen.

LICENSING OF CONTRACTORS

11. Appointment of licensing officers.-- The appropriate Government may, by an order notified in the Official Gazette,--

- (a) appoint such persons, being Gazetted Officers of Government, as it thinks fit to be licensing officers for the purposes of this Chapter; and
- (b) define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

12. Licensing of contractors.- (1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.

(2) Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed.

13. Grant of licences.- (1) Every application for the grant of a licence under sub-section (1) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which contract labour is to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under this Chapter shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

14. Revocation, suspension and amendment of licences.- (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that--

- (a) a licence granted under section 12 has been obtained by misrepresentation or suppression of any material fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder, then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the

licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 12.

15. Appeal.- (1) Any person aggrieved by an order made under section 7, section 8, section 12 or section 14 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard dispose of the appeal as expeditiously as possible.

WELFARE AND HEALTH OF CONTRACT LABOUR

16. Canteens.- (1) The appropriate Government may make rules requiring that in every establishment--

(a) wherein contract labour numbering one hundred or more is ordinarily employed by a contractor, one or more canteens shall be provided and maintained by the contractor for the use of such contract labour.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the date by which the canteens shall be provided;

(b) the number of canteens that shall be provided, and the standards in respect of construction, accommodation, furniture and other equipment of the canteens; and

(c) the foodstuffs which may be served therein and the charges which may be made thereof.

17. Rest-rooms.- (1) In every place wherein contract labour is required to halt at night in connection with the work of an establishment--

(a) to which this Act applies, and

(b) in which work requiring employment of contract labour is likely to continue for such period as may be prescribed, there shall be provided and maintained by the contractor for the use of the contract labour such number of rest-rooms or such other suitable alternative accommodation within such time as may be prescribed.

(2) The rest rooms or the alternative accommodation to be provided under subsection

(1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.

18. Other facilities.-

(a) a sufficient supply of wholesome drinking water for the contract labour at convenient places;

(b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment; and

(c) washing facilities.

19. First-aid facilities.- There shall be provided and maintained by the contractor so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him.

20. Liability of principal employer in certain cases.- (1) If any amenity required to be provided under section 16, section 17, section 18 or section 19 for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed thereof, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity may be recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

21. Responsibility for payment of wages.- (1) A contractor shall be responsible for payment of

wages to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorized by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorized representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

PENALTIES AND PROCEDURE

22. Obstructions.- (1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or willfully neglects to afford the inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever willfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

23. Contravention of provisions regarding employment of contract labour.-

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

24. Other offences.- If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

25. Offences by companies.- (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

26. Registers and other records to be maintained.- (1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be

prescribed within the premises of the establishment where the contract labour is employed, notices

in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

XV - THE CHILD LABOUR(Prohibition and Regulation) ACT, 1986

OBJECT:

To prohibit the engagement of children in certain employment's and to regulate the conditions of work or children in certain other employment's.

DEFENITION:

Child: Child means a person who has not completed his fourteen years of age.

Applicability: In extends to the whole of India.

Prohibition of employment of children in certain Occupations and processes:

No child shall be employed or permitted to work in any of the following occupations: Set forth in part of _A' of the schedule or in any workshop where in any of the process set forth in part _B' of the schedule to this Act

Child Labour Technical Advisory Committee.-- (1) The Central Government may, by notification in the Official Gazette, constitute an advisory committee to be called the Child Labour Technical Advisory Committee (hereafter in this section referred to as the Committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.

(4) The Committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.

(5) The term of office, of the manner of filling casual vacancies in the office of, and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint any person who is not a member of the Committee as a member of any of its subcommittees shall be such as may be prescribed.

REGULATION OF CONDITIONS OF WORK OF CHILDREN

Application of Part.-- The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in section 3 is carried on..

Hours and period of work. -- (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No child shall be required or permitted to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

Weekly holidays.-- Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently

exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

Notice to Inspector.-- (1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:--

- (a) the name and situation of the establishment;
- (b) the name of the person in actual management of the establishment;
- (c) the address to which communications relating to the establishment should be sent; and
- (d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

Disputes as to age.-- If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

Maintenance of register.-- There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing--

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

Display of notice containing abstract of sections 3 and 14.-- Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of sections 3 and 14.

Health and safety.-- (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:--

- (a) cleanliness in the place of work and its freedom from nuisance;
- (b) disposal of wastes and effluents;
- (c) ventilation and temperature;
- (d) dust and fume;
- (e) artificial humidification;
- (f) lighting;

- (g) drinking water;
- (h) latrine and urinals;

- (i) spittoons;
- (j) fencing of machinery;
- (k) work at or near machinery in motion;
- (l) employment of children on dangerous machines;
- (m) instructions, training and supervision in relation to employment of children on dangerous machines;
- (n) device for cutting off power;
- (o) self-acting machines;
- (p) easing of new machinery;
- (q) floor, stairs and means of access;
- (r) pits, sumps, openings in floors, etc.;
- (s) excessive weights;
- (t) protection of eyes;
- (u) explosive or inflammable dust, gas, etc.;
- (v) precautions in case of fire;
- (w) maintenance of buildings; and
- (x) safety of buildings and machinery

Penalties.-- (1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever--

- (a) fails to give notice as required by section 9; or
- (b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or
- (c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or
- (d) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder. shall be punishable with simple imprisonment, which may extend to one month or with fine , which may extend to ten thousand rupees or with both.

WHO CAN FILE PROSPECUTIONS:

1. Any person
2. Police Officer
3. Inspector appointed under the Act No. court inferior to that of a metropolitan Magistrate or a Magistrate of the First Class shall try any offence under this Act. (Section-16) Shall be a Government Medical Officer not below the rank of an Assistant Surgeon of a district or an officer of equivalent rank employed on a regular basis in Employees State Insurance dispensaries or hospitals

-GOOD LUCK!!