**EMPLOYEES’ PROVIDENT FUNDS & MISC. PROVISIONS ACT, 1952 & THE SCHEMES**

**Object of the Act**

To provide wider terminal benefits to the Workers on completion of their employment.

**Applicability**

Every specified factory OR establishment in which 20 or more persons are employed. Any factory or Establishment can also voluntarily cover under the Act, even if the number of employees are less than 20.

**Eligibility**

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment and drawing salary upto Rs.6,500/- p.m. (Basic + DA). • Any disabled employee appointed after 1.4.2008 drawing salary upto Rs.25,000/- • Any international worker (irrespective of salary limit)

**Payment of Contribution**

The employer shall pay the contribution payable to the EPF, DLI and Employees’ Pension Fund in respect of the member of the Employees’ Pension Fund employed by him directly by or through a contractor. • It shall be the responsibility of the principal employer to pay the contributions payable to the EPF, DLI and Employees’ Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

Rates of Contribution

• Employer - 12% • Employee - 12% • Govt. - 1.16%

SCHEME EMPLOYEE’S

EMPLOYER’S CENTRAL GOVT’S

Provident Fund Scheme

12%

Amount > 8.33% (in case where contribution is 12% of 10%) 10% (in case of certain Establishments as per details given earlier)

NIL

Insurance Scheme

NIL 0.5 NIL

Pension Scheme

NIL

8.33% (Diverted out of Provident Fund (12) 1.16%

Benefits

• Withdrawal of accumulated amount with interest on exit from employment. • Advances in severely restricted circumstances like buying house, marriage/education, etc. • Pension to the employees under Employees’ Pension Scheme a • Insurance under Employees’ Deposit Linked Insurance Scheme.

**EMPLOYEES’ STATE INSURANCE ACT, 1948 & SCHEME**

**Object of the Act**

To provide social insurance for the employees.

**Applicability of the Act & Scheme**

Is extended in area-wise to factories employing 10 or more persons and establish-ments employing 20 or more person.

Coverage of employees, Employees drawing gross wages upto Rs.15000/- per month, engaged either directly or thrugh contractor

**Rate of Contribution of the wages**

Employers’ 4.75% Employees’ 1.75%

**Manner and Time Limit for making Payment of contribution**

The total amount of contribution (employee’s share and employer’s share) is to be deposited with the authorised bank through a challan in the prescribed form in quadruplicate on or before 21st of month following the calendar month in which the wages fall due.

**Benefits to the employees under the Act**

Medical, sickness, extended sickness for certain diseases, enhanced sickness, dependents maternity, besides funeral expenses, rehabilitation allowance, medical benefit to insured person and his or her spouse.

**WAGES FOR ESI CONTRIBUTIONS To be deemed as wages**

• Basic pay • Dearness allowance • House rent allowance • City compensatory allowance • Overtime wages (but not to be taken into account for determining the coverage of an employee) • Payment for day of rest

• Production incentive • Bonus other than statutory bonus • Night shift allowance • Heat, Gas & Dust allowance • Payment for unsubstituted holidays • Meal/food allowance • Suspension allowance • Lay off compensation • Children education allowance (not being reimbursement for actual tuition fee)

**NOT to be deemed as wages**

• Contribution paid by kthe employer to any pension/provident fund or under ESI Act. • Sum paid to defray special expenses entailed by the nature of employment – Daily allowance paid for the period spent on tour. • Gratuity payable on discharge. • Pay in lieu of notice of retrenchment compensation • Benefits paid under the ESI Scheme. • Encashment of leave • Payment of Inam which does not form part of the terms of employment. • Washing allowance • Conveyance Amount towards reimbursement for duty related journey

**Contribution period**

1st April to 30th September.

1st October to 31st March

**FACTORIES ACT, 1948**

**Applicability of the Act**

To any premises where manufacturing activities are carried out with the aid of power and where 10 or more workers are/were working OR where manufacturing activities are carried out without the aid of power and where 20 or more workers are/were working.

**Employer to ensure health of workers pertaining to**

• Cleanliness Disposal of wastes and effluents • Ventilation and temperature dust and fume • Overcrowding Artificial humidification Lighting • Drinking water Spittoons.

**Safety Measures**

• Facing of machinery • Work on near machinery in motion. • Employment prohibition of young persons on dangerous machines. • Striking gear and devices for cutting off power. • Self-acting machines. • Casing of new machinery. • Prohibition of employment of women and children near cotton-openers. • Hoists and lifts.

**Working Hours, Spread Over & Overtime of Adults**

• Weekly hours not more than 48 hours. • Daily hours, not more than 9 hours. • Intervals for rest at least ½ hour on working for 5 hours. • Spreadover not more than 10½ hours. • Overlapping shifts prohibited. • Extra wages for overtime double than normal rate of wages. • Restrictions on employment of women before 6AM and beyond 7 PM.

**Welfare Measures**

• Washing facilities • Facilities for storing and drying clothing • Facilities for sitting • First-aid appliances – one first aid box not less than one for every 150 workers. • Canteens when there are 250 or more workers. • Shelters, rest rooms and lunch rooms when there are 150 or more workers. • Creches when there are 30 or more women workers. • Welfare office when there are 500 or more workers.

**Employment of Young Persons**

• Prohibition of employment of young children i.e. below 14 years. • Adolescent workers (15 to 18 years of age) are permitted with less working hours and special conditions. Annual Leave with Wages

A worker having worked for 240 days @ one day for every 20 days of working.

**INDUSTRIAL DISPUTES ACT, 1947**

**Object of the Act**

Provisions for investigation and settlement of industrial disputes and for certain other purposes.

Important Definition Industry – has attained wider meaning than defined except for domestic employment, covers from shops with nominal employees to big industrial units.

Workman – Includes almost all category of employees, except person doing Managerial and Administrative work, and also Supervisors earning wages more than Rs.10,000/- p.m.

**Machinery to deal with Disputes**

Works Committee–Joint Committee with equal number of employers and employees’ representatives for discussion of certain common problems. Conciliation–is an attempt by Govt. Official in helping to settle the disputes. Adjudication – Labour Court, Industrial Tribunal or National Tribunal to hear and decide the dispute. Persons Bound by Settlement

• When in the course of conciliation proceedings etc., all persons working or joining subsequently. • Otherwise than in course of conciliation, upon the parties to the settlement. Period of Operation of Settlements and Awards

• A settlement for a period as agreed by the parties, or • Period of six months on signing of settlement. • An award for one year after its enforcement. Conditions for Laying off

Failure, refusal or inability of an employer to provide work due to • Shortage of coal, power or raw material. • Accumulation of stocks. • Breakdown of machinery. • Natural calamity.

**Lay off Compensation**

Payment of wages except for intervening weekly holiday compensation 50% of total or basic wages and DA for a period of lay off upto maximum 45 days in a year. 8

**Notice of Change**

21 days notice to be given by an employer to workmen about changing the conditions of service as provided in IVth Schedule.

**Prohibition of strikes & lock out**

• Without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking. • Within fourteen days of giving such notice. • Before the expiry of the date of strike specified in any such notice as aforesaid. • During the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings. • During the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings. • During the pendency of proceedings before a Labour Court, Tribunal or National • Tribunal and two months, after the conclusion of such proceedings. • During the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under Sub-Section(3A) of section 10A • During any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

Prior Permission from the Govt. When there are more than 100 workmen (in UP 300 or more) during proceeding 12 months, prior permission to be obtained by the Employer for Lay Off, Retrenchment or Closure. Retrenchment of Workmen Compensation & Conditions

No employees who has worked for 240 days in a year shall not be retrenched unless paid/given: • Retrenchment compensation @ 15 days’ wages for every completed year of service. • Given One month’s notice or wages in lieu thereof. • Reasons for retrenchment • Complying with principle of ‘last come first go’. Notice for Closure of an Undertaking

• 60 days’ notice to the authorities for intended closure in prescribed form, when there are minimum 50 workers and less than 100 workers.

• To apply for Prior permission from Govt. atleast 90 days before the intended closure, when there are 100 or more workmen during preceding 12 months (in UP 300 or more workmen) Penal Provision

• For breach of provisions of the Act, the employer shall be punishable with imprisonment upto 6 months and/or fine not exceeding Rs.5,000/-.

• On continuity of offence fine upto Rs.200/- per day.

**PAYMENT OF BONUS ACT, 1965**

**Object of the Act**

To provide certain statutory right to the employees to share the profit of the employer.

**Applicability of Act**

Every factory where in 10 or more persons are employed and Other establishments in which 20 or more persons are employed on any day during an accounting year. Certain States like Maharashtra has made this Act applicable to all the Establishments employing minimum 10 employees.

**Exemption for newly set up Establishments**

Newly set up establishment is exempted from paying bonus for the initial 5 years, provided no profit is made during these years. If the employer derives profit in any of the first five years, he has to pay bonus for that year.

**Eligibility for Bonus**

• Employees (other than Apprentice) drawing salary (basic + DA) upto Rs.10,000/- p.m. • An employee will be entitled only when he has worked for 30 working days in that financial year.

**Benefits**

• Minimum Bonus is 8.33% of total salary earnings (basic + DA) for the financial year. (Calculation to be done as if the maximum salary were Rs.3,500/- p.m.) • Maximum bonus is 20%

**Disqualification & Deduction of Bonus**

On dismissal of an employee for • Fraud; or • riotous or violent behaviour while on the premises of the establishment; or • theft, misappropriation or sabotage of any property of the establishment or • Misconduct of causing financial loss to the Employer to the extent that bonus can be deducted for that year.

Time Limit for Payment of Bonus

Within 8 months from the close of accounting y ear.

Set-off and Set-on

As per Schedule IV. Sec. 15

Maintenance of Registers and Records

• A register showing the computation of the allocable surplus , in Form ‘A’.

• A register showing the set-on and set-off of the allocable surplus, in form ‘B’.

• A register showing the details of the amount of bonus paid, in Form ‘C’

PAYMENT OF WAGES ACT, 1936

**Object of the Act**

The main object of the Act is to regulate the payment of wages of certain classes of employed persons, avoid unnecessary delay in the payment of wages and to prevent unauthorised deductions from the wages.

**Applicability of Act**

• Factories, industrial Establishments, Tramway service or motor transport service, Air transport service, Dock, Wharf or Jetty, Inland vessel, Mine, quarry or oil-field Plantation, Workshop, construction activities or other establishment etc. • In the state of Maharashtra the Act is extended to Shops & commercial establishments.

**Coverage of Employees**

The employees drawing average wage upto Rs.10,000/- p.m.

**Time of payment of wages**

The wages of every person employed be 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.

**Mode of Payment of Wages**

• 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 employee’s bank Account • Wages exceeding Rs.3000/- to be paid by cheque/through bank (Applicable in Maharashtra only)

Fines as prescribed by

•Not to imposed unless the employer is given an opportunity to show cause To record in the register (Sec.8)

**Deduction from wages**

Deductions such as, fine, deduction for amenities and services supplied by the employer, advances paid, over payment of wages, loan, granted for housebuilding or other purposes, income tax payable, in pursuance of the order of the Court, PF contributions, cooperative societies, premium for Life Insurance, contribution to any fund constituted by employer or a trade union, recovery of losses, ESI contributions etc. can be made from the wages, in accordance with Section 7. Maximum Deductions

• The maximum permissible deductions is 50% of the wages

• In the event of deduction include payment to co-operative societies, the maximum permissible deduction is 75% of the wages.

**MATERNITY BENEFIT ACT, 1961**

**Object of the Act**

To protect the dignity of motherhood and to provide certain benefits to women employees at the time of child-birth.

**Coverage of the Act**

Upon all women employees either employed directly or through contractor employed in mines, factories, plantations and also in other establishments if the State Government so decides. Also applicable to every shop or establishment in which ten or more persons are employed.

**Conditions for eligibility of benefits**

Women indulging temporary of unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 12 months immediately proceeding the date of her expected delivery. This Act shall not be applicable when and where ESI Act is applicable.

**Benefits**

• Leave with average pay for six weeks before the delivery. • Leave with average pay for six weeks after the delivery. • A medical bonus of Rs.3500/- if the employer does not provide free medical care to the woman. • An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth. • In case of miscarriage, six weeks leave with average pay from the date of miscarriage.

Non Cash Benefits/Privilege • Light work for ten weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it. • Two nursing breaks in the course of her daily work until the child is 15 months old. • No discharge or dismissal while she is on maternity leave. • No change to her disadvantage in any of the conditions of her employment while on maternity leave. • Pregnant women discharged or dismissed may still claim maternity benefit from the employer. Exception : Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit

**Maintenance of Registers and Records**

Every employer shall prepare and maintain such registers, records and musterrolls and in such manner as may be prescribed by Rules.

**MINIMUM WAGES ACT, 1948**

**Object of the Act**

To fix minimum rates of wages in certain category of employments & industries. Applicability of Act

• The Act will applicable to certain schedule of employment in respect of which Minimum rates of wages have been fixed by the Act. • It applicable to employees directly employed or employed through contractors, in such schedule of Industry.

**Fixation of Minimum Rates of Wages**

• The appropriate government to fix minimum rates of wages from time to time for various industries/schedule of employments. Procedure for fixing and revising Minimum Rates of Wages

Appointing Committee issue of Notification etc.

**Composition of Committee**

Representation of employer and employee in schedule employer in equal number and independent persons not exceeding 1/3rd or its total number one such person to be appointed by the Chairman.

Payment of Minimum Rates of Wages Employer to pay to every employee engaged in schedule employment at a rate not less than minimum rates of wages as fixed by Notification by not making deduction other than prescribed. Minimum time rate wages for piece work

Not less than minimum rates wages as fixed.

Overtime

For Over time work, the wages to be paid at double the normal rate. (1½ times or for agriculture labour)

Maintenance of registers and records

• Annual Returns • Register for Overtime • Register of Wages • Wages slip • Muster Roll

**EMPLOYEE’S COMPENSATION ACT, 1923**

**Object of the Act**

This Act earlier known as “Workmen’s Compensation Act is introduced as a kind of Social Security Scheme for the workmen who suffer employment injury, occupational decease etc.

**Applicability**

To those employers employing persons listed in Schedule II of the Act and to whom ESI Act, not applicable.

**Coverage of Workmen**

All workers irrespective of their status or salaries either directly or through contractor or a person recruited to work abroad.

Eligibility • Any workman who is injured by accident arising out of and in the course of his employment OR contracts occupational disease peculiar to his occupation.

**Benefits**

• In case of death results from injury, 50% of monthly wages X relevant factor OR Rs.1,20,000/- whichever is more. • In case of Permanent total disablement resulted from the injury, 60% of monthly wages X relevant factor OR Rs.1,40,000/- whichever is more • Where permanent , partial disablement or termporary disablement results from injurty, as per prescribed schedule.

• In case of death funeral expenses of Rs.5,000/-

• Relevant factor is based on the age of workman

• For the purpose of calculation of compensation, the monthly salary ceiling is Rs.8000/-, as per Central Govt. Notification dated 31.05.2010.

• In the event of death or in the event of any dispute, the compensation to be deposited with the Commissioner within one month.

**When an employee is not liable for compensation**

• In respect of any injury which does result in the total or partial disablement of the workman for a period exceeding three days. • In respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to- • The workman having been at the time thereof under the influence of drink or drugs, or • Willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or • Willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workman.

**Report of accident**

Report of fatal Accident and Serious Injury within 7 days to the Commissioner (not application when ESI Act applies).

Bar upon contracting out

• Any workman relinquishing his right for personal injury not permissible. • Bar of benefit under other enactments :- When a person is entitled to any of the benefits provided by this Act, he shall not be entitled to receive any similar benefit admissible under the provisions of any other enactment.

**INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1961**

**Object of the Act**

To standardize the service conditions of the workmen employed in any industrial establishment. The Act lay down uniformity in the service conditions of the employees in Industrial Establishments, so that the employer and the employees know in clear manner their rights and obligations.

**Applicability of the Act**

• Every industrial establishment wherein 100 or more employees are employed. In many States like Maharashtra, the Act is made applicable if the number of employees is 50 or more. • There are some establishments where this Act is not Applicable such as any establishment/industry covered by Bombay Industrial Relations Act, 1946, M.P. Industrial Employment (Standing Orders) Act, 1961 & Industrial Establishments employing persons covered by Civil Service Rules.

Matters to be provided in Standing orders • Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates. • Shift working. • Attendance and late coming. • Conditions of, procedure in applying for, and the authority which may grant, leave and holidays. • Requirement to enter premises by certain gates, and liability to search. • Closing and re-opening of sections of the industrial establishments, and temporary stoppages of work and the right and liabilities of the employer and workmen arising therefrom. • Termination of employment, and the notice thereof to be given by employer and workmen. • Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct. Additional Matters • Service Record • Token tickets, • Record of age, • Fixing Age of retirement • Medical Examination • Secrecy • Exclusive Service

**Submissions of Draft Standing Orders**

The employer has to submit draft Standing orders for certification within six months from the date when the Act becomes applicable to an industrial establishment.

**Temporary Application of Model Standing Orders**

Till the certification is done by the Certifying Officer, the Model Standing orders provided by the Rules shall be applicable to the Establishment. Procedure for Certification of Standing Orders • The Draft Standing Order to be submitted to the Certifying Officer. • The Certifying Officer has to forward a copy of draft standing orders to the trade union or in the absence of union, to the workmen of the industry. • The trade union or the other representatives, as the case may be, are to be heard. (Sec.5) • After hearing both the parties and after making necessary changes and amendment, the Certifying Officer shall certify the Standing order. Date of commencement of Operation of Standing Orders .On the date of expiry of 30 days from certification or on the expiry of 7 days from the Appellate order if any passed. Display of Standing Orders

The certified Standing Orders should be displayed in English language or in the language understood by majority of workmen on a notice board at or near the entrance of the Establishment. Penal Provisions

• For contraventions of provisions of the Act, a fine upto Rs. 5000/- can be imposed.

• For repeated or continuous contravention of the Act, further fine of Rs. 200/- per day can be imposed