

Industrial Development Regulation Act Central Gov

Industrial Development Regulation Act

The Industries (Development and Regulation) Act provides the conceptual and legal framework for industrial development and industries in India. It is briefly known as the IDR Act. The act was enacted in 1951 and a number of amendments have been made in the Act.

The licensing policy for industries is determined under this act.

Section 11-B provides the power to specify the definition of SSI in consideration of factors relating to:

Investment of unit in fixed assets

Nature of ownership

Smallness of number of workers employed

Nature, cost and quality of product etc.,

Section 29-B provides for reservation of products for exclusive production in the small-scale sector.

The portions of the Act and subsequent notifications for amendments related to the small scale and ancillary industrial undertakings have been reproduced here for reference. The major ones are

1. Industries (Development and Regulation) Act, 1951.

Explanatory Note:

The conceptual and legal framework for small scale and ancillary industrial undertakings is derived from the IDR Act, 1951. Section 11 B of the Act specifies the general requirements that are to be complied with by small-scale units. The Section is quoted below: -

SECTION 11-B

"Power of Central Government to specify the requirements which shall be complied with by small scale industrial undertakings:

(1) The Central Government may, with a view to ascertaining which ancillary and small scale industrial undertakings need supportive measures, exemptions or other favourable treatment under this Act to enable them to maintain their viability and strength so as to be effective in -

promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment and securing that the ownership and

control of the material resources of the community are so distributed as best to subserve the common good, specify, having regard to the factors mentioned in sub-section (2), by notified order, the requirements which shall be complied with by an industrial undertaking to enable it to be regarded, for the purposes of this Act, as an ancillary, or a small scale, industrial undertaking and different requirements may be so specified for different purposes or with respect to industrial undertakings engaged in manufacture or production of different articles:-

Provided that no industrial undertaking shall be regarded as an ancillary industrial undertaking unless it is or is proposed to be, engaged in the manufacture of parts, components, sub-assemblies, tooling or intermediates; or rendering of services, or supplying or rendering, not less than fifty per cent of its production or its total services, as the case may be, to other units for production of other articles.

(2) The factors referred to in sub-section (1) are the following, namely: -
the investment by the industrial undertaking in plant and machinery, and, buildings plant and machinery;

the nature of ownership of the industrial undertaking;

smallness, in respect of the number of workers employed in the industrial undertaking;

The nature, cost and quality of the product of the industrial undertaking.
foreign exchange, if any, required for the import of any plant or machinery by the industrial undertaking; and such other relevant factors as may be prescribed..."

Notifications laying down the precise definition of small-scale industries issued by Government of India under the above Section from time to time. This has generally been done in terms of an investment limit in plant and machinery (calculated at original value.)

The Act specifically refers to only two categories of the small-scale sector: --

Small Scale Industrial undertaking

- Ancillary Industrial Undertaking

Over the years, however, some sub-sectors have been identified within overall small-scale sector. These are: Tiny enterprise

Export Oriented Units

Small Scale Service and Business Enterprises (SSSBE)

Women Enterprises.

In other words, the small-scale sector comprises of small scale and ancillary industrial undertakings. The small-scale units are further categorised as Tiny

enterprises, Export Oriented Units, SSSBE and Women Enterprises.

IDR Act also provides for statutory reservation of items/products for exclusive production in the small-scale sector. Such products therefore are reserved for manufacture only in the small-scale sector. The provisions relating to reservation are contained in section 29 B (2 A) to (2H) of the IDR Act. The list of reserved item is appended as Schedule-III of the licensing notification No. S.O. 477 (E) Dt. 25th July, 1991. This list is based on the NIC product classification code (9 digits). At present 812 products are reserved for exclusive production in the small-scale sector. At the 9-digit classification, the number of items is 1075. The policy of reservation was given statutory backing by an amendment, in the IDR Act in 1984. Section 29B of the Industries Development and Regulation Act, 1951, deals with the policy of reservation in the small-scale sector. The relevant sections are quoted below: -

Section 29B

2A. In particular and without prejudice to the generality of the provisions of subsection (1), the Central Government may, if it is satisfied, after considering the recommendations made to it by the Advisory Committee constituted under subsection (2B), that it is necessary so to do for the development and expansion of ancillary, or small scale industrial undertakings, by notified order, direct that any article or class of articles specified in the First Schedule shall, on and from such date as may be specified in the notified order (hereafter in this section referred to as the "date of reservation"), be reserved for exclusive production by the ancillary, or small scale, industrial undertakings (hereafter in this section referred to as "reserved article").

2B. The Central Government shall, with a view to determining the nature of any article or class of articles that may be reserved for production by the ancillary or small scale, industrial undertakings, constitutes an Advisory Committee consisting of such persons as have in the opinion of that Government, the necessary expertise to give advice on the matter.

2C. The Advisory Committee shall, after considering the following matters, communicate its recommendations to the Central Government, namely: -
The nature of any article or class of articles which may be produced economically by the ancillary, or small scale, industrial undertakings,
The level of employment likely to be generated by the production of such article or class of article by the ancillary, or small-scale, industrial undertakings.

The possibility of encouraging and diffusing entrepreneurship in industry;
The prevention of concentration of economic power to the common detriment
and such other matters as the Advisory Committee may think fit.

2D. The production of any reserved article or class of reserved articles by any industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, on the date of reservation, is engaged in, or has taken effective steps for, the production of any reserved article or class of reserved articles, shall after the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or, as the case may be, the date of reservation, whichever is later, be subject to such conditions as the Central Government may, by notified order, specify.

2E. While specifying any condition under sub-section (2D), the Central Government may take into consideration the level of production of any reserved article or class of reserved articles achieved, immediately before the date of reservation, by the industrial undertaking referred to in sub-section (2D), and such other factors may be relevant.

2F. Every person or authority, not being the central Government, who, or which, is registered under section 10 or to whom, or to which, a license has been issued or permission has been granted under section 11 for the production of any article or class of articles which has, or have, been subsequently reserved for the ancillary, or small scale, industrial undertakings, shall produce, such registration certificate, license or permission, as the case may be, within such period as the Central Government may, by notified order, specify in this behalf, and the Central government may enter therein all or any of the conditions specified by it under sub-section (2D), including the productive capacity of the industrial undertakings and other prescribed particulars.

2G. The owner of every industrial undertaking (not being an ancillary or small-scale, industrial undertaking) which, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or the date of reservation, whichever is later: -

Was engaged in the production of any article or class of articles, which has, or have been reserved for the ancillary, or small scale, industrial undertakings, or
Had before such commencement or before the date of such reservation, as the case may be, taken effective steps for commencing the production of such

reserved article or class of reserved articles, without being registered under section 10 or in respect of which a license or permission has not been issued under section 11, shall refrain from the production of such reserved article or class of reserved articles, on and from the date of such reservation, whichever is later.

2H. Every notified order made under sub-section (2A) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions aforesaid, both Houses agree in making any modification in the notified order or both Houses agree that the notified order should not be made, the notified order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previous done under that notified order.

(i) Notification No. S.O. 220 (E)/IDRA/29B/75 Dated 19th May, 1975.

"In exercise of the powers conferred by sub-section (1) of Section 29B of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Industrial Development (Department of Industrial Development) No. S.O. 98 (E)/IDRA/29b/73/1, dated the 16th February, 1973, namely.

In the said notification, in term

(1) For the abbreviation, figure and words "Rs. 750 thousand" the abbreviation, figure and words "Rs. 1 million" shall be substituted; for item (2), the following item shall be substituted, namely: -

(2) Undertakings having investments in fixed assets in plant and machinery not exceeding Rs. 1.5 million and engaged in -

The manufacture of parts, components, sub-assemblies, tooling or intermediates; or

The rendering of services; and supplying or rendering, or proposing to supply or render 50% of their production or the total services, as the case may be, to other units for production of other articles.

Provided that no such undertaking shall be a subsidiary of, or owned or controlled by any other undertaking."

(ii) Notification S.O. 48 (E) Dated 19th January, 1980

"In exercise of the powers conferred by Sub-Section (i) of Section 29 B of the

Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following further amendment to the notification of the Government of India in the late Ministry of Industrial Development (Department of Industrial Development) No. S.O.; 98 (E)/IDRA/29B/73/1 dated the 16th February, 1973 regarding exemptions to certain classes of industrial undertakings, namely:-

In the said notification, after item (2) relating to ancillaries, the following provision shall be added, namely:-

"Provided further that no undertaking referred to in item (1) or (2) above shall be a subsidiary of or owned or controlled by any other undertakings."

(iii) Notification S.O. 202 (E) Dated 18th March, 1985

"In exercise of the powers conferred by Sub-Section (1) of Section 29B read with Section 11 B of the Industries (Development and Regulations) Act, 1951 (65 of 1951) the Central Government hereby makes the following further amendments to this Ministry's notification No. S.O. 98 (E)/IDRA/29B/73/1, dated the 16th February, 1973, namely: -

In the said notification: -

For the heading "Small Scale Industrial Undertaking" shall be substituted and under the heading so substituted in item No.1, for the expression "Rs. 2.0 million" the expression "Rs. 3.5 million " shall be substituted-

For the heading "Ancillaries" the heading so substituted in item No. 2, for the expression "Rs. 2.5 millions", the expression "Rs. 4.5 million" shall be substituted.

(iv) Notification S.O. 232 (E) - Dated 2nd April, 1991.

Whereas the Central Government considers it necessary with a view to ascertain which ancillary and small scale industrial undertakings need supportive measures, exemption or other favourable treatment under the Industries (Development and Regulation) Act, 1951 (65 of 1951), (hereinafter referred to as the said Act) to enable them to maintain their viability and strength so as to be effective in:-

Promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment, and

Securing that the ownership and control of the material resources of the community are so best to subserve the common good.

And whereas the draft notification was laid before each House of Parliament for a period of 30 days as required under sub-section (3) of section 11B of the said Act.

And whereas no modification in the proposed notification has been suggested

by both Houses of parliament.

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 11B and sub-section (i) of Section 29B of the said Act, and notwithstanding anything contained in any earlier notification issued by this Department, the Central Government hereby specifies having regard to the factors mentioned in the Table below, which shall be complied with by the industrial undertaking for the purposes of the said Act.

I. Requirements to be complied with by an industrial undertaking for being regarded as small scale industrial undertaking -

An industrial undertaking in which the investment in fixed assets in plant and machinery whether held on ownership terms or on lease or by hire purchase does not exceed Rs. 6 million

In case of an industrial undertaking referred to in (a) above the limit investment in fixed assets in plant and machinery shall be rupees seventy five lakhs provided the unit undertakes to export atleast 30 per cent of the annual production by the end of 3rd year from the date of its commencing production.

II. Requirements to be complied with by an industrial undertaking for being regarding as ancillary industrial undertaking-

An industrial undertaking which is engaged or is proposed to be engaged in the manufacture or production of parts, components, sub-assemblies, tooling or intermediates, or the rendering of services, and the undertaking supplies or renders or proposes to supply or render not less than 50 per cent of its production or services, as the case may be, at one or more other industrial undertakings and whose investment in fixed assets in plant and machinery whether held on ownership terms or on lease or on hire purchase, does not exceed Rs. 7.5 million.

Every industrial undertaking which has been issued a certificate of registration by the Department of Industrial Development or Director General of Technical Development under the said Act and now falls within the above definition of ancillary or small scale industrial undertaking, may be registered, at the discretion of the owner, as such, within six months from the date of issue of this notification.

(V) Circular 4/91-SSI Bd. Dated 7.5.91

Subject: Enhancement of investment limits in the Small Scale and Ancillary Industrial Undertakings.

The Government had issued a Press Note on 19th March, 1985, raising the investment limits in small scale industrial undertakings from Rs. 2 million to Rs. 3.5 million and for ancillary industrial undertakings from Rs. 2.5 million to Rs.

4.5 million in plant and machinery. Keeping in view the escalation in the cost of plant and machinery since then, Government had been considering the question of upward revision of these investment limits.

Accordingly, Government had placed a statement in (both Houses) Parliament on 31st May, 1990 outlining certain policy measures to be adopted including enhancement of investment ceiling of small scale/ancillary industrial undertaking. In pursuance of this, a draft notification for changing the definition (enhancing the limits) of small scale/ ancillary industrial undertakings was placed before the Parliament on 7th August, 1990, as per the provisions of Section 11 B (3) of the Industries (Development & Regulation) act, 1951.

Parliament did not disapprove or modify the draft notification in any way within the period stipulated in Section 11B(3) of 1 (D&R) Act, 1951.

Accordingly, Gazette Notification No. S.O. 232 (E) dated 2nd April, 1991 has been issued (copy enclosed) under sub-section (1) of Section 11B and sub-section (1) of Section 29b of the Industries (Development & Regulation) Act, 1951 enhancing investment limits in fixed assets in plant and machinery, whether held on ownership term or by lease or by hire purchase, for small scale and ancillary industrial undertakings as per details below:-

No. Category Of Undertakings

Limit in fixed assets in plant and machinery increased investment

From

Toa. Small Scale Industrial UndertakingRs. 3.5 million

(\$79 thousand)Rs. 6 million

(\$134 thousand)b. An Industrial Undertaking referred to in (a) above which undertakes to export atleast 30 percent of its annual production by the end of 3rd year from the date of its commencing productionRs 3.5 million

(\$79 thousand)Rs. 7.5 million

(\$167 thousand)c. Ancillary Industrial UndertakingRs. 4.5 million

(\$101 thousand)Rs. 7.5 million

(\$167 thousand)

(The investment limit has since been enhanced to Rs. 10 million (\$224 thousand) both in respect of SSI and ancillary industrial undertakings w.e.f. 24.12.1999) The definition for Export oriented units as at (b) above dropped

from December 1997.

Besides the criterion of investment ceiling an ancillary industrial undertaking is one which is engaged or is proposed to be engaged in the manufacture or production of parts, components, sub-assemblies, tooling or intermediates of the rendering of services, and the undertaking supplies or renders or proposes to supply or render not less than 50 per cent of its production or services, as the case may be, to one or more other industrial undertakings.

An undertaking within the investment limits in plant and machinery under different categories and other requirements mentioned above would now be exempt from the licensing provisions of the Industries (Development & Regulation) Act, 1951. The various conditions and stipulations regarding industrial licensing mentioned notification No. S.O. 629 E dated 30th June, 1988 would, however, continue to operate except for investment ceiling for SSI which have now been revised. This will also, be subject to the condition that such an undertaking shall not be a subsidiary or owned or controlled by any other undertaking.

2. Certain clarifications and explanations have been issued from time to time by the Government regarding computation of investment in fixed assets in plant and machinery of a small scale/ancillary industrial undertaking. These would continue to hold good and are reproduced below for the sake of convenience. In calculating the value of plant and machinery, the original price paid by the owner, irrespective of whether the plant and machinery are new second hand, will be taken into account.

The cost of equipment such as tools, jigs, dies, moulds and spare parts for maintenance and the cost of consumable stores will be excluded computing the value of plant and machinery. Similarly, the cost installation of plant and machinery will also be excluded.

The cost of R&D equipment and pollution control equipment will be excluded in computing the value of plant and machinery.

In the case of imported machinery, import duty will be included, but not the miscellaneous expenses like transportation from the port to the site the factory, demurrage if any paid at the port and premium if any paid for import entitlement or import of machinery. However, shipping charges, customs clearance charges and sales tax should be included in computing the cost of plant and machinery.

The cost of generation sets, if any, installed will be excluded. Similarly, the cost of extra transformer, etc. which has to be installed by a unit as per the regulations of State Electricity Board would also be excluded.

The bank charges and services charges paid to the National Small Industries Corporation or to the State Small Industries Corporation will be excluded in computing the cost of plant and machinery.

The cost involved in procurement/installation of cables, wiring bus-bars, electrical control panels (not those mounted on individual machines), OCBs/MCBs etc.; which are necessarily to be used for imparting electrical power to the plant & machinery/safety measures is not to be taken into account for computing the cost of plant and machinery for determining the status of an industrial undertaking.

Cost of gas producer plant will be excluded.

3. Consequent upon upward revision of investment ceiling in fixed assets in plant and machinery of small scale/ancillary industrial undertaking, procedural formalities in certain specific situations envisaged are also clarified as under: Industrial undertakings which have crossed the limit of Rs. 3.5 million (\$79 thousand) in the case of small scale industrial undertakings and Rs. 4.5 million (\$101 thousand) in the case of ancillary industrial undertakings, but fall within the revised investment limit and are holding industrial license or have got themselves registered with DGTD or other technical authorities on or before the date of the notification raising the investment limits, will be treated as small scale undertakings and ancillary undertakings, as the case may be. Such undertakings will have an option to be transferred to the State Directorate of Industries or to continue with DGTD. This option will have to be exercised within six months from the date of the notification. However, in the meanwhile (i.e. upto a period of six months) these undertakings will continue to receive their raw material assistance through the DGTD. However an Industrial undertaking exercising the option to continue with the DGTD or the concerned technical authority, will not be entitled for the incentives and concessions which are extended to small-scale undertakings.

Small Scale and ancillary undertakings which were granted carrying - on - business licenses on crossing of the investment limits prescribed prior to the date of the notification, would now eligible to be treated as small scale undertakings and ancillary undertakings, in accordance with the revised definition, if they fall within the revised investment limits. The COB licenses in their cases will be treated as dormant.

In the case of undertakings which had crossed the previous investment limits prior to the date of notification and applied for COB license, they will no longer be required to obtain COB license provided their case falls within the enhanced limits, now fixed for small scale and ancillary undertakings. No further action

would be taken on their COB applications. They will continue to be treated as small scale/ancillary undertakings.

The undertakings which had crossed the previous investment limits (of Rs. 6 million (\$134 thousand)/ Rs. 7.5 million (\$167 thousand)) prior to the date of notification raising the present limit and which had neither obtained nor applied for COB license, as was required under existing law, would have breached the provisions of the Industries (Development and Regulation) Act, 1951. In view of the fact that they now qualify for treatment as small scale and ancillary Government have decided to treat such breach as a technical breach only and to condone their non-compliance with the provisions of the industries (Development & Regulation) Act, 1951 during the period for which they might have crossed the previously laid down investment limits and under which they would require COB license provided their cases fall within the enhanced limits now fixed for small scale/small scale with at least 30 percent exports/ancillary undertakings.

An industrial undertaking which has crossed the limit of Rs. 6 million (\$134 thousand) prior to the date of the notification, but has exported at least 30 per cent of its production in the previous year and falls within the revised investment limit of Rs. 7.5 million (\$167 thousand) for exporting units and has got itself registered with DGTD or other technical authorities, on or before the date of the notification raising the investment limit will be treated as small scale industrial undertaking. Such undertaking will have an option to be transferred to the State Directorate of Industries or to continue with DGTD. This option will have to be exercised within six months from the date of notification. However, in the meanwhile (i.e., upto a period of six months) these undertakings will continue to receive their raw material assistance through the DGTD. However, an industrial undertaking exercising the option to continue with the DGTD or the concerned technical authority, will not be entitled for the incentives and concessions, which are extended to small-scale undertakings.

In case of industrial undertakings which graduate to medium scale units by process of natural growth will get raw material assistance from DGTD, for a period of six months from the date of registration/grant of industrial license/COB license at the same level as earlier approved by the Director of Industries/DC (SSI).

All units which cross the limit of investment as now prescribed in the definition of small scale/ancillary undertakings by process of natural growth will need registration with DGTD or other technical authorities. The units engaged in the manufacture of such items which are not eligible for exemptions from licensing

provisions in terms of any earlier notification issued by the Department of Industrial Development (e.g. units engaged in the manufacture of items exclusively reserved for small scale sector, units requiring foreign exchange for import of components and raw materials in excess of the prescribed limits and industries requiring special regulation) will need a 'carrying-on-business' license before crossing this limit. Such units will have to submit their applications in the prescribed manner to the Secretariat for Industrial Approvals. In granting the registration DGTD/Technical authorities, or the COB license, the export obligation on such units consistent with the policy or protection to the small scale sector.

Directors of Industries will keep a special watch over the units which are about to cross the upper limits of the definition so as to enable a smooth transfer of units from the Directorate of Industries to DGTD/technical authorities and that the units take timely action to obtain the COB licenses, wherever necessary. However, if a small scale unit wishes to have some more time for the transfer to the DGTD list, a grace period upto 2 years will be allowed during which period it will continue to enjoy all the facilities under the small industries programme. A special report on such units will be made by the Directors of Industries to the Development Commissioner, Small Scale Industries.

Monitoring of the export obligation will be done by the office of the Chief Controller of Imports & Exports.

Notification S.O. 2(E) Dated 1.1.1993

"Whereas the Central Government considers it necessary with a view to ascertaining which ancillary and small scale industrial undertakings need supportive measures exemptions or other favourable treatment, under the Industries (Development and Regulation) Act, 1951 for the purposes specified in Section 11-B of the said Act:

And whereas the draft Notification was laid before each House of Parliament for a period of 30 days as required under Sub-Section (3) of Section 11-B of the Said Act.

And whereas no modification in the proposed Notification has been suggested by both Houses of Parliament.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11-B and Sub-Section (1) of Section 29-B of the said Act, the Central Government for the purpose of further specifying the requirements which shall be complied with by the industrial undertakings to enable them to be regarded as an ancillary or a small scale industrial undertaking for the purposes of the

said Act, makes the following amendments in the Notification of the Govt. of India in the Ministry of Industry (Department of Industrial Development) No. S.O. 232 (E) dated the 2nd April, 1991 namely:-

In the said Notification, in the Table, in paragraph-II the existing note shall be numbered as Note-I thereof and after Note-1, as so numbered, the following explanation and Note shall be inserted, namely: -

Explanation: For the purposes of this Note: -

(A) "Owned" shall have the meaning as derived from the definition of the expression "owner" specified in clause (f) of Section-3 of the Industries Development & Regulation) Act, 1951 (65 of 1951):

(B) "Subsidiary" shall have the same meaning as in clause (47) of Section 2, read with Section 4, of the Companies Act, 1956 (1 of 1956).

(C) The expression "controlled by any other industrial undertaking" means as under: -

Where two or more industrial undertakings are set up by the same person as a proprietor, each of such industrial undertakings shall be considered to be controlled by the other industrial undertaking or undertakings.

Where two or more industrial undertakings are set up as partnership firms under the Companies Act, 1956 (1 of 1956), an industrial undertaking shall be considered to be controlled by other industrial undertaking if: -

Where industrial undertakings are set up by Companies under the Companies Act, 1956 (1 of 1956), an industrial undertaking shall be considered to be controlled by other industrial undertaking if: -

The equity holding by other industrial undertaking in it exceeds 24% of its total equity, or

The management control of an undertaking is passed on to the other industrial undertaking by way of the Managing Director of the first mentioned undertaking being also the Managing director or Director in the other industrial undertaking or the majority of Directors on the Board of the first mentioned undertaking being the equity holders in the other industrial undertaking in terms of the provisions of (a) and (b) of sub clause (iv):

(D) The extent of equity participation by other industrial undertaking or undertakings in the undertaking as per sub-clause (iii) above shall be worked out as follows: -

The equity participation by other industrial undertaking shall include both foreign and domestic equity.

Equity participation by other industrial undertaking shall mean total equity held in an industrial undertaking by other industrial undertaking or undertakings, Whether small scale or otherwise, put together as well as the equity held by persons who are Directors in any other industrial undertaking or undertakings. Equity held by a person, having special technical qualification and experience, appointed as a Director in a small scale industrial undertaking, to the extent of qualification shares, if so provided in the Articles of Association, shall not be counted in computing the equity held by other industrial undertaking or undertakings even if the person concerned is a Director in other industrial undertaking or undertakings.

(E) Where an industrial undertaking is a subsidiary of or is owned controlled by any other industrial undertaking or undertakings in terms of sub-clause (i) sub clauses (ii), or sub-clause (iii), and if the total investment in fixed assets in plant and machinery of the first mentioned industrial undertaking and the other industrial undertaking or undertakings clubbed together exceeds the limit of investment specified in paragraph I or II of this Table as the case may be, none of these industrial undertakings shall be considered to be a small scale or ancillary industrial undertaking....."

21. Circular No. 4(1)/92-SSI Bd. (4) Dated 17th May, 1993

The notification No. S.O. 2 (E) dated 1st January, 1993 provides definition and explanation of the terms "owned", "subsidiary" and "controlled" in their application to Small Scale Industries. This, in effect, prescribes the method to determine whether a Small Scale Industrial undertaking is owned, controlled or is a subsidiary of any other industrial undertaking under the IDR Act, 1951.

2. Although the notification is quite clear in its intent and explanation, even then a large number of queries have been received from various quarters asking for clarification in respect of the notification. The confusion is mainly in the area of "control" and "clubbing" contained in the explanation C (i) to (V) of the said notification. Queries regarding interpretation have been raised, among others, by individual units, associations, State Govts. and some Govt. departments.

3. Broadly, the following type of questions have been raised:

Whether a company not engaged in industrial activity can invest more than 24% in a small scale industrial undertaking?

What is the extent to which an NRI can invest in a small-scale industrial undertaking?

What is the permissible extent of participation by a foreign company in a small-scale industrial undertaking?

Whether the Managing Director of a company owning an industrial undertaking

can set up a proprietary or partnership concern in the small scale?

4. All issues relating to the questions that have been raised have been examined in this office. The notification is quite clear on this subject and ordinarily the Licensing Authorities should have been able to determine and decide on the above question. However, since there seems to be some confusion over interpretation, following clarification is being issued interpreting the various implications of the provisions of the notification.

(a) It should be understood that industrial undertaking is different from its form of ownership. The forms of ownership as stated in the notification are of three types viz., proprietary, partnership and company. As per clauses, C (i) C (ii) and C (iii) of the notification the provisions of "controlled" and "clubbing" will apply only to similar forms of ownership, of industrial undertakings, e.g., an industrial undertaking owned by a proprietary concern cannot be clubbed with one owned as a company OR an industrial undertaking owned by a partnership firm cannot be clubbed with an industrial undertaking owned as a proprietary concern irrespective of the concerned persons (proprietor, partner or equity holder) being common. In other words, in the above examples the provisions of "controlled" and "clubbing" will not apply.

(b) Clarification in respect of Clause C (iii) is as follows: -

A Company will be considered as having set up an industrial undertaking only if it has an equity interest (i.e. invested in equity) in an industrial undertaking. In other words, a company with no equity interest in any industrial undertaking can invest in a small-scale unit without such equity being counted as equity by other industrial undertaking. Thus, in the first instance, such a company can invest even more than 24% equity in a small-scale industrial unit. However, no sooner the company acquires an equity interest in an industrial undertaking it becomes a company that has set up an industrial undertaking. Therefore, in the second or subsequent instances the equity investment by such a company will count towards equity by other industrial undertaking and the provisions of clubbing will apply.

Similarly, a NRI can invest in the first instance in a small-scale industrial unit without such equity being counted as equity by other industrial undertaking. Thus, in the first instance the equity investment can be more than 24%, even 100%. However, in the second or subsequent instances, the provisions of "clubbing" will start to apply.

Similarly, a foreign company with no equity interest in an industrial undertaking, whether in India or abroad can, in the first instance, invest equity of any amount in a small-scale industrial undertaking. However, in the subsequent instances,

the provisions of "clubbing" will apply because such a company would, after the first investment, be considered as having set up an industrial undertaking.

5. The above clarification should, normally, answer all the queries that have been raised by various quarters. You are requested to take decisions regarding provisions of "controlled" in the light of the clarifications made above. You are also requested to bring it to the notice of all registering authorities.



Delayed Payment Act

In line with the long-standing demand of small-scale sector to alleviate the problem of Delayed Payments, an Act was promulgated on 2nd April 1993. It makes a provision for small scale industries to charge penal rate of interest on outstanding payments if the same are delayed beyond the agreed or stipulated period of time. It is expected to relieve the Small Scale industries from shortage of working capital arising due to delayed payment against supplies made by them and will go a long way in alleviating the cash flow problems and provide a bulwark against bullying tactics of the big industry.

The Act has further been amended w.e.f. from 10.8.98. thereby raising the penal interest on the delayed payment (150% of the prime lending rate of SBI), defining default period (the data agreed upon should not exceed 120 days in any case), amending the term supplier to include any institution, agency or understanding notified as such by the Central Government and making provision of an alternative mechanism of arbitration and conciliation to resolve the disputes under act (instead of legal redressal of civil suits only) i.e. empowered the state/UT Governments to notify one or more Industry Facilitation Councils (IFC's) for the purpose of arbitration and conciliation. The amendments were effected to strengthen the Act, to make it more useful without disturbing the buyer - seller cordial relations and to provide a relief to the small suppliers from undergoing the cumbersome recourse of legal redressal through civil suits.

The Factories Act

Objectives

- To ensure adequate safety measures and to promote the health and welfare of the workers employed in factories.
- To prevent haphazard growth of factories through the provisions related to the approval of plans before the creation of a factory.

Scope and coverage

- Regulates working condition in factories.
- Basic minimum requirements for ensuring safety, health and welfare of workers.
- Applicable to all workers.
- Applicable to all factories using power and employing 10 or more workers, and if not using power, employing 20 or more workers on any day of the preceding 12 months.

Main provisions

- Compulsory approval, licensing and registration of factories.
- Health measures.
- Safety measures.
- Welfare measures.
- Working hours.
- Employment of women and young persons.
- Annual leave provision.
- Accident and occupational diseases.
- Dangerous operations.
- Penalties.
- Obligations and rights of employees.

When to consult and refer

- On starting a factory.
- Throughout the life of the factory.

The Industrial Establishment Act Objectives

- To regulate the conditions of recruitment, discharge, disciplinary action, holidays, etc. of workers employed in industrial undertakings and

establishments.

Scope and coverage

- Applicable to industrial establishments wherein 50 or more workmen are or have been employed in the preceding 12 months.
- Central and state governments can make this Act applicable to establishments employing less than 50 persons, as in the case of U.P. and West Bengal.
- In Assam it is applicable to concerns employing 18 or more workers.

Main provisions

- Submission of draft standing orders.
- Certifications of standing orders.
- Modification of standing orders.
- Registration of standing orders.
- Amendments of the Act.
- Penalties.
- Obligations and rights of employers.
- Obligations and rights of employees.

When to consult and refer

- At the time of expansion of the concern, when the number of workmen may increase, coming within the provision of the Act.
- When revising standing orders.

The Minimum Wages Act

Objectives

- To determine the minimum wages in industry and trade where labour organisations are non-existent or ineffective.

Scope and coverage

- Applicable to all employees engaged to do any work, skilled, unskilled manual or clerical, in a scheduled employment, including out-workers.
- Fixation of minimum wages.

Main provisions

- Fixation of minimum wage of employees.
- Procedure for fixing and revising minimum wages.
- Obligation of employees.
- Rights of workers.

When to consult and refer

- At the time of fixation of salary of new/existing employees.

The Payment of Wages Act**Objectives**

- To ensure regular and prompt payment of wages and to prevent the exploitation of a wage earner by prohibiting arbitrary fines and deductions from his wages.

Scope and coverage

- Application for payment of wages to persons employed in any factory.
- Not applicable to wages which average Rs 1600/- (\$35.83) per month or more.
- Wages include all remuneration, bonus, or sums payable for termination of service, but do not include house rent reimbursement, light vehicle charges, medical expenses, TA, etc.

Main provisions

- Responsibility of the employer for payment of wages and fixing the wage period.

- Procedures and time period in wage payment.
- Payment of wages to discharged workers.
- Permissible deductions from wages.
- Nominations to be made by employees.
- Penalties for contravention of the Act.
- Equal remuneration for men and women.
- Obligations and rights of employers.
- Obligations and rights of employees.

When to consult and refer

- Deciding wages and salary administration at all times.

The Employees Provident Fund Act

Objectives

- To make provisions for the future of the industrial worker after he retires or for his dependents in the case of his early death.
- Compulsory Provident Fund
- Family Pension
- Deposit linked insurance

Scope and coverage

- Application to factories and establishments employing 20 or more persons.
- Can be made applicable by central government to establishments employing less than 20 persons or if the majority of employees agree.
- Excludes establishments employing 50 or more persons or 20 or more persons but less than 50 persons, until the expiry of three years in the case of the former, and five years in the case of the latter, from the date of setting up of establishment.
- Applicable to all persons who are employed directly or indirectly through contractors in any kind of work.

Eligibility

- Employees drawing pay not exceeding Rs. 3500/- (\$78.37) per month.

Benefits

- Apart from terminal disbursal of non-refundable withdrawals for Life Insurance Policies
- House building
- Medical treatment
- Marriage
- Higher education
- Family pension
- Retirement-cum-withdrawal benefits
- Deposit linked insurance Amount equal to the average balance in Provident Fund of deceased subject to a maximum of Rs. 25,000/- (\$559.79).

Employees Stock Option Act

As per guidelines issued by the Securities and Exchange Board of India, dated 11-6-1992, Employees Stock Option Scheme is voluntary on the part of a company to encourage employees to have a higher participation in the company. As per scheme, reservation should not be more than 5% of the issue to be equitably distributed among the employees. The issued may have non-transferability at his discretion in new issues and in other cases, employee's participation upto 5% (maximum 200 shares) shall be non-transferable for a period of three years. The companies have been advised to ensure that the shares reserved under the employees' quota to be allotted only to the bonafide employees, subject to the guidelines issued by SEBI and the shares remaining unsubscribed by the employees may be offered to the general public through prospectus in terms of the issue, if any.

Workmen's Compensation Act

To provide compensation for workmen in cases of industrial accidental / occupational diseases in the course of employment resulting in disablement or death. Coverage for persons employed in Factories, Mines, Plantations, the Railways and others mentioned in Schedule II of the Act.

Benefits Compensation for Death

- Minimum - Rs. 20,000 (\$447.83) Maximum - Rs. 1,14,000 (\$2,552.62)

Compensation for Permanent disablement

- Minimum - Rs. 24,000 (\$537.4) Maximum - Rs. 70,000 (\$1567.4)

Temporary disablement

- 50% of wages for a maximum period of 5 years.

Employment of Women

The Contract Labour (Regulation & Abolition) Act, 1970

- Not to be required to work beyond 9 hours between 6 A.M. and 7 P.M.
- with the exception of midwives and nurses in plantations.

The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 - ISMW Act

- Separate toilets and washing facilities to be provided in employment covered by the 3rd and 6th laws.

The Factories Act

- In factories, women not to be engaged for cleaning, lubricating or adjusting any part of prime mover or transmission machinery; maternity leave upto 12 weeks with wages to be provided.

Maternity Benefit Act

- Maternity benefits to be provided on completion of 80 days working.
- Not required to work during six weeks immediately following the day of delivery or miscarriage.
- No work of arduous nature, long hours of standing likely to interfere with pregnancy/normal development of foetus or may cause miscarriage or likely to affect health to be given for a period of one month immediately preceding the period of six weeks before delivery.
- On medical certificate, advance maternity benefit to be allowed.
- Rs. 250 (\$5.6) as medical bonus to be given in case when no prenatal confinement and post-natal care is provided free of charge.

Equal Remuneration Act, 1976

- Payment of equal remuneration to men and women workers for same or similar nature of work protected under the Act and also under the provisions at ISMW Act, mentioned above.
- No discrimination permissible in recruitment and service conditions except where employment of women is prohibited or restricted by or under any law.

Employees' State Insurance (General) Regulation

- Claim for maternity benefit becomes due on the date medical certificate is issued for miscarriage, sickness arising out of pregnancy, confinement or premature birth of child.

Employment of Children

The Children (Pledging of Labour) Act, 1933

- Any agreement to pledge the labour of children is void.

The Bidi and Cigar Workers (Conditions of Employment) Act, 1966

- Employment of children under 14 years of age prohibited under the laws at Sl. Nos. 2 to 5.
- Except in the process of family based work or recognised school-based activities, children not permitted to work in occupations connected with:
Passenger, goods mail transport by Railway
Cinder picking, cleaning of ash pits
Building operations, construction
Catering establishments in Railway premises or port limits
Beedi making
Carpet weaving
Cement manufacturing
Cloth printing
Dyeing, weaving
Manufacture of matches, explosives, fireworks
Mica cutting, splitting
Wool cleaning
- In occupations and processes other than the above mentioned, work by children is permissible only for six hours between 8.00 A.M. and 7.00 P.M. with one day's weekly rest.
- Occupier of establishment employing children to give notice to local Inspector

and maintain prescribed register.

The Plantations Labour Act, 1951

- Children / adolescents are allowed to work 27 hours a week. Child work is not allowed during night i.e. 7.00 P.M. to 6.00 A.M.
- Children are permitted to work in Plantation only where a certifying Surgeon grants certificate of fitness.

The Payment of Gratuity Act

Objective

- To provide for payment of gratuity on ceasing to hold office

Coverage

- Factories, Mines, Oil fields, Plantations, Ports, Railway Companies, Shops & Commercial Establishments and to other establishments to which the Government extends the law.

Eligibility

- Employees drawing wages not exceeding R. 3500/- (\$78.37) per month.

Benefits

- 15 days wages for every completed year of service or part thereof in excess of six months subject to a maximum of Rs. 50,000 (\$119.58)

Employees State Insurance Act

Objective To provide for health cover, Medical care and Cash benefits for

- Sickness
- Maternity
- Employment injury
- Pensions to dependents in case of Death (or) Employment injury

Eligibility

- Employees drawing wages not exceeding Rs. 3000/- (\$67.17) per month

Benefits

- Compensation for Death Minimum - Rs. 20,000 (\$447.83 Maximum) - Rs. 1,14,000 (\$2552.62)
- Compensation for Permanent disablement Minimum - Rs. 24,000 (\$537.4) Maximum - Rs (70,000) \$1,567.4
- Temporary disablement 50% of wages for a maximum period of 5 years.

The Payment of Bonus Act

Objectives

- To provide statutory obligations for payment of bonus to persons employed in certain establishments on the basis of profits or productivity.

Scope and Coverage

- Applicable all over India to factories under the Factories Act and to other establishments employing 20 or persons on any day during a year.
- Government can extend its coverage to establishments employing between 10 and 20 workers.
- Covers all workers including supervisors, managers, administrators, technical and clerical staff employed on salary or wages not exceeding Rs 2,500 (\$55.97) per month.

Main Provision

- Eligibility for bonus.
- Payment of minimum and maximum bonus.

- Time limit for payment of bonus.
- Deductions from bonus.
- Computation of gross profits and available allocable surplus.
- Rights of employees.

When to Consult And Refer

- When the factory is registered under the Factories Act.
- When the number of employees in the establishment reaches 20 or above.
- When calculating the bonus.

The Shops and Establishments Act

Objectives

- To provide statutory obligation and rights to employees and employers in the unorganised sector of employment, i.e., shops and establishments.

Scope and Coverage

- A state legislation; each state has framed its own rules for the Act.
- Applicable to all persons employed in an establishments with or without wages, except the members of the employer's family.
- State government can exempt, either permanently or for a specified period, any establishments from all or any provisions of this Act.

Main Provisions

- Compulsory registration of shop/establishment within thirty days of commencement of work.
- Communications of closure of the establishment within 15 days from the closing of the establishment.
- Lays down the hours of work per day and week.
- Lays down guidelines for spread-over, rest interval, opening and closing hours, closed days, national and religious holidays, overtime work.
- Rules for employment of children, young persons and women
- Rules for annual leave, maternity leave, sickness and casual leave, etc.

- Rules for employment and termination of service.
- Maintenance of registers and records and display of notices.
- Obligations of employers.
- Obligations of employees.

When to Consult And Refer

- At the time of start of an enterprise.
- When framing personnel policies and rules.

The Trade Union Act

Objective

- To confer a legal and corporate status on registered trade unions.

Scope and Coverage

- Applicable to unions of workers as well as associations of employers.
- Extends to the whole of India.
- A central legislation but administered and enforced by the state governments.

Main Provisions

- Defines trade union.
- Registration of a trade union by any seven or nine workers of an establishment on applying with a copy of the rules of the union, the name and address, and the list of office bearers.
- Cancellation and dissolution of trade unions.
- Obligations of registered trade unions.
- Rights of registered trade unions.

When to Consult And Refer

- At the time of start of an enterprise.
- Throughout the running of the enterprise.

The Air and Water Pollution Act

Scope and Coverage

- Applies to all establishments discharging effluents in water or a land.

Main Provisions

- Procedure for consent
- Laying down standards
- Collection of samples and analysis
- Penalty provisions.

When to Consult And Refer

- While making the project report for pollution control requirements.
- While managing effluent discharge at all times.

The Air (Prevention and Control of Pollution) Act, 1981

Scope and Coverage

- Applies to all industries

Main Provisions

- Declaring Air pollution control areas
- Setting standards
- Procedure for consent.
- Penalty provisions

When to Consult And Refer

- At the time of making project report for pollution control requirements.
- While managing discharge in air within standards at all times.

Employment Protection Act, 1998

This is the umbrella Legislation having number of acts under it.

- The Water (Prevention & Control of Pollution) Act, 1981, as amended in 1978 and 1988
- The Air (Prevention & Control of Pollution) Act, 1981, as amended in 1987.

The above two Acts have been substantially amended in the recent past and some of the most significant aspects of amendments are:

A consent order is now valid for 15 years or till such time there is some significant change in the process, whichever is earlier;

A consent order cannot be provided provisionally and will be obtainable only when all the pollution prevention requirements are adopted in toto;

Action under these two Acts is to be taken by the respective State Pollution Control Boards.

- The Forest Conservation Act, 1980
- The Wildlife Preservation Act, 1982; extended to cover biosphere resources and the Hazardous Wastes (Management & Handling) Rules, 1989.
- Manufacture, Storage and Import of Hazardous Chemical Rules, 1989
- Manufacture, Use, Import, Export and Storage of Hazardous Micro organisms and Genetically Engineered Organism or Cell Rules, 1989, to regulate the storage, use, trade, transport and disposal of hazardous wastes.
- The Public Liability Insurance Act, 1991
- The Motor Vehicles Act, 1939, amended in 1988, and
- The Environment Tribunal Bill, 1992.

The Industrial Disputes Act

Objectives

- To provide a machinery for peaceful resolution of disputes and to promote harmonious relation between employers and workers.

Scope and coverage

- Applicable to all industrial and commercial establishments
- Covers all workers and supervisors drawing salaries up to Rs. 1600/- (\$35.82)

per month.

- Not applicable to a person employed in managerial and administrative capacities.

Main provisions

- Defines industry, industrial dispute, layoff, lockout, retrenchment, trade union, strike, wages, workman, etc.
- Provides machinery for investigating and settling disputes through works committees, conciliation officers, boards of conciliation, courts of enquiry, labour courts, tribunals and voluntary arbitration.
- Reference of dispute for adjudication.
- Awards of labour courts and tribunals.
- Payment of wages to workers pending proceedings in High Courts.
- Rights of appeal.
- Settlements in outside conciliation.
- Notice of change in employment conditions.
- Protection of workmen during pendency of proceedings
- Strike and lockout procedures.
- Lay-off compensation.
- Retrenchment compensation.
- Proceedings for retrenchment.
- Compensation to workmen in case of transfer of undertakings.
- Closure procedures.
- Reopening of closed undertakings.
- Unfair labour practices.
- Recovery of money due from employer.
- Penalties.
- Obligations and rights of employees.

When to consult and refer

- When a dispute arises with the workers' union.
- When you plan changes in employment conditions.
- When there is a strike.
- When there is a lockout.
- When retrenchment of workmen.
- When undertaking is being transferred

- On closure of an establishment.
- On re-opening establishment.



- •
To ensure adequate safety measures and to promote the health and welfare of the workers employed in factories.
- •
To prevent haphazard growth of factories through the provisions related to the approval of plans before the creation of a factory.
- •
Regulates working condition in factories.
- •
Basic minimum requirements for ensuring safety, health and welfare of workers.
- •
Applicable to all workers.
- •
Applicable to all factories using power and employing 10 or more workers, and if not using power, employing 20 or more workers on any day of the preceding 12 months.
- •
Compulsory approval, licensing and registration of factories.
- •
Health measures.
- •
Safety measures.
- •
Welfare measures.
- •

Working hours.

- •

Employment of women and young persons.

- •

Annual leave provision.

- •

Accident and occupational diseases.

- •

Dangerous operations.

- •

Penalties.

- •

Obligations and rights of employees.

- •

On starting a factory.

- •

Throughout the life of the factory.



- •

To regulate the conditions of recruitment, discharge, disciplinary action, holidays, etc. of workers employed in industrial undertakings and establishments.

- •

Applicable to industrial establishments wherein 50 or more workmen are or have been employed in the preceding 12 months.

- •

Central and state governments can make this Act applicable to establishments employing less than 50 persons, as in the case of U.P. and West Bengal.

- •

In Assam it is applicable to concerns employing 18 or more workers.

- •

Submission of draft standing orders.

- •

Certifications of standing orders.

- •

Modification of standing orders.

- •

Registration of standing orders.

- •

Amendments of the Act.

- •

Penalties.

- •

Obligations and rights of employers.

- •

Obligations and rights of employees.

- •

At the time of expansion of the concern, when the number of workmen may increase, coming within the provision of the Act.

- •

When revising standing orders.



- •

To determine the minimum wages in industry and trade where labour organisations are non-existent or ineffective.

- •

Applicable to all employees engaged to do any work, skilled, unskilled manual or clerical, in a scheduled employment, including out-workers.

- •

Fixation of minimum wages.

- •

Fixation of minimum wage of employees.

- •

Procedure for fixing and revising minimum wages.

- •

Obligation of employees.

- •

Rights of workers.

- •

At the time of fixation of salary of new/existing employees.



- •

To ensure regular and prompt payment of wages and to prevent the exploitation of a wage earner by prohibiting arbitrary fines and deductions from his wages.

- •

Application for payment of wages to persons employed in any factory.

- •

Not applicable to wages which average Rs 1600/- (\$35.83) per month or more.

- •

Wages include all remuneration, bonus, or sums payable for termination of service, but do not include house rent reimbursement, light vehicle charges, medical expenses, TA, etc.

- •

Responsibility of the employer for payment of wages and fixing the wage period.

- •

Procedures and time period in wage payment.

- •

Payment of wages to discharged workers.

- •

Permissible deductions from wages.

- •

Nominations to be made by employees.

- •

Penalties for contravention of the Act.

- •

Equal remuneration for men and women.

- •

Obligations and rights of employers.

- •

Obligations and rights of employees.

- •

Deciding wages and salary administration at all times.



- •

To make provisions for the future of the industrial worker after he retires or for his dependents in the case of his early death.

- •

Compulsory Provident Fund

- •

Family Pension

- •
Deposit linked insurance
- •
Application to factories and establishments employing 20 or more persons.
- •
Can be made applicable by central government to establishments employing less than 20 persons or if the majority of employees agree.
- •
Excludes establishments employing 50 or more persons or 20 or more persons but less than 50 persons, until the expiry of three years in the case of the former, and five years in the case of the latter, from the date of setting up of establishment.
- •
Applicable to all persons who are employed directly or indirectly through contractors in any kind of work.
- •
Employees drawing pay not exceeding Rs. 3500/- (\$78.37) per month.
- •
Apart from terminal disbursement of non-refundable withdrawals for Life Insurance Policies
- •
House building
- •
Medical treatment
- •
Marriage
- •
Higher education
- •
Family pension

- •

Retirement-cum-withdrawal benefits

- •

Deposit linked insurance Amount equal to the average balance in Provident Fund of deceased subject to a maximum of Rs. 25,000/- (\$559.79).



- •

Not to be required to work beyond 9 hours between 6 A.M. and 7 P.M.

- •

with the exception of midwives and nurses in plantations.



- •

Separate toilets and washing facilities to be provided in employment covered by the 3rd and 6th laws.



- •

In factories, women not to be engaged for cleaning, lubricating or adjusting any part of prime mover or transmission machinery; maternity leave upto 12 weeks with wages to be provided.



- •

Maternity benefits to be provided on completion of 80 days working.

- •

Not required to work during six weeks immediately following the day of delivery or miscarriage.

- •

No work of arduous nature, long hours of standing likely to interfere with pregnancy/normal development of foetus or may cause miscarriage or likely to affect health to be given for a period of one month immediately preceding the period of six weeks before delivery.

- •

On medical certificate, advance maternity benefit to be allowed.

- •

Rs. 250 (\$5.6) as medical bonus to be given in case when no prenatal confinement and post-natal care is provided free of charge.



- •

Payment of equal remuneration to men and women workers for same or similar nature of work protected under the Act and also under the provisions at ISMW Act, mentioned above.

- •

No discrimination permissible in recruitment and service conditions except where employment of women is prohibited or restricted by or under any law.



- •

Claim for maternity benefit becomes due on the date medical certificate is issued for miscarriage, sickness arising out of pregnancy, confinement or premature birth of child.



- •

Any agreement to pledge the labour of children is void.



- •

Employment of children under 14 years of age prohibited under the laws at Sl. Nos. 2 to 5.

- •

Except in the process of family based work or recognised school-based activities, children not permitted to work in occupations connected with: Passenger, goods mail transport by Railway Cinder picking, cleaning of ash pits Building operations, construction Catering establishments in Railway premises or port limits Beedi making Carpet weaving Cement manufacturing Cloth printing Dyeing, weaving Manufacture of matches, explosives, fireworks Mica cutting, splitting Wool cleaning

- •

In occupations and processes other than the above mentioned, work by children is permissible only for six hours between 8.00 A.M. and 7.00 P.M. with one day's weekly rest.

- •

Occupier of establishment employing children to give notice to local Inspector and maintain prescribed register.



- •

Children / adolescents are allowed to work 27 hours a week. Child work is not allowed during night i.e. 7.00 P.M. to 6.00 A.M.

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Children are permitted to work in Plantation only where a certifying Surgeon grants certificate of fitness.



- •

To provide for payment of gratuity on ceasing to hold office

- •

Factories, Mines, Oil fields, Plantations, Ports, Railway Companies, Shops & Commercial Establishments and to other establishments to which the Government extends the law.

- •

Employees drawing wages not exceeding R. 3500/- (\$78.37) per month.

- •

15 days wages for every completed year of service or part thereof in excess of six months subject to a maximum of Rs. 50,000 (\$119.58)



- •

Sickness

- •

Maternity

- •

Employment injury

- •

Pensions to dependents in case of Death (or) Employment injury

- •

Employees drawing wages not exceeding Rs. 3000/- (\$67.17) per month

- •

Compensation for Death Minimum - Rs. 20,000 (\$447.83 Maximum) - Rs. 1,14,000 (\$2552.62)

- •

Compensation for Permanent disablement Minimum - Rs. 24,000 (\$537.4) Maximum - Rs (70,000) \$1,567.4

- •

Temporary disablement 50% of wages for a maximum period of 5 years.



- •

To provide statutory obligations for payment of bonus to persons employed in certain establishments on the basis of profits or productivity.

- •

Applicable all over India to factories under the Factories Act and to other establishments employing 20 or persons on any day during a year.

- •

Government can extend its coverage to establishments employing between 10 and 20 workers.

- •

Covers all workers including supervisors, managers, administrators, technical and clerical staff employed on salary or wages not exceeding Rs 2,500 (\$55.97) per month.

- •

Eligibility for bonus.

- •

Payment of minimum and maximum bonus.

- •

Time limit for payment of bonus.

- •

Deductions from bonus.

- •

Computation of gross profits and available allocable surplus.

- •

Rights of employees.

- •

When the factory is registered under the Factories Act.

- •

When the number of employees in the establishment reaches 20 or above.

- •

When calculating the bonus.



- •

To provide statutory obligation and rights to employees and employers in the unorganised sector of employment, i.e., shops and establishments.

- •

A state legislation; each state has framed its own rules for the Act.

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Applicable to all persons employed in an establishments with or without wages, except the members of the employer's family.

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State government can exempt, either permanently or for a specified period, any establishments from all or any provisions of this Act.

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Compulsory registration of shop/establishment within thirty days of commencement of work.

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Communications of closure of the establishment within 15 days from the closing of the establishment.

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Lays down the hours of work per day and week.

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Lays down guidelines for spread-over, rest interval, opening and closing hours, closed days, national and religious holidays, overtime work.

- •

Rules for employment of children, young persons and women

- •

Rules for annual leave, maternity leave, sickness and casual leave, etc.

- •

Rules for employment and termination of service.

- •

Maintenance of registers and records and display of notices.

- •

Obligations of employers.

- •

Obligations of employees.

- •

At the time of start of an enterprise.

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When framing personnel policies and rules.



- •

To confer a legal and corporate status on registered trade unions.

- •

Applicable to unions of workers as well as associations of employers.

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Extends to the whole of India.

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A central legislation but administered and enforced by the state governments.

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Defines trade union.

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Registration of a trade union by any seven or nine workers of an establishment on applying with a copy of the rules of the union, the name and address, and the list of office bearers.

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Cancellation and dissolution of trade unions.

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Obligations of registered trade unions.

- •

Rights of registered trade unions.

- •

At the time of start of an enterprise.

- •

Throughout the running of the enterprise.



- •

Applies to all establishments discharging effluents in water or a land.

- •

Procedure for consent

- •

Laying down standards

- •

Collection of samples and analysis

- •

Penalty provisions.

- •

While making the project report for pollution control requirements.

- •

While managing effluent discharge at all times.



- •

Applies to all industries

- •

Declaring Air pollution control areas

- •

Setting standards

- •

Procedure for consent.

- •

Penalty provisions

- •

At the time of making project report for pollution control requirements.

- •

While managing discharge in air within standards at all times.



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The Water (Prevention & Control of Pollution) Act, 1981, as amended in 1978 and 1988

- •

The Air (Prevention & Control of Pollution) Act, 1981, as amended in 1987.

- •

The Forest Conservation Act, 1980

- •

The Wildlife Preservation Act, 1982; extended to cover biosphere resources and the Hazardous Wastes (Management & Handling) Rules, 1989.

- •

Manufacture, Storage and Import of Hazardous Chemical Rules, 1989

- •

Manufacture, Use, Import, Export and Storage of Hazardous Micro organisms and Genetically Engineered Organism or Cell Rules, 1989, to regulate the storage, use, trade, transport and disposal of hazardous wastes.

- •

The Public Liability Insurance Act, 1991

- •

The Motor Vehicles Act, 1939, amended in 1988, and

- •

The Environment Tribunal Bill, 1992.



- •

To provide a machinery for peaceful resolution of disputes and to promote harmonious relation between employers and workers.

- •

Applicable to all industrial and commercial establishments

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Covers all workers and supervisors drawing salaries up to Rs. 1600/- (\$35.82) per month.

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Not an applicable to person employed in managerial and administrative capacities.

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Defines industry, industrial dispute, layoff, lockout, retrenchment, trade union, strike, wages. workman, etc.

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Provides machinery for investigating and settling disputes through works committees, conciliation officers, boards of conciliation, courts of enquiry, labour courts, tribunals and voluntary arbitration.

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Reference of dispute for adjudication.

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Awards of labour courts and tribunals.

- •

Payment of wages to workers pending proceedings in High Courts.

- •
Rights of appeal.
- •
Settlements in outside conciliation.
- •
Notice of change in employment conditions.
- •
Protection of workmen during pendency of proceedings
- •
Strike and lockout procedures.
- •
Lay-off compensation.
- •
Retrenchment compensation.
- •
Proceedings for retrenchment.
- •
Compensation to workmen in case of transfer of undertakings.
- •
Closure procedures.
- •
Reopening of closed undertakings.
- •
Unfair labour practices.
- •
Recovery of money due from employer.
- •
Penalties.

- •
Obligations and rights of employees.
- •
When a dispute arises with the workers' union.
- •
When you plan changes in employment conditions.
- •
When there is a strike.
- •
When there is a lockout.
- •
When retrenchment of workmen.
- •
When undertaking is being transferred
- •
On closure of an establishment.
- •
On re-opening establishment.