

The Factories Act 1948

- Factory Act is a central legislation which came into existence in 1881.
- It regulates the working conditions of the workers and lays down various provisions which are related to health, safety, working conditions, and hazardous processes of the workers.
- The Act was amended in 1891, 1911, 1922, 1934, 1948, 1976 and 1987. It was extensively amended in 1948.
- **The Factory Act 1948** is more comprehensive than the previous act and focuses mainly on health, safety, welfare of the workers inside factories, working hours, minimum age to work, leave with pay etc.
- The entire day to day activity taking place in the factory is governed by the Factory Act 1948.

Scheme of the Act

The Act consists of 120 Sections and 3 Schedules.

- Schedule 1- contains list of industries involving hazardous processes
- Schedule 2 -is about permissible level of certain chemical substances in work environment.
- Schedule 3 -consists of list of notifiable diseases.

Applicability of the Act

- This act extends to the whole of India including Jammu & Kashmir.
- It applies to factories as defined under the Act. 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. But it does not include a mine subject to the operation of the Mines Act, 1952 or a mobile 52 PP-LL&P unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.

Object of the Act

The main object of the Factories Act, 1948 is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories. The Act also makes provisions regarding employment of women and young persons (including children and adolescents), annual leave with wages etc. The Act extends to whole of India including Jammu & Kashmir and covers all manufacturing processes and establishments falling within the definition of 'factory' as defined under Section 2(m) of the Act. Unless otherwise provided it is also applicable to factories belonging to Central/State Governments. (Section 116)

Important Provisions of the Act

According to the Factories Act, 1948, under **section 2(m)** a 'Factory' means "any premises including the precincts thereof

- whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or
- whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on; but this does not include a mine subject to the operation of the Mines Act, 1952, or a mobile unit belonging to the armed forces of the union, a railway running shed or a hotel, restaurant or eating place.

'Manufacturing process' contained in Sec 2(k) means "any process for

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, (ii) pumping oil, water, sewage or any other substance; or (iii) generating, transforming or transmitting power; or (iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or (vi) preserving or storing any article in cold storage".

"Worker" {Section 2(l)} Worker means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not], in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the Union; A person to be a worker within the meaning of the Factories Act must be a person employed in the premises or the precincts of the factory.

RELEVANT PROVISIONS UNDER THE ACT

ANNUAL LEAVE WITH WAGES

The Act provides that every worker who has worked for a period of at least 240 days during a calendar year shall be allowed during the subsequent year leave with wages at the rate of (a) one day for every twenty days worked in the case of adults, and (b) one day for every fifteen days worked in the case of children. The leave is exclusive of holidays that occur during or at either end of the leave period.

Provision is also made for proportionate leave with wages for a worker who is discharged or dismissed before he has rendered 240 days service. There is also a provision that any days of lay off by agreement or contract or as permissible under the Standing Orders; maternity leave period for female workers for days not exceeding 12 weeks and leave earned in the previous year in which leave is enjoyed may be counted as days on which workers have worked in a factory for the purpose of computation of period of 240 days or more.

SAFETY

To ensure safety of the workers, the Act has provided several measures such as compulsory fencing of machines of all sorts. No person should be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury. If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in a condition that it is dangerous to human life or safety, he may serve on the Manager of the factory, an order in writing, specifying the measures which in his opinion should be adopted and requiring them to be carried out before a stipulated date.

AMBULANCE ROOM

If the factory employs more than 500 workers, an ambulance room in the charge of such medical and nursing staff as prescribed shall be provided and maintained.

CANTEENS, SHELTERS OR REST ROOMS AND CRECHES

Canteens are to be provided in factories employing over 250 workers and lunch rooms, shelters and rest rooms in those employing more than 150 workers. In every factory wherein more than 30 women workers are employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

WELFARE OFFICER

In every factory wherein 500 or more workers are ordinarily employed, the occupier shall employ in the factory such number of Welfare Officers as may be prescribed.

Labour laws

Labour laws in Fundamental Rights

Labour laws in India

Part III of the Constitution of India is the benchmark for labour laws in India. It covers the fundamental rights of its citizens which includes Equality before the law, Religion, Sex, caste, place of birth, the abolition of untouchability, freedom of speech and expression and prohibition of employment of children in factories.

Labour laws are the one dealing with employment laws in any organization – whether it is a manufacturing organization or trading organization or shops and establishment. The labour laws address the various administrative rulings (such as employment standing orders) and procedure to be followed, compliance to be made and it address the legal rights of, and restrictions on, working people and their organizations. By and large the labour law covers the industrial relations, certification of unions, labour management relations, collective bargaining and unfair labour practices and very importantly the workplace health and safety with good environmental conditions.

Further the labour laws also focus on employment standards, including general holidays, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay and many other issues related to employer and employee and the various compliance requirements.

The labour laws derive their origin, authority and strength from the provisions of the Constitution of India.

Labour law reforms are an ongoing and continuous process and the Government has been introducing new laws and amending the existing ones in response to the emerging needs of the workers in a constantly dynamic economic environment. Labour is a subject in the Concurrent List where both the Central & State Governments are competent to enact legislation subject to certain matters being reserved for the Centre.

The productivity of labour is an essential condition for the prosperity of enterprises and the wellbeing of the workers and their families. The value placed by the society on dignity of labour are equally important in influencing the productivity of labour. Appropriate conditions at work are ensured by measures taken to promote safety at the workplace and minimizing occupational hazards.

The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy.

These include right to work of one's choice, right against discrimination, prohibition of child labour, just and humane conditions of work, social security, protection of wages, redress of grievances, right to organize and form trade unions, collective bargaining and participation in management.

INTRODUCTION

"Constitution".

Majority of the countries throughout the world have a basic document of Government called "Constitution". The Constitution of a country is the fundamental law of the land on the basis of which all other laws are made and enforced. Every law derives its authority from the constitution and there is no authority, no department or branch of the State, which is above or beyond the Constitution or has powers unfettered and unrestricted by the Constitution. Thus, a Constitution is supreme or fundamental law of the country which not only defines the framework of the basic political principles, but also establishes what the different government institutions should

do in terms of procedure, powers and duties. A Constitution is the vehicle of a nation's progress. The Constitution is the supreme law of the country and it contains laws concerning the government and its relationships with the people.

Constitution and Labour Rights

Fundamental Rights

Article 14

Equality before law

Equality before the law which is interpreted in labour laws as "Equal pay for Equal work". It does not mean that article 14 is absolute. There are a few exceptions in it regarding labour laws such as physical ability, unskilled and skilled labours shall receive payment according to their merit.

In the case of Randhir Singh vs Union of India, the Supreme Court said that "Even though the principle of 'Equal pay for Equal work' is not defined in the Constitution of India, it is a goal which is to be achieved through Article 14, 16 and 39 (c) of the Constitution of India.

Constitution guarantees citizens to form a union or association. The Trade Union Act, 1926 works through this Article of the Constitution. It allows workers to form trade unions.

Trade Unions provide the power to raise voice against atrocities done to the workers. Unionization brings power to the labourers. Trade Unions discuss various labour-related problems with the employers, they conduct strikes, etc.

Article 16

Equality of opportunity

Article 16 of the Indian Constitution guarantees equal opportunity to all citizens in matters related to employment in the public sector. Article 16(1) states that there shall be equal opportunity for the citizens in the matter of employment or appointment to any office under the State. The provision of equality is only applicable to the employment or offices which are held by the State. The State is still free to lay down the requisite qualifications for the recruitment of employees for the Government services. The Government can also pick and choose applicants for the purpose of employment as long as the applicants have been given an equal opportunity to apply for the Government service.

Article 19

Right to form associations or union

Right to information has been given the status of a fundamental right under Article 19(1) of the Constitution in 2005. Article 19 (1) under which every citizen has

freedom of speech and expression and the right to know how the government works, what roles it plays, what its functions are, and so on.

Article 21

Right to life and Right to personal liberty

Article 21 states that "No person shall be deprived of his life or personal liberty except according to a procedure established by law." Thus, article 21 secures two rights:

- Right to life, and
- Right to personal liberty

Article 23

Prohibition of trafficking and forced labour

Constitution prohibits forced labour. When the Britishers ruled over India, forced labour was prevalent all over India. They were made to work against their will and weren't paid according to their work. The Government at that time were infamous for forced labour and the landlords were also involved in forced labour.

In current times, forced or bonded labour is an offense which is punishable under the law. The Bonded Labour (Abolition) Act, 1976 prohibits all kinds of bonded labour and is declared illegal.

Article 24

Prohibition of child labour under the age of 14 years

Constitution prohibits all forms of child labour. Nobody can employ a child under the age of 14 to work. Child labour was a massive problem of our country in the earlier times and it still is happening but at a lower scale. The penalization of article 24 is severe.

Directive Principles of State Policy

Article 38

State shall strive to promote the welfare of the people

State to secure a social order for the promotion of welfare of the people. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

Article 39

Equal pay for equal work

Article 39 (a)

"The State shall, in particular, direct its policy towards securing: That the citizens, men and women equally, have the right to an adequate means of livelihood. It means that every citizen of the country has the right to earn a livelihood without getting discriminated on the basis of their sex.

Article 39 (d)

Constitution says that "The State shall, in particular, direct its policy towards securing; that there is equal pay for equal work for both men and women. Wages will not be determined on the basis of sex rather it will be according to the amount of work done by the worker.

Article 41

Right to work

Constitution provides "Right to Work" which means that every citizen of the country has the right to work and the state with the best of its abilities will secure the right to work and education.

Article 42

Provision for just and humane conditions of work

Provides for the upliftment of the working conditions for workers. It talks about creating a suitable and humane workplace. This article also talks about maternity relief, i.e. leave provided to women when they are pregnant.