

# 17

## CHAPTER

# Compliances under Labour Laws

**Important Point to Be Kept In Mind:** Four Labour Codes have been passed by the Parliament but yet to be notified.  
This lesson will be revamped once the Codes are notified and put to effect.

### Chapter Coverage

S. No.	Topic
17.1	Factories Act,1948
17.2	Minimum Wages Act, 1948
17.3	Payment of Wages Act, 1936
17.4	Employees' State Insurance Act, 1948
17.5	Employees' Provident Funds and Miscellaneous Provisions Act, 1952
17.6	Payment of Bonus Act, 1965
17.7	Payment of Gratuity Act, 1972 (Payment of Gratuity in Consonance with State Rules )
17.8	Employees Compensation Act, 1923
17.9	Contract Labour (Regulation and Abolition ) Act, 1970
17.10	Trade Unions Act, 1926
17.11	Maternity Relief Act, 1961 along with Maternity Benefit (Amendment ) Act, 2017
17.12	Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
17.13	Prevention of Sexual Harassment of Women at Workplace (Prevention; Prohibition and Redressal) Act, 2013
17.14	Rights of Persons with Disabilities Act, 2016
17.15	Industrial Disputes Act, 1947

### Regulatory Framework Coverage

The Factories Act, 1948
Minimum Wages Act, 1948
Payment of Wages Act, 1936
Employees' State Insurance Act, 1948
Employees' Provident Funds and Miscellaneous Provisions Act, 1952
Payment of Bonus Act, 1965
Payment of Gratuity Act, 1972
Employees Compensation Act, 1923
Contract Labour (Regulation and Abolition) Act, 1970
Industrial Disputes Act, 1947

### 17.1 Factories Act, 1948

Applicability of the Act	Any premises wherein 10 or more persons with the aid of power or 20 or more workers are/were without aid of power are working on any day in the preceding 12 months, wherein Manufacturing process is being carried on.
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<b>Employer to ensure health of workers (Sections 11 to 20)</b>	<ul style="list-style-type: none"> <li>◆ Cleanliness Disposal of wastes and effluents.</li> <li>◆ Ventilation and temperature dust and fume.</li> <li>◆ Overcrowding Artificial humidification Lighting.</li> <li>◆ Drinking Water Spittoons.</li> </ul>
<b>Registration &amp; Renewal of Factories (Section 6)</b>	To be granted by Chief Inspector of Factories on submission of prescribed form, fee and plan.
<b>Definition of Factory Section 2(m)</b>	<p><b>Factory [Section 2(m)]:</b> Factory includes any premises including the precincts where:</p> <p>(a) 10 or more workers are engaged and a manufacturing process is being carried on with the aid of power or</p> <p>(b) 20 or more workers are engaged and a manufacturing process is being carried on without the aid of power.</p> <p>It does not include:</p> <ul style="list-style-type: none"> <li>◆ Mine under the Mines Act, 1952 or</li> <li>◆ Mobile unit belonging to the armed forces of the Union or</li> <li>◆ Railway running shed or</li> <li>◆ Hotel, restaurant or eating place.</li> </ul>
<b>Safety Measures:</b>	
<ul style="list-style-type: none"> <li>◆ Facing of machinery <ul style="list-style-type: none"> <li>■ Work on near machinery in motion.</li> <li>■ Employment prohibition of young person's on dangerous machines.</li> <li>■ Striking gear and devices for cutting off power.</li> <li>■ Self-acting machines.</li> <li>■ Casing of new machinery.</li> <li>■ Prohibition of employment of women and children near cotton-openers.</li> <li>■ Hoists and lifts.</li> </ul> </li> </ul>	
<b>Working Hours, Spread Over &amp; Overtime of Adults (Sections 51, 54 to 56, 59 &amp; 60):</b>	
<ul style="list-style-type: none"> <li>◆ Weekly hours not more than 48.</li> <li>◆ Daily hours, not more than 9 hours.</li> <li>◆ Intervals for rest at least <math>\frac{1}{2}</math> hour on working for 5 hours.</li> <li>◆ Spread over not more than <math>10\frac{1}{2}</math> hours.</li> <li>◆ Overlapping shifts prohibited.</li> <li>◆ Extra wages for overtime double than normal rate of wages.</li> <li>◆ Restrictions on employment of women before 6 AM and beyond 7 PM.</li> </ul>	
<b>Welfare Measures:</b>	
<ul style="list-style-type: none"> <li>◆ Washing facilities</li> <li>◆ Facilities for storing and drying clothing</li> <li>◆ Facilities for sitting</li> <li>◆ First-aid appliances – one first aid box not less than one for every 150 workers.</li> <li>◆ Canteens when there are 250 or more workers.</li> </ul>	

**Employment of Young Persons (Sections 51, 54 to 56, 59 & 60):**

- ◆ Prohibition of employment of young children e.g. 14 years.
- ◆ Non-adult workers to carry tokens e.g. certificate of fitness.
- ◆ Working hours for children not more than 4 ½ hrs. And not permitted to work during night shift.

**Annual Leave with Wages (Section 79)**

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

Penalties	Offence	Penalties
	For contravention of the Provisions of the Act or Rules	Imprisonment up to 2 years or fine upto Rs. 1,00,000 or both.
	On Continuation of contravention	INR 1000 per day
	On contravention of Chapter IV pertaining to safety/ dangerous operations.	Not less than INR 25000 in case of death. Not less than INR 5000 in case of serious injuries.
	Subsequent contravention of some provisions	Imprisonment up to 3 years or fine not less than INR 10,000 which may extend to INR 2,00,000.
	Obstructing Inspectors	Imprisonment up to 6 months or fine up to INR 10,000 or both.
	Wrongful disclosing result pertaining to results of Analysis	Imprisonment up to 6 months or fine up to INR 10,000 or both.
	For contravention of the provisions of Secs. 41B, 41C and 41H pertaining to compulsory disclosure of information by occupier, specific responsibility of occupier or right of workers to work imminent danger.	<ul style="list-style-type: none"> <li>◆ Imprisonment up to 7 years with fine up to INR 2,00,000 and on continuation fine @ INR 5,000 per day.</li> <li>◆ Imprisonment of 10 years when contravention continues for one year.</li> </ul>

**QUESTIONS**

**Ques 1:** Mamta Coir Foam Ltd. was having 25 workers during previous year 2019-2020 and they are in the process of reviewing the compliances under the Factories Act, 1948. Advice the company in the following matters in complying the provisions of Factories Act, 1948:

- (i) Weekly & daily hours
- (ii) Intervals for rest
- (iii) Extra wages for overtime
- (iv) Employment of young person

*Hint: Refer Various provisions relating to working hours, interval for rest, overtime and employment of young person's as above.*

**Ques 2:** Srivastva is the owner of a unit manufacturing Beedi in Jabalpur. 22 persons are employed in the unit. Of these 22 employees, one is a graduate for supervising the work and another apprentice learning work. The remaining 20 are employed not on the time wage system, but on the piece work system. Is the unit, a factory within the meaning of the term under the Factories Act, 1948?

*Hint: Manufacturing unit of Srivastva fulfils the criteria in relation to 'number of workmen' and also the work is directly supervised by supervisor who is employee/workmen of Srivastava and hence his manufacturing unit is factory within the meaning of Section 2(m) of the Factories Act, 1948.*

**Ques 3:** A factory has 100 male employees and 50 female employees. Factory Manager is keen to know whether the factory has to provide following welfare to the workers employed as per Factories Act :

- (i) First aid appliances

**(ii) Canteens****(iii) Crèches**

*Hint: Factories Act, 1948 provides for the following welfare to the workers:*

- ◆ First-aid appliances – one first-aid box not less than one for every 150 workers
- ◆ Canteens when there are 250 or more workers
- ◆ Crèches when there are 30 or more women workers.

*In the given case,*

- (i) Since a total of 150 workers are employed in the factory, it has to provide first-aid appliances.
- (ii) The canteen facility need not be provided, as it applies to factories employing more than 250 workers.
- (iii) Since the factory has 50 female workers, it has to provide for crèche facility.

### 17.2 Minimum Wages Act, 1948

<b>Object of the Act</b>	<ul style="list-style-type: none"> <li>◆ To prevent exploitation of labour.</li> <li>◆ To provide for fixing minimum rates of wages in certain employments. The employments are those which are included in the schedule and are referred to as 'Scheduled Employments'.</li> <li>◆ To empower the Appropriate Government to take steps to prescribe minimum rates of wages in the scheduled industries and</li> <li>◆ To empower the Appropriate Government to give effect to other provisions of the Act.</li> </ul>
<b>Fixation of Minimum Rates of Wages (Section 3)</b>	<ul style="list-style-type: none"> <li>◆ The appropriate government to fix minimum rates of wages.</li> <li>◆ To make review at such intervals not exceeding five years the minimum rates or so fixed and revised the minimum rates.</li> <li>◆ <b>Government can also fix Minimum Wages for:</b> <ul style="list-style-type: none"> <li>■ Time work</li> <li>■ Piece work at piece rate</li> <li>■ Piece work for the purpose of securing to such employees on a time work basis</li> <li>■ Overtime work done by employees for piece work or time rate workers.</li> </ul> </li> </ul>
<b>Minimum Rates of Wages (Section 4)</b>	Such as Basic rates of wages etc. Variable DA and Value of other concessions etc.
<b>Overtime (Section 5)</b>	<ul style="list-style-type: none"> <li>◆ To be fixed by the hour, by the day or by such a longer wage-period works on any day in excess of the number of hours constituting normal working day.</li> <li>◆ Payment for every hour or for part of an hour so worked in excess at the overtime rate double of the ordinary rate of (<math>1\frac{1}{2}</math> times or for agriculture labour).</li> </ul>
<b>Composition of Committee (Section 9)</b>	Representation of employer and employee in schedule employer in equal number and independent persons not exceeding 1/3rd/its total number one such person to be appointed by the Chairman.
<b>Payment of Minimum Rates of Wages (Section 12)</b>	Employer to pay to every employee engaged in schedule employment at rate not less than minimum rates of wages as fixed by Notification by not making deduction other than prescribed.
<b>Fixing Hours for Normal Working (Section 13)</b>	<ul style="list-style-type: none"> <li>◆ To provide for a day of rest in every period of seven days with remuneration.</li> <li>◆ To provide for payment for work on a day of rest at a rate not less than the overtime rate.</li> </ul>

<b>Wages of workers who works for less than normal working days (Section 15)</b>	Entitlement to receive wages in respect of work done by him on that day as if he had worked for a full normal working day.
<b>Wages for two class of work (Section 16)</b>	Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, wages at not less than the minimum rate in respect of each such class
<b>Minimum time rate wages for piece work (Section 17)</b>	Not less than minimum rates wages as fixed.
<b>Claims by employees (Section 20)</b>	<ul style="list-style-type: none"> <li>◆ To be filed by before authority constituted under the Act within 6 months.</li> <li>◆ Compensation up to 10 times on under or non-payment of wages.</li> </ul>

### QUESTION

**Ques 1:** A company was running into losses and was unable to pay the minimum rates of wages to its workers. The workers pleaded that the employer must pay them the minimum rates of wages. The employer (company) intends to go to the court challenging the constitutional validity of the Minimum Wages Act, 1948. Will the company succeed?

*Hint: Payment of minimum rate of wages [Section 12]: It is to be noted that minimum wages must be paid irrespective of the extent of profits, the financial condition of the establishment.*

*The employer shall pay to every employee engaged in a scheduled employment wages which should not be less than the minimum wages fixed by the Appropriate Government. Payment of less than the minimum wages notified by the appropriate Government is an offence.*

### 17.3 Payment of Wages Act , 1936

<b>Object of the Act</b>	To regulate the payment of wages of certain classes of employed persons.
<b>Applicability of Act</b>	<ul style="list-style-type: none"> <li>◆ It applies in the first instance to the payment of wages to persons employed in any factory to persons employed (otherwise than in a factory) upon any railway by a railway administration or either directly or through a sub-contractor by a person fulfilling a contract with a railway administration and to persons employed in an industrial or other establishment.</li> <li>◆ State Government may after giving three months' notice of its intention of so doing by notification in the Official Gazette extend the provisions of this Act or any of them to the payment of wages to any class of persons employed in any establishment or class of establishments specified by the Central Government or a State Government.</li> </ul>
<b>Time of payment of wages (Section 5)</b>	<ul style="list-style-type: none"> <li>◆ The wages of every person employed is paid.</li> <li>◆ When less than 1000 persons are employed shall be paid before the expiry of the 7th day of the following month.</li> <li>◆ When more than 1000 workers, before the expiry of the 10th day of the following month.</li> <li>◆ Equal Remuneration Act, 1976.</li> </ul>
<b>Wages to be paid in current coins or currency notes (Section 6)</b>	<ul style="list-style-type: none"> <li>◆ All wages shall be paid in current coin or currency notes or</li> <li>◆ By cheque or by crediting the wages in the bank account of the employee.</li> </ul>

<b>Deduction made from wages (Section 7)</b>	Deductions such as: fine, deduction for amenities and services supplied by the employer, advances paid, over payment of wages, loan, granted for house-building or other purposes, income tax payable, in pursuance of the order of the Court, PF contributions, co-operative societies, premium for Life Insurance, contribution to any fund constituted by employer or a trade union, recovery of losses, ESI contributions etc.
<b>Fines as prescribed by Competent Authority (Section 8)</b>	<ul style="list-style-type: none"> <li>◆ Not to imposed unless the employer is given an opportunity to show cause.</li> <li>◆ To record in the register.</li> </ul>
<b>Deduction for absence from duties for unauthorized absence</b>	<ul style="list-style-type: none"> <li>◆ Absence for whole or any part of the day</li> <li>◆ In case 10 or more persons absent without reasonable cause, deduction of wages up to 8 days.</li> </ul>
<b>Deduction for damage or loss</b>	Show cause notice has to be given to the employee for default or negligence of an employee resulting into loss.
<b>Deductions for service rendered</b>	When accommodation amenity /service has been accepted by the employee.

#### QUESTION

**Ques 1: While working on a machine, a worker accidentally drops a valuable testing appliance which becomes defective. The employer deducts the value of the appliance from the wages of the worker. Is the deduction justified under the Payment of Wages Act, 1936?**

*Hint: As per Section 7(2) of the Payment of Wages Act, 1936, deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and it may be for damage to or loss of goods or for loss of money where such damage or loss is directly attributable to his neglect or default. Accidental loss is not covered by the said section; hence the action of employer is not justified.*

#### 17.4 Employees' State Insurance Act, 1948

<b>Applicability of the Act</b>	It is extended in area-wise to factories using power and employing 10 or more persons and to non-power using manufacturing units and establishments employing 20 or more person up to Rs.7500/- per month with effect from 1.4.2004. It has also been extended upon shops, hotels, restaurants, roads motor transport undertakings, equipment maintenance staff in the hospitals.
<b>Registration under ESIC Act</b>	<p>Registration is the process by which every employer of an establishment/ company/ organization and its every employee who are employed for wage purposes are identified for the purpose of this ESIC Scheme and their individual records are set up for them.</p> <p><b>Steps are as follows:</b></p> <ol style="list-style-type: none"> <li>1. Obtain the particulars about each factory/shop/establishment that can be covered under ESIC Act.</li> <li>2. Identifying such an organization, allotment of a number <i>i.e.</i> Code No. is carried out by Regional Office.</li> <li>3. Registration of employees of covered factories by the Regional Office and identifying such individuals by allotment of a number <i>i.e.</i> insurance number.</li> </ol>
<b>Coverage of factory/establishment</b>	<ul style="list-style-type: none"> <li>◆ Shops and Commercial establishments</li> <li>◆ Cinemas, including preview theatres</li> <li>◆ Hotels &amp; Restaurants</li> <li>◆ Clubs</li> <li>◆ Newspaper establishments</li> <li>◆ Road Motor Transport establishments.</li> </ul>

<b>Contribution Rates</b>	<ul style="list-style-type: none"> <li>◆ Employees' contribution – 1.75 % of wages</li> <li>◆ Employers' contribution – 4.75 % of wages.</li> </ul> <p>State Governments contribute 12.5 per cent of expenditure on medical expenses incurred on ESIC beneficiaries in their respective States within the per capita ceiling.</p>
<b>Contribution period</b>	<p>1st April to 30th September.</p> <p>1st October to 31st March.</p>

#### Question For Practice

**Ques 1:** Write Short note On: Coverage of factory/establishment under Employees' State Insurance Act, 1948.

*Hint: Refer Topic Coverage of factory/establishment.*

#### **17.5 Employees' Provident Funds and Miscellaneous Provisions Act, 1952**

<b>Applicability</b>	<ul style="list-style-type: none"> <li>◆ Applies to entire India (except Jammu &amp; Kashmir).</li> <li>◆ Applies to every establishment which is a factory engaged in any industry specified in Schedule 1 &amp; in which 20 or more persons are employed.</li> <li>◆ Any other establishment employing 20 or more persons whom Central Government may by notification specify in this behalf.</li> <li>◆ Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.</li> </ul>
<b>Eligibility</b>	Any person who is employed for work of an establishment /employed through contractor in/ in connection with the work of an establishment.
<b>Payment of Contribution</b>	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.
<b>Rates of Contribution</b>	<p>Equal contribution of 12% (10% in certain cases) of Wages (Basic wages, dearness allowance and retaining allowance, if any) is required to be paid by employer and employee (whether employed directly or through contractor).</p> <p><b><i>Employees can opt to contribute more than 12% of their wages (Voluntary contribution): Option of Voluntary Provident Fund (VPF) to be provided to employees/workers – in writing (although Employer not obliged to contribute equal amount).</i></b></p> <p><b><i>Rate of 10 % is applicable for following industries:</i></b></p> <ul style="list-style-type: none"> <li>◆ For establishments having less than 20 employees, or</li> <li>◆ Sick Industrial Company declared by Board for Industrial and Financial Reconstruction, or Establishment which has at the end of any financial year, accumulated losses equal to or exceeding its entire net worth or</li> <li>◆ Any establishment in following industries:- (a) Jute (b) Beedi (c) Brick (d) Coir and (e) Guar gum Factories</li> </ul>
<b>Penalty</b>	<p><b><i>In case the employer has made default in transferring of the accumulated amount, he is required to pay damages as follows:</i></b></p> <ul style="list-style-type: none"> <li>◆ If period of default is less than 2 months- 5 % of arrears per annum.</li> <li>◆ If period of default is 2 -4 months- 10 % of arrears per annum.</li> <li>◆ If period of default is 4 -6 months- 15 % of arrears per annum.</li> <li>◆ If period of default is more than 6 months- 25 % of arrears per annum.</li> </ul>

Questions For Practice
<b>Ques 1: List the Industries covering Rate of 10 % of contribution?</b>
<i>Hint: Refer Rates of Contribution under Employees' Provident Funds and Miscellaneous Provisions Act, 1952.</i>

**Ques 2: Discuss Penalty under Employees' Provident Funds and Miscellaneous Provisions Act, 1952?***Hint: Refer Topic Penalty under Employees' Provident Funds and Miscellaneous Provisions Act, 1952.*

17.6 Payment of Bonus Act , 1965	
<b>Applicability</b>	<ul style="list-style-type: none"> <li>◆ Every factory (as defined under Factories Act, 1948)</li> <li>◆ Establishment in which 20 or more persons are employed on any day during an accounting year. However, CG may specify lesser No. of employees.</li> </ul>
<b>Eligibility of Bonus</b>	<ul style="list-style-type: none"> <li>◆ Employees/workers who have worked for more than 30 days in a month and drawing salary/remuneration of INR 21,000/- per month.</li> <li>◆ Salary or wage means all remuneration (other than remuneration in respect of overtime work) capable of being expressed in terms of money and Dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living).</li> </ul>
<b>Responsibility and Amount of Bonus</b>	<ul style="list-style-type: none"> <li>◆ Mandatory for employer to pay Minimum Bonus of 8.33% of Salary &amp; Maximum Bonus of 20% of Salary from the accounting year in which establishment has profits (excluding First 5 years of existence).</li> <li>◆ Payment of statutory bonus- within statutory time limit of 8 months of close of financial year.</li> <li>◆ Company is entitled to adjust any customary or interim bonus/puja bonus against bonus payable.</li> </ul>
<b>Statutory Registers and Records</b>	<p>Form A - Showing the computation of the allocable surplus.</p> <p>Form B - Showing the set-on and set-off of the allocable surplus.</p> <p>Form C - Showing the amount of bonus due to each of the employees and the amount actually disbursed.</p> <p>Form D - Annual Return.</p>

**Question for Practice****Ques 1: Discuss Eligibility of Bonus under Payment of Bonus Act, 1965?***Hint: Refer Topic Eligibility of Bonus in Topic 17.6 Payment of Bonus Act, 1965.*

17.7 Payment of Gratuity Act, 1972 (Payment of Gratuity in Consonance with State Rules)	
<b>Applicability</b>	<p>It is applicable to:</p> <ul style="list-style-type: none"> <li>◆ Factories (as registered under Factories Act, 1948)</li> <li>◆ Company (As registered under Companies Act, 1956/2013),</li> <li>◆ Shop &amp; Establishment (As registered under State Shops &amp; Establishment Act),</li> <li>◆ Education institution, employing 10 or more employees</li> <li>◆ Registration of establishment</li> </ul>
<b>Wages for Calculation</b>	<p>Payment of Gratuity (15 days salary for every completed year of service) to be payable to an employee after rendering services of 5 years on his:</p> <ul style="list-style-type: none"> <li>◆ Superannuation.</li> <li>◆ Retirement or resignation.</li> <li>◆ Death or disablement due to accident or disease.</li> </ul>

<b>Nomination</b>	Employee to submit his nomination in Form F - within 30 days of appointment.
<b>Recovery of Gratuity</b>	To apply within 30 days in Form I when not paid within 30 days.
<b>Forfeiture of Gratuity</b>	On termination of an employee for moral turpitude or riotous or disorderly behaviour wholly or partially for wilfully causing loss, destruction of property etc.
<b>Protection of Gratuity</b>	It can't be attached in execution of any decree.
<b>Penalties</b>	<ul style="list-style-type: none"> <li>◆ Imprisonment for 6 months or fine up to Rs. 10,000 for avoiding making payment by making false statement or representation.</li> <li>◆ Imprisonment not less than 3 months and up to one year with fine on default in complying with the provisions of Act or Rules.</li> </ul>

#### 17.8 Employees Compensation Act, 1923

<b>Applicability (Section 1)</b>	It is applicable all over India.						
<b>Coverage of Workmen</b>	All workers irrespective of their status or salaries either directly or through contractor or a person recruited to work abroad.						
<b>Employer's liability to pay compensation to a workman</b>	On death or personal injury resulting into total or partial disablement or occupational disease caused to workman arising out of and during the course of employment.						
<b>Amount of compensation</b>	<ul style="list-style-type: none"> <li>◆ Where death of a workman results from the injury an amount equal to fifty per cent of the monthly wages of the deceased workman multiplied by the relevant factor or an amount of eighty thousand rupees, whichever is more.</li> <li>◆ Where permanent total disablement results from the injury an amount equal to sixty per cent of the monthly wages of the injured workman multiplied by the relevant factor or an amount of ninety thousand rupees, whichever is more</li> </ul>						
<b>Procedure for calculation</b>	<ul style="list-style-type: none"> <li>◆ <i>Higher the age – Lower the compensation.</i></li> <li>◆ <i>When an employee is not liable for compensation:</i></li> <li>◆ <i>in respect of any injury which does result in the total or partial disablement of the workman for a period exceeding three days.</i></li> <li>◆ <i>in respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to:</i></li> <li>◆ <i>workman having been at the time thereof under the influence of drink or drugs, or</i></li> <li>◆ <i>wilful 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</i></li> <li>◆ <i>Wilful 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.</i></li> </ul>						
<b>Report of accident (Rule 11 Form EE)</b>	<i>Report of fatal Accident and Serious Injury within 7 days to the Commissioner (not application when ESI Act applies).</i>						
<b>Penalty</b>	<table border="1"> <thead> <tr> <th><b>Offences</b></th> <th><b>Penalty</b></th> </tr> </thead> <tbody> <tr> <td><b>In case of default by employer</b></td> <td>50% of the compensation amount + interest to be paid to the workman or his dependents as the case may be.</td> </tr> <tr> <td><b>Deposit of Compensation</b></td> <td>Within one month with the Compensation Commissioner.</td> </tr> </tbody> </table>	<b>Offences</b>	<b>Penalty</b>	<b>In case of default by employer</b>	50% of the compensation amount + interest to be paid to the workman or his dependents as the case may be.	<b>Deposit of Compensation</b>	Within one month with the Compensation Commissioner.
<b>Offences</b>	<b>Penalty</b>						
<b>In case of default by employer</b>	50% of the compensation amount + interest to be paid to the workman or his dependents as the case may be.						
<b>Deposit of Compensation</b>	Within one month with the Compensation Commissioner.						

**QUESTION**

**Ques 1: State the circumstances under which an employee is not liable for Compensation under Employees Compensation Act, 1923**

*Hint: Refer Topic Procedure for calculation under Topic 17.8 Employees Compensation Act, 1923.*

**17.9 Contract Labour (Regulation and Abolition) Act , 1970**

<b>Applicability</b>	<ul style="list-style-type: none"> <li>◆ Every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour.</li> <li>◆ Every contractor who employs or who employed on any day of the preceding twelve months 20 or more workmen.</li> </ul>
<b>Object of the Act</b>	To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.
<b>Registration of Establishment</b>	Principal employer employing 20 or more workers through the contractor or the contractor(s) on deposit of required fee in Form 1.
<b>Prohibition of Employment of Contract Labour</b>	Appropriate Government through issue of notification after consultation with the Board (and not Courts) can order the prohibition of employment of contract labour.
<b>Revocation of Registration</b>	When obtained by misrepresentation or suppression of material facts etc. after opportunity to the principal Employer.
<b>Licensing of Contractor</b>	<ul style="list-style-type: none"> <li>◆ Engaging 20 or more than 20 workers and on deposit of required fee in Form IV.</li> <li>◆ Valid for specified period.</li> </ul>
<b>Liability of Principal Employer</b>	<ul style="list-style-type: none"> <li>◆ Principal employer entitled to recover from the contractor for providing such amenities or to make deductions from amount payable.</li> <li>◆ To ensure provision for canteen, restrooms, sufficient supply of drinking water, latrines and urinals, washing facilities.</li> </ul>
<b>Registers of Contractors</b>	<p><b>Principal employer:</b> To maintain a register of contractor in respect of every establishment in Form XII.</p> <p><b>Contractor:</b> To maintain register of workers for each registered establishment in Form XIII, to issue an employment card to each worker in Form XIV and service certificate to every workman on his termination in Form XV.</p>
<b>Offence</b>	<ul style="list-style-type: none"> <li>◆ <b>For obstructing the inspector or failing to produce registers etc:</b> 3 months' imprisonment or fine up to INR 500, or both.</li> <li>◆ <b>For violation of the provisions of Act or the Rules:</b> Imprisonment of 3 Months or fine up to INR 1000. On continuing contravention, additional fine up to INR 100 per day</li> </ul>

**QUESTION**

**Ques 1: Saravan is carrying out building contract works for industrial and commercial customers. He engages 25 workers on regular basis, wants to know about the applicability of Contract Labour (Regulation and Abolition) Act, 1970 to him and licensing requirement if any for his business. Also brief him the details regarding the Registers to be maintained by Principal Employer and the contractor.**

*Hint: Refer Topic 17.9 Contract Labour (Regulation and Abolition) Act , 1970.*

**17.10 Trade Unions Act , 1926**

<b>Object of the Act</b>	To provide for the registration of Trade Union and in certain respects and define the law relating to registered Trade Unions
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<b>Registration of Trade Union</b>	<ul style="list-style-type: none"> <li>◆ There should be at least 10%, or 100 of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected.</li> <li>◆ It has on the date of making application not less than 7 persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.</li> <li>◆ Any 7 or more members of a trade union may, by subscribing their names to the rules of the trade union and its compliance.</li> </ul>								
<b>Minimum Requirements for Membership of Trade Union</b>	Not less than 10% or 100 of the workmen, whichever is less subject to a minimum of 7 engaged or employed in an Establishments etc.								
<b>Cancellation of Registration</b>	If the certificate has been obtained by fraud or mistake or it has ceased to exist or has wilfully contravened any provision of this Act. If it ceases to have the requisite number of members.								
<b>Disqualification of Office Bearers of Trade Union</b>	If one has not attained the age of 18 years conviction for an offence involving moral turpitude. <i>Note: Not applicable when 5 years have elapsed.</i>								
<b>Returns</b>	Annually to the Registrar on or before such date as may be prescribed, a general statement audited in the prescribed manner of all receipts and expenditure of every registered Trade Union during the year ending on the 31st December.								
<b>Criminal Conspiracy in Trade Disputes</b>	No office bearer or member of a registered trade union shall be liable to punishment of conspiracy under section 120B(2) of IPC in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union.								
<b>Penalty</b>	<table border="1"> <thead> <tr> <th style="text-align: center;">Offence</th> <th style="text-align: center;">Punishment</th> </tr> </thead> <tbody> <tr> <td><b>For making false entry in or any omission in general statement required for sending returns.</b></td><td>Fine up to INR 500. On continuing default, additional fault, INR 5 for each week (not exceeding INR 50). Fine up to INR 500.</td></tr> <tr> <td><b>For making false entry in the form.</b></td><td>Fine up to INR 200.</td></tr> <tr> <td><b>Supplying false information regarding Trade Union</b></td><td>Fine up to INR 200.</td></tr> </tbody> </table>	Offence	Punishment	<b>For making false entry in or any omission in general statement required for sending returns.</b>	Fine up to INR 500. On continuing default, additional fault, INR 5 for each week (not exceeding INR 50). Fine up to INR 500.	<b>For making false entry in the form.</b>	Fine up to INR 200.	<b>Supplying false information regarding Trade Union</b>	Fine up to INR 200.
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<b>For making false entry in the form.</b>	Fine up to INR 200.								
<b>Supplying false information regarding Trade Union</b>	Fine up to INR 200.								

#### Question For Practice

**Ques 1: Write Short Note On: Penalty under Trade Unions Act, 1926.**

*Hint: Refer Topic 17.10 Trade Unions Act, 1926.*

#### 17.11 Maternity Relief Act, 1961 along with Maternity Benefit (Amendment) Act , 2017

<b>Object of the Act</b>	To protect the dignity of motherhood and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working.
<b>Cash Benefits</b>	<ul style="list-style-type: none"> <li>◆ Leave with average pay for six weeks before the delivery.</li> <li>◆ Leave with average pay for six weeks after the delivery.</li> <li>◆ Medical bonus of INR 25 if the employer does not provide free medical care to the woman.</li> <li>◆ In case of miscarriage six weeks leave with average pay from the date of miscarriage.</li> <li>◆ An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage/premature birth.</li> </ul>
<b>Non-Cash Benefits/Privilege</b>	<ul style="list-style-type: none"> <li>◆ Light work for ten weeks (six weeks plus one month) before the date of her expected delivery if she asks for it.</li> <li>◆ Two nursing breaks in the course of her daily work until the child is 15 months old.</li> </ul>

	<ul style="list-style-type: none"> <li>◆ No discharge or dismissal while she is on maternity leave.</li> <li>◆ No change to her disadvantage in any of the conditions of her employment while on maternity leave.</li> <li>◆ Pregnant women discharged or dismissed may still claim maternity benefit from the employer.</li> </ul> <p><b>Exception:</b> Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit</p>
<b>Maternity Benefit (Amendment) Act, 2017</b>	The Maternity Benefit (Amendment) Bill 2016 (the "Amendment Bill"), an amendment to the Maternity Benefit Act, 1961 ("Act") was passed in Lok Sabha on March 09, 2017 and in Rajya Sabha on August 11, 2016 and received an assent from President of India on March 27, 2017. The Maternity Benefit (Amendment) Act, 2017 shall be effective from July 01, 2017.
<b>Applicability</b>	The Act is applicable to all establishments which are factories, mines, plantations, Government establishments, shops and establishments under the relevant applicable legislations, or any other establishment as may be notified by the Central Government.
<b>Eligibility</b>	<p>As per the Act, to be eligible for maternity benefit, a woman must have been working as an employee in an establishment for a period of at least 80 days in the past 12 months. Payment during the leave period is based on the average daily wage for the period of actual absence.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>◆ <b>Paid Maternity leave increased to 26 weeks.</b></li> <li>◆ <b>Leave prior to expected delivery date - 8 weeks.</b></li> </ul>

#### QUESTION

**Ques 1:** Bhaskar Bhat has recently opened a school for providing elementary education to kids. He has hired both male and female employees in teaching and non-teaching cadre. He approached you to seek advice whether a school is required to comply with the provisions of the Maternity Benefit Act, 1961. Also state who are eligible to avail for maternity benefits under the Act.

*Hint: The Maternity Benefit Act, 1961 applies in the first instance -*

- (1) *To every establishment being a factory, mine or plantation including any establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances.*
- (2) *To every shops and establishment in which 10 or more persons are employed or employed on any day of the preceding 12 months.*

*However, the State Government may, with the approval of the Central Government, by giving not less than 2 months in the Official Gazette, declare that all or any of the provisions of the Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.*

#### 17.12 Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

<b>Objective</b>	An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.
<b>Prohibition of employment of children in any occupations and processes</b>	<p>Section 3 of the Act provides that no child shall be employed or permitted to work in any occupations or process except:</p> <ul style="list-style-type: none"> <li>◆ helps his family or family enterprise which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;</li> <li>◆ works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed.</li> </ul> <p>However no such work shall effect the school education of the child.</p>

**Note(s):**

1. "family" in relation to a child, means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;
2. "family enterprise" means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;
3. "artist" means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2).

<b>Prohibition of employment of adolescents in certain hazardous occupations and processes (Section 3A)</b>	<p>Prohibition of employment of adolescents in certain hazardous occupations and processes (Section 3): It provides that no adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule. The hazardous occupations or processes set forth in the Schedule are as under:</p> <ul style="list-style-type: none"> <li>(1) Mines.</li> <li>(2) Inflammable substances or explosives.</li> <li>(3) Hazardous process.</li> </ul> <p>For the purposes of this Schedule, "hazardous process" has the meaning assigned to it in clause (cb) of section 2 of the Factories Act, 1948. However, the Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under the Act.</p>
<b>Hours and Period of Work of Child</b>	<ul style="list-style-type: none"> <li>◆ No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.</li> <li>◆ The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.</li> <li>◆ The period of work of a child shall be so arranged that inclusive of his interval for rest, it shall not be spread over more than six hours including the time spent in waiting for work on any day.</li> <li>◆ No child shall be permitted or required to work between 7 p.m. and 8 a.m.</li> <li>◆ No child shall be required or permitted to work overtime.</li> <li>◆ No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.</li> </ul>
<b>Weekly holidays</b>	<ul style="list-style-type: none"> <li>◆ Every child employed in an establishment shall be allowed in each week a holiday of one whole day;</li> <li>◆ The day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in establishment;</li> </ul> <p><b>Note: The day so specified shall not be altered by the occupier more than once in three months.</b></p>
<b>Maintenance of register</b>	<p>Every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing:</p> <ul style="list-style-type: none"> <li>◆ The name and date of birth of every child so employed or permitted to work ;</li> <li>◆ Hours and periods of work of any such child and the intervals of rest to which he is entitled;</li> <li>◆ The nature of work of any such child; and</li> <li>◆ Such other particulars as may be prescribed.</li> </ul>

<b>17.13 Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013</b>	
<b>Objectives</b>	The Act is enacted by the Indian Parliament to provide protection against sexual harassment of women at workplace and prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.
<b>Meaning of Sexual Harassment</b>	The Act has adopted the definition of 'sexual harassment' from Vishaka Judgment and the term sexual harassment includes: <ul style="list-style-type: none"> <li>◆ any unwelcome acts or behaviour (whether directly or by implication) such as physical contact and advances,</li> <li>◆ demand or request for sexual favours,</li> <li>◆ making sexually coloured remarks,</li> <li>◆ Showing pornography or</li> <li>◆ any other unwelcome physical, verbal or non-verbal conduct of sexual nature.</li> </ul>
<b>Internal Complaints Committee</b>	The Act makes it mandatory for every employer to constitute an internal complaints committee ("ICC") which entertains the complaints made by any aggrieved women. The members of the ICC are to be nominated by the employer and ICC should consist of: <ul style="list-style-type: none"> <li>◆ A Presiding Officer;</li> <li>◆ Not less than two members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge and;</li> <li>◆ One member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.</li> </ul>
<b>Local Complaints Committee</b>	Local Complaints Committee (LCC) for every district receive complaints of sexual harassment from establishments where the ICC has not been formed due to having less than 10 workers or if the complaint is against the employer himself.
<b>Complaint procedure</b>	<ul style="list-style-type: none"> <li>◆ Aggrieved woman can make written complaint of sexual harassment at workplace to the ICC or to the LCC (in case a complaint is against the employer) within a period of three months from the date of incident and in case of a series of incidents <b>within a period of three months from the date of last incident</b>.</li> <li>◆ If the aggrieved woman is unable to make complaint in writing reasonable assistance shall be rendered by the presiding officer/ any member of the ICC for making the complaint in writing.</li> <li>◆ As per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, in case the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed <i>inter alia</i> by: <ul style="list-style-type: none"> <li>■ her relative or</li> <li>■ friend or</li> <li>■ her co-worker or</li> <li>■ an officer of the National Commission for Women or</li> <li>■ State Women's Commission or</li> <li>■ any person who has knowledge of the incident with the written consent of the aggrieved woman.</li> </ul> </li> </ul>

**QUESTION**

**Ques 1:** Managing Committee of Goa Tourism Ltd. wants to constitute an Internal Complaint Committee (ICC) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013. Advice them in the light of the provisions of the Act on the constitution of such committee.

*Hint: Refer Topic Internal Complaints Committee.*

**17.14 Rights of Persons with Disabilities Act, 2016**

<b>Introduction</b>	<ul style="list-style-type: none"> <li>◆ The Rights of Persons with Disabilities Bill, 2014 was introduced into the Parliament on 7 February 2014 and passed by the Lok Sabha on 14 December 2016.</li> <li>◆ The Bill was passed by the Rajya Sabha on 16 February 2016 and received the President's assent on 28 December 2016. Rights of Persons with Disabilities Act, 2016 became operational on 19 April 2017.</li> </ul>
<b>Provisions relating to Education</b>	<p>Chapter III of the Right of Persons with Disabilities Act, 2016 speaks about provisions relating to education of children with disabilities as well as duties of educational institutions.</p> <ul style="list-style-type: none"> <li>◆ Section 16 specifically deals with the duties of educational institutes. It states that the State shall endeavour to:</li> <ol style="list-style-type: none"> <li>1. To admit children with disability without any discrimination and provide equal opportunities to them with regards to education, sports and recreational;</li> <li>2. Make buildings, campus and other facility accessible to children with disability;</li> <li>3. To provide specific supports to such children in order to maximise academic and social development;</li> <li>4. To make arrangements for students who are deaf or blind or both;</li> <li>5. To provide for transportation facilities to children with high support needs.</li> </ol> <li>◆ Section 17 of this Act, deals with measures to facilitate inclusive education. It makes the following provisions:</li> <ol style="list-style-type: none"> <li>1. To make surveys from time to time to assess if special needs of children are being catered to;</li> <li>2. To establish schools for children with disability and to train teachers to teach such students;</li> <li>3. To provide books and other assistive educational tools to students;</li> <li>4. To provide for scholarships to motivate such children;</li> <li>5. To promote research to improve both teaching and learning skills.</li> </ol> </ul>
<b>Skill Development and Employment</b>	<p>Chapter IV speaks on topics relating to skill development, vocational trainings and self-employment schemes. The aim of this chapter is to allow people with disabilities to make a living for themselves as well as to be accepted for jobs without such discrimination, where such a disability would not be a barrier.</p> <ul style="list-style-type: none"> <li>◆ Section 19 of the Act specifically talks about the duty of the Government to formulate schemes and programmes for vocational training and self-employment and also provide loans at concessional rates in this regard.</li> <li>◆ Section 19(2) speaks about some types of schemes which have been spoke about in sec. 19(1). They are as follow: <ol style="list-style-type: none"> <li>1. Inclusion of person with disability in vocational and skill development programmes;</li> <li>2. To ensure adequate support and facilities to avail specific training for such persons;</li> </ol> </li> </ul>

	<p>3. Loans at concessional rates including microcredit;</p> <p>4. Marketing products made by such persons with disabilities;</p> <p>5. Maintenance of data about progress made in these skill development programmes.</p>
<b>Social Security, Health, Rehabilitation and Recreation</b>	<p>Section 24 states that within limits of economic capacity, the government shall formulate schemes and programmes to ensure adequate standard of living for people with disability. Sub-section 3 talks about a variety of schemes in this regard such as:</p> <p>1. Community Centres having good safety, sanitation and healthcare services;</p> <p>2. Facilities for persons including children with disability who have no family or homes;</p> <p>3. Support persons with disability during any natural disaster;</p> <p>4. Support women with disability to make a livelihood and to support her children;</p> <p>5. Ensuring safe drinking water and proper sanitation facilities especially in slum areas;</p> <p>6. Comprehensive Insurance Schemes with such persons with disability etc.</p>
<b>Special Provisions for Persons with Disabilities with High Support Needs</b>	<p>The provisions under section 38 deal specifically with People with Disabilities with High Support Needs. It states that any person with benchmark disability, who considers himself in need of high support or any person or an organisation, can approach the appropriate Government requesting to provide high support. There shall be an Assessment Board to assess such requests for high support and provide support in accordance to the guidelines of the appropriate Government.</p>
<b>Duties and Responsibilities of Appropriate Government</b>	<p>Enlisted below are the various duties and responsibilities that this Act seeks to confer on the appropriate Government.</p> <p>1. The appropriate Government shall conduct, encourage, support and promote awareness campaigns and sensitisation programmes to ensure rights of persons with disability. Such programmes shall aim to recognise merits and abilities of persons with disability provide orientation and sensitisation at schools, colleges and workplace (Sec. 39);</p> <p>2. That the appropriate Government shall ensure availability of transport for persons with disability. This would include access to public transport and allowing retrofitting modifications to promote personal mobility among persons with disability (Sec. 40);</p> <p>3. That access to information is made available to persons with disability in all forms i.e. audio, print, electronic media etc. ;</p> <p>4. That the appropriate Government shall take measure to promote the production and distribution of consumer products specially made for persons with disability (Sec. 43);</p> <p>5. Ensuring that all structures of Central Government shall be made accessible to persons having disability within stipulated time of 5 yrs (Sec. 45);</p> <p>6. Finally to impart training to people of all walks of life such as doctors, lawyers, judges, teachers etc. ;</p> <p>7. about the specific needs and to develop respect for their needs.</p>
<b>Certification of Specified Disabilities</b>	<p>According to Sec. 56 of Chapter X of this Act, the Central Government shall notify the guidelines for the purpose of assessing the extent of specified disability in a person. It shall be the duty of the appropriate Government to designate certifying authorities in this regard. Any person may approach the certifying authority for issuing the Certificate of Disability in such a manner, as may be prescribed by the Central Government.</p>
<b>National Fund for Persons with Disabilities</b>	<p>There shall be a Fund to be called National Fund for persons with disabilities u/s 86. This includes sums grants, gifts, donation, benefactions, bequests or transfers and sums received grants-in-aid.</p>
<b>State Fund for Persons with Disabilities</b>	<p>That a Fund called State Fund for persons with disabilities shall be created by the State Government. The State Fund for persons with disabilities shall be utilised and managed in the manner prescribed by the State Government.</p>

<b>Offences and Penalties</b>	<p>Chapter XVI deals with offences and penalties for punishment for contravention of provisions of this Act or rules and regulations made thereunder. It provides that for first contravention shall be punishable with fine that extends to ten thousand rupees and subsequent contravention shall be punished with fine not less than fifty thousand and up to five lakhs.</p> <p>For any offence committed by a company, the person in charge, responsible for the conduct of the business of the company, shall be punishable according to the provisions of the Act.</p> <p><b>Acts whereby any person:</b></p> <ul style="list-style-type: none"> <li>◆ Intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;</li> <li>◆ Assails or uses force to any person with disability with the intent to dishonour him or outrage the modesty of any woman;</li> <li>◆ Having actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him;</li> <li>◆ Being in a position to dominate the will of a child or a woman with disability and uses that position to exploit her sexually;</li> <li>◆ Voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;</li> <li>◆ Is punishable with imprisonment not less than six months which may extend up to five years and fine.</li> </ul>
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#### Question For Practice

**Ques 1: Discuss provisions relating to Education under Rights of Persons with Disabilities Act, 2016?**

*Hint: Refer Topic Provisions relating to Education in Topic 17.14 Rights of Persons with Disabilities Act, 2016.*

#### 17.15 Industrial Disputes Act, 1947

<b>Important Definitions</b>	<ul style="list-style-type: none"> <li>◆ “<b>Strike</b>” means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.</li> <li>◆ “<b>Lock-out</b>” means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.</li> <li>◆ “<b>Lay-off</b>” (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer to give employment due to following reasons, to a workman whose name appears on the muster-rolls of his industrial establishment and who has not been retrenched: (a) shortage of coal, power or raw materials, or (b) accumulation of stocks, or (c) break-down of machinery, or (d) natural calamity, or (e) for any other connected reason.</li> <li>◆ “<b>Retrenchment</b>” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include: <ul style="list-style-type: none"> <li>(a) voluntary retirement of the workman; or</li> <li>(b) retirement of the workman or reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or</li> </ul> </li> </ul>
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	<p>(ba) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein.</p> <p>(c) termination of the service of workman on the ground of continued ill-health.</p>
<b>Dismissal etc., of an individual workman to be deemed to be an industrial dispute</b>	Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.
<b>Authorities under the Act</b>	The Act provides for following Authorities for Investigation and settlement of industrial disputes:
	<ul style="list-style-type: none"> <li>(i) Works Committee.</li> <li>(ii) Conciliation Officers.</li> <li>(iii) Boards of Conciliation.</li> <li>(iv) Court of Inquiry.</li> <li>(v) Labour Tribunals.</li> <li>(vi) Industrial Tribunals.</li> <li>(vii) National Tribunal.</li> </ul>
<b>General prohibition of strikes and lock-outs</b>	<p>Section 23 provides that no workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out-</p> <ul style="list-style-type: none"> <li>(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;</li> <li>(b) during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal and two months after the conclusion of such proceedings;</li> <li>(ba) 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; or</li> <li>(c) 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.</li> </ul>
<b>Illegal strikes and lock-outs</b>	<p>A strike or a lock-out shall be illegal if-</p> <ul style="list-style-type: none"> <li>(i) it is commenced or declared in contravention of Section 22 or Section 23; or</li> <li>(ii) it is continued in contravention of an order made under sub-section (3) of Section 10 or sub-section (4A) of Section 10A.</li> </ul> <p>Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, an arbitrator, a Labour Court, Tribunal or National Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of Sec.10 or sub- section (4A) of Section 10A .</p> <p>A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.</p>
<b>Prohibition of financial aid to illegal strikes and lock-outs</b>	No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out The Industrial Disputes Act, 1947 is subsumed in the Industrial Relations Code, 2020.