

Lesson 23: Payment of Wages Act, 1936

1. Applicability

Applies 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.

2. Time of payment of wages (Section 5)

- **In case less than 1000 persons are employed:** Wages shall be paid before the expiry of the 7th day of the following month.
- **In case more than 1000 workers are employed:** Wages shall be paid before the expiry of the 10th day of the following month.

3. Wages to be paid in current coins or currency notes (Section 6)

- All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee.
- However, the appropriate Government may by notification in the Official Gazette specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in his bank account.

4. Deduction made from wages

Deductions such as fine, deduction for amenities and services supplied by the employer, advances paid, over payment of wages, loan, granted for house-building or other purposes, income tax payable in pursuance of the order of the Court, 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.

5. Fines as prescribed by Competent Authority

- Fines not to imposed unless the employer is given an opportunity to show cause
- Fines Imposed must be recorded in the register.

6. Deductions

Deduction for absence from duties for unauthorized absence	<ul style="list-style-type: none">▪ Absence for whole or any part of the day.▪ If ten or more persons absent without reasonable cause deduction of wages up to 8 days.
Deduction for damage or loss	For default or negligence of an employee resulting into loss. Show cause notice has to be given to the employee.
Deductions for service rendered	When accommodation amenity or service has been accepted by the employee.

7. Offences and Penalties

Offences	Penalties
<ul style="list-style-type: none">▪ For failing to maintain registers or records.▪ Wilfully refusing or without lawful excuse neglecting to furnish information or return.▪ Wilfully furnishing or causing to be furnished any information or return which he knows to be false.▪ Refusing to answer or wilfully giving a false answer to any question necessary for obtaining any information required to be furnished under this Act.	<p>Fine which shall not be less than Rs.1000 but may extend to Rs.5000 - On record conviction fine not less than Rs.5000 may extend to Rs.10, 000.</p> <p>For second or subsequent conviction, fine not less than Rs.5,000 but may extend to Rs.10,000.</p>
<ul style="list-style-type: none">▪ Wilfully obstructing an Inspector in the discharge of his duties under this Act;▪ Refusing or wilfully neglecting to afford an Inspector any reasonable facility for making any entry, inspection etc.▪ Wilfully refusing to produce on the demand of an inspector any register or other document kept in pursuance of this Act; or preventing any person for appearance etc.	<p>Fine not less than Rs.1000 extendable.</p> <p>Up to Rs.5000 - On subsequent conviction fine.</p> <p>Not less than Rs.5000 - May extent to Rs.10,000</p>
<ul style="list-style-type: none">▪ On conviction for any offence and again guilty of Contravention of same provision.▪ Failing or neglecting to pay wages to any employee.	<p>Imprisonment not less than one month extendable up to six months and fine not less than INR 2000 extendable up to INR 15000.</p> <p>Additional fine up to INR 100 for each day.</p>

8. Checklist - Payment of Wages Act, 1936		
S. No	Description of Form	TimeLine and Responsible Authority
1	Form A: Form of Individual Application	Within 12 months from the date on which deductions were made or the date on which payment was due as the case may be by Inspector of factories.
2	Form B: Form of Group Application	Within 12 months from the date on which deductions were made or the date on which payment was due as the case may be, by Inspector of factories.
3	Form C: Form of application by an inspector or person permitted by the authority or authorised to act	Within 12 months from the date on which deductions were made or the date on which payment was due, as the case may be, by Inspector Of Factories.
4	Form D: Certificate Of Authorisation	Within 12 months from the date on which deductions were made or the date on which payment was due, as the case may be, by Inspector Of Factories.
5	Form E: Notice for disposal of application	When an application is entertained under Section 15(2), the authority shall hear the applicant & the employer and direct the employer for refund of deductions made or payment of delayed wages or make no directions if the application is found to be malafide.
6	Form F: Record of order or direction	Record of order of direction to be made by the authority under the Act.
