



UPSC EPFO APFC/AO/EO Exam 2023

Industrial Relations & Labour Laws

By CA Rahul Kumar (3 UPSC Interviews)
(Commerce, Accountancy & Economy Faculty)

PART 2

HIGHLIGHTS

- ✓ 100% EPFO Oriented
- ✓ Factual Focus
- ✓ As Per PYQ Pattern
- ✓ Concepts Clarity

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Industrial Relations & Labour Laws

(Study Material)

For UPSC APFC/EO/AO

PART 2 : Labour Laws

By CA Rahul Kumar

(3 UPSC Interviews, Commerce & Economy Expert)

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Note : “Industrial Relations” are covered in part 1 of this book

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Important Links and Q R Codes

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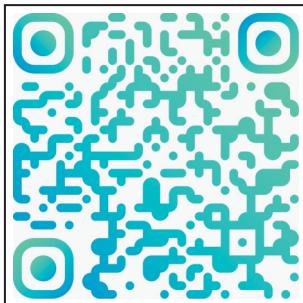
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A Guidance Note to utilise this book in the best possible manner

Friends,

- 1) As per the previous year questions trend OF APFC/EPFO, ***more than 90% questions are asked from selected few labour laws.*** So, you should prepare these laws thoroughly. These laws are given in index above at SI No 1, 3, 4, 5, 6, 7, 8, 9, 12
- 2) There are certain ***other small labour laws*** and we will cover it during the lectures.
- 3) Further, ***4 New labor codes*** have not been completely notified as of now. You should cover those codes in a short manner and we have included relevant portions in Book 1.
- 4) Also, there is a syllabus topic named "***Social security in India***". This topic includes two aspects. One, important social security legislations (already covered In SI No 3 to 10 above) and second, important Social security schemes in India. So almost 50% syllabus of social security is already covered in the labour laws itself. You just need to prepare social security schemes of the government additionally
- 5) Labour laws are the laws. Understanding the laws subjects for non law background students may be bit difficult. So to make it easy you can ***follow certain steps*** like focus more on facts, review past year questions and focus on the areas which are emphasized there, make a comparative analysis of the topics and keep revising regularly. You may make short notes of important aspects for last minute revision. We are also having classes of these subjects, so if you wish then you may choose to attend the classes as well

Wish you all the success

Yours,

CA Rahul Kumar

(Commerce & Economy Expert,
3 times UPSC Interview appeared)

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Chapter 1 : Factories Act, 1948

Introduction	<ul style="list-style-type: none"> ● The main object of the Factories Act, of 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 the employment of women and young persons (including children and adolescents), annual leave with wages etc. ● The <u>Act extends to the whole of India</u> including Jammu & Kashmir. It covers all <u>manufacturing processes and establishments</u> falling within the definition of 'factory' as defined under Section 2(m) of the Act. ● Unless otherwise provided, it also applies to <u>Central/State Government factories</u>. (Section 116) ● The Factories Act, of 1948 came into effect on 01.04.1949.
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Important Definitions

Competent person	<p>Section 2(ca) defines the expression 'competent person in relation to any provision of this Act, means a person or an institution recognized as such by the <u>Chief Inspector</u> for the purposes of carrying out tests, examinations and inspections required to be done in a factory under the provisions of this Act having regard to-</p> <ul style="list-style-type: none"> ● the <u>qualifications and experience</u> of the person and facilities available at his disposal; or ● the qualifications and experience of the persons employed in such institution and facilities available therein, with regard to the conduct of such tests, examinations and inspections, and more than one person or institution can be recognized as a <u>competent person in relation to a factory</u>
Hazardous Process	<p>Section 2(cb) defines the expression 'hazardous process' as any process or activity in relation to <u>an industry specified</u> in the First Schedule where, unless special care is taken, raw materials used therein or the <u>intermediate or finished products, bye-products, wastes, or effluents</u> thereof would-</p>

	<ul style="list-style-type: none"> cause material impairment to the health of the persons engaged in or connected therewith, or result in the pollution of the general environment. <p>The State Government may, by notification in the Official Gazette, amend the First Schedule by way of <u>addition, omission or variation</u> of any industry, specified in the said Schedule</p>
Manufacturing process	<p>Section 2(k) defines the expression 'manufacturing process' as any process for-</p> <ul style="list-style-type: none"> making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or <u>adapting any article or substance</u> with a view to its use, sale, transport, delivery or disposal, or pumping oil, water, <u>sewage or any other substance</u>; or generating, transforming or transmitting power; or composing types for printing, printing by letter press, lithography, photogravure or other similar processes or <u>book binding</u>; or constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or preserving or <u>storing any article in cold storage</u>.
Worker	<p>Section 2(l) defines the term 'worker' as a person employed,</p> <ul style="list-style-type: none"> 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 <u>kind of work incidental to</u>, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include <u>any member of the armed forces of the Union</u>.
Factory	Section 2(m) defines the term 'factory' as any premises including the precincts thereof-

	<ul style="list-style-type: none"> ● whereon ten or more workers are working or were working on any day of the <u>preceding twelve months</u>, 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 <u>preceding twelve months</u>, 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 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. <ul style="list-style-type: none"> ● For computing the number of workers for the purposes of this clause all the workers in <u>different groups and relays</u> in a day shall be taken into account; ● For the purposes of this clause, the mere fact that an Electronic Data Processing Unit or a Computer Unit is installed in any premises or part thereof, shall not be construed to make it a factory if <u>no manufacturing process</u> is being carried on in such premises or part thereof
Occupier	<p>Section 2(n) defines the term 'occupier' of a factory as the person who has ultimate control over the affairs of the factory.</p> <ul style="list-style-type: none"> ● in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier; ● in the case of a company, any one of the directors shall be deemed to be the occupier; ● in the case of a factory owned or controlled by the Central Government or any State Government, or any local authority, the person or persons appointed to manage the affairs of the factory by the Central Government, the State Government or the local authority, as the case may be, shall be deemed to be the occupier;

Sections

Notice by occupier	Section 7 provides that the occupier shall, at least 15 days before he begins to occupy or use any premises as a factory, send to the Chief Inspector , a written notice containing the name and <u>situation of the factory</u> , the name and address of the occupier, the nature of manufacturing process, the details of workers etc., Whenever a new manager is appointed, the occupier shall send to the Inspector a written notice and to the Chief Inspector a copy thereof within seven days from the <u>date on which</u> such person takes over charge.
Duties of occupier	Section 7A prescribes the <u>general duties of the occupier</u> . Every occupier shall ensure, so far as is reasonably practicable, the health, safety and welfare of all workers while they are at work in the factory.
Inspector	Section 8 provides that the State Government may appoint such persons as possess the <u>prescribed qualification to be Inspectors</u> for the purpose of this Act and may assign to them such local limits as it may think fit. Section 9 prescribes the powers of the Inspector as detailed below- <ul style="list-style-type: none"> ● to enter into any place which is used, or which he has reason to believe is used as a <u>factory</u>; ● make an examination of the premises, plant, machinery, article or substance; ● inquire into any accident or dangerous occurrence, whether resulting in bodily injury, disability or not and take on the sports statements of any person which he may consider necessary for such inquiry; ● require the production of any <u>document relating to the factory</u>; ● seize or take copies of any register, record or other documents of any portion thereof as he may consider necessary; ● to take possession of any article or substance or part thereof and detain it for so long as is necessary for such examination; ● to exercise such other powers as may be prescribed.

Certified surgeons	<p>Section 10 provides that the State Government may appoint qualified medical practitioners to be <u>certifying surgeons</u> for the purposes of this Act within such local limits or for such factory or class or description of factories as it may assign to them respectively. The duties of certified surgeons are as follows-</p> <ul style="list-style-type: none"> ● the examination and certification of young persons; ● the examination of persons engaged in factories in such dangerous occupations or processes as may be prescribed; ● the exercising of such medical supervision as may be prescribed for any factory or class or description of factories, where- <ol style="list-style-type: none"> 1. cases of illness have occurred which it is reasonable to believe are due to the nature of the manufacturing process carried on, or other conditions of work prevailing, therein; 2. by reason of any change in the manufacturing process carried on or in the substances used therein or by reason of the adoption of any <u>new manufacturing process</u> or of any <u>new substance for use in a manufacturing process</u>, there is a likelihood of injury to the health of workers employed in that manufacturing process; 3. young persons are or are about to be, employed in any work which is likely to cause <u>injury to their health</u>.
Welfare measures	<p>The Factories Act takes care of the workers in the following aspects-</p> <ul style="list-style-type: none"> ● health of the workers in the working environment; ● safety of the workers including in the hazardous process; ● welfare of the workers; ● working hours of adults; ● employment of young persons; ● Annual leave with wages;
Health	<p>Chapter III of the Act deals with measures to be taken considering the health aspects of the workers. The following are to be taken care of by the occupier of the factory:</p> <ul style="list-style-type: none"> ● cleanliness; ● disposal of waste and effluents; ● ventilation and temperature; ● dust and fume; ● artificial humidification; ● overcrowding;

	<ul style="list-style-type: none"> ● lighting; ● drinking water; ● latrines and urinals; ● spittoons
Cleanliness	<p>Section 11 of the Act provides every factory shall be kept clean and free from effluvia arising from any <u>drain, privy or other nuisance</u>, and in particular-</p> <ul style="list-style-type: none"> ● removal of accumulated dirt and refuse on floors, benches of the workroom, staircases and <u>passages and effective disposal</u> of the same; ● cleaning of the floor of every workroom – once in every week by washing with disinfectant or by some other effective method; ● providing effective drainage for removing water to the extent possible; ● to ensure that interior walls and roofs etc., are kept clean the following is to be complied with- <ol style="list-style-type: none"> 1. white wash or color wash should be carried out at least once in every period of 14 months; 2. where surface has been painted or varnished, repair or revarnish should be carried out once in every five years, if washable then once in every period of six months; 3. where they are painted or varnished or where they have <u>smooth impervious surface</u>, it should be cleaned once in every period of 14 months by such method as may be prescribed. ● all doors, windows and other frameworks which are wooden or metallic shall be kept painted or varnished at least once in every period of five years; ● The dates on which such processes are carried out shall be entered in the prescribed register
Disposal of wastes and effluents	<p>Section 12 provides that effective arrangements shall be made in every factory for the <u>treatment of wastes and effluents</u> due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.</p>

Ventilation and temperature	<p>Section 13 provides that effective and suitable provisions shall be made in</p> <ol style="list-style-type: none"> 1. every factory for securing and maintaining every workroom with adequate ventilation by the <u>circulation of fresh air</u> and 2. such a temperature as will secure workers therein reasonable conditions of comfort and prevent to health. 3. In case of the work involves the production of excessively high temperatures, adequate measures shall be taken to protect the workers by separating the process 4. which produces such high temperatures from the workroom by insulating the hot parts or by other effective means.
Dust and fume	<p>Section 14 provides that in every factory if there is given off any dust or fume or another impurity</p> <ul style="list-style-type: none"> ● of such nature in the process of manufacturing and it is likely to be injurious or offensive to the workers employed, any dust in <u>substantial quantities, offensive to the workers,</u> ● effective measures shall be taken to prevent its inhalation and accumulation in any work room. ● Exhaust appliances shall be applied as near as possible to the point of origin of dust, fume or other impurity and such points shall be enclosed as far as possible.
Artificial humidification	<p>Section 15 provides that if the humidity of the air is artificially increased, the State Government may make rules-</p> <ul style="list-style-type: none"> ● prescribing standards of humidification; ● regulating the methods used for <u>artificially increasing the humidity of the air;</u> ● directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded; ● prescribing methods to be adopted for <u>securing adequate ventilation</u> and cooling of the air in the workrooms.
Overcrowding	<ul style="list-style-type: none"> ● Section 16 provides that no room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein. ● There shall be in every workroom in a factory at least 14.2 cubic meters of space for every worker employed therein.

Lighting	<ul style="list-style-type: none"> Section 17 provides that in every part of a factory where workers are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial or both. All glazed windows and skylights used for the lighting shall be kept clean on both the inner and <u>outer surfaces and free from obstruction</u>. Effective provisions shall be made for the prevention of glare, either directly from a source of light or by reflection from a smooth or polished surface and the formation of shadows to such an extent as to cause eye strain or the <u>risk of accident to any worker</u>.
Drinking water	<ul style="list-style-type: none"> Section 18 provides that effective arrangements shall be made to provide and maintain at <u>suitable points conveniently situated</u> for all workers employed a sufficient supply of wholesome drinking water. Where more than 250 workers are employed provision shall be made for cool drinking water during hot weather. The water points shall be away six meters from any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination.
Latrines and urinals	<p>Section 19 provides that in every factory-</p> <ul style="list-style-type: none"> <u>sufficient latrine and urinal accommodation</u> of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory; separate enclosed accommodation shall be provided for male and female workers; they shall be adequately lighted and ventilated; they shall be maintained in a clean and sanitary condition at all times; sweepers shall be employed to keep clean latrines, urinals and washing places. <p>If there are more than 250 workers employed all latrine and urinal accommodations shall be of prescribed types. The floors and internal walls and the sanitary blocks shall be laid in glazed tiles to provide a smooth polished impervious surface. The latrines and urinals shall be</p>

	washed and cleaned at least once in every seven days with <u>suitable detergents or disinfectants</u> or with both.
Spittoons	Section 20 provides that there shall be provided with a sufficient number of spittoons in convenient places and they shall be maintained in a <u>clean and hygienic condition</u> .
Safety	<p>Chapter IV of the Act prescribes the procedures to be adopted for the safety of the working place in a factory. The factory is to take safety measures in respect of the following-</p> <ul style="list-style-type: none"> ● Fencing of machinery; ● Work on or near machinery in motion; ● Employment of young persons on dangerous machines; ● Striking gear and devices for cutting off power; ● Self acting machines; ● Casing of a new machinery; ● Prohibition of employment of women and children near cotton openers; ● Lifting machines, chains, ropes and lifting tackles; ● Revolving machinery; ● Floors, stairs and means of access; ● Pits, sumps openings in floors etc.,; ● Excessive weights; ● Protection of eyes; ● Precaution against dangerous fumes, gases, etc., ● Precautions regarding the use of portable electric light; ● Explosive or inflammable dust, gas etc., ● Precaution in case of fire; ● Safety on buildings and machinery; ● Maintenance of buildings; ● Appointment of safety officers.
Hazardous Processes	Chapter IVA provides for making provisions relating to the hazardous process. The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a <u>hazardous process or for the expansion</u> of any such factory, appoint a Site Appraisal Committee . The Site Appraisal Committee shall examine an application for the establishment of a

	<p>factory involving <u>hazardous processes</u> and make its recommendation to the State Government within 90 days of the receipt of such application. The Committee has the power to call for any information from the person making an application. When the application is got approved by the State Government, it shall not be necessary to obtain further approval from the Central Board of the State Board of pollution authorities.</p>
Responsibility of the occupier	<p>The occupier has to follow the procedure-</p> <ul style="list-style-type: none"> ● to lay down a <u>detailed policy</u> with respect to the health and safety of the workers; ● to disclose all the information regarding dangers including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes to the workers employed in the factory; ● to draw up an onsite emergency plan and detailed disaster control measures for the factory and make known to the workers and to the general public living in the vicinity of the factory, the safety measures required to be taken in the event of an accident taking place. ● to lay down measures for the handling usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicize them in the manner prescribed among the workers and the general public living in the vicinity. <p>Section 41C provides that the occupier is having specific responsibilities in relation to hazardous processes. He has to maintain the health records of the employees. He is to appoint experienced persons who possess specified qualifications in handling hazardous substances and are competent to supervise such handling within the factory.</p>
Powers of the Central Government	<p>Section 41D provides that the Central Government is having the power to <u>inquire into the standards of health and safety observed</u> in a factory. Section 41E provides to provide emergency standards in respect of a factory. Section 41F provides for fixing the <u>maximum permissible threshold limits</u> of exposure to chemical and toxic substances in the</p>

	<p>manufacturing process in any factory. Section 41G provides that the occupier shall set up a <u>Safety Committee consisting of an equal number of representations</u> of workers and management to promote cooperation between the <u>workers and the management in maintaining proper safety</u> and health at work and to review periodically the measures taken in that effect. Section 41H provides that the workers have a <u>reasonable apprehension</u> that there is a likelihood of imminent danger to their lives or health due to an accident, they may bring the same to the notice of their <u>occupier, agent, manager or any other person</u> who is in charge of the factory or the process. Immediate action shall be taken and a <u>report to the Inspector having jurisdiction</u>.</p>
Welfare	<p>Chapter V provides the welfare measures to be taken in a factory for the workmen employed in the factory. The following are the welfare measures prescribed in the Act to be provided by the factory to their workmen-</p> <ul style="list-style-type: none"> ● washing facilities; ● facilities for storing and drying clothing; ● facilities for sitting; ● first aid appliances; ● canteens; ● shelters, rest rooms and lunch rooms; ● crèches; ● appointment of welfare officers.
Washing facilities	<p>Section 42 provides that in every factory adequate and suitable facilities for washing shall be <u>provided and maintained for the use</u> of the workers. Separate and adequately screened facilities shall be provided for the use of male and female workers. The washing facility shall be <u>conveniently accessible</u> and shall be kept clean.</p>
Facilities for storing and drying clothing	<p>Section 43 provides that the State Government may, in respect of any factory or class or <u>description of factories</u>, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.</p>
Facilities for sitting	<p>Section 44 provides that suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing</p>

	position, in order that they make take advantage of any opportunities for rest which may occur in the course of their work.
First aid appliances	<p>Section 45 provides that first aid appliances shall be provided and maintained so as to be readily accessible during all working hours or <u>cupboards equipped</u> with the prescribed contents and the number of such boxes or cupboards to be provided and maintained shall not be less than for <u>every 150 workers at any one time in the factory</u>. Each first aid box or cupboard shall be kept in charge of a separate reasonable person who holds a certificate in the first aid treatment recognized by the State Government and he should always be readily available during the working hours of the factory.</p> <p>In a factory where more than 500 workers have employed an <u>ambulance</u> of the prescribed size containing the prescribed equipment, nursing staff etc. shall be provided and made readily available at all times.</p>
Canteens	Section 46 provides that if more than 250 workers are employed in a factory a canteen or canteens shall be provided and maintained by the occupier for the user of the workers. The <u>items of expenditure</u> in the <u>running of the canteen</u> which are not to be taken into account in fixing the cost of foodstuffs shall be borne by the employer.
Shelters, rest rooms and lunch rooms	Section 47 provides that if more than 150 workers are employed adequate and <u>suitable shelters or rest rooms</u> and a suitable lunch room with provision for drinking water shall be provided and maintained for the use of the workers. The same shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.
Crèches	Section 48 provides that if more than 30 women workers are employed there shall be provided and maintained <u>suitable room for the use of children</u> under the age of 6 years of such women. The same shall be adequately ventilated and shall be maintained in clean and sanitary conditions and under the charge of women trained in the care of children and infants .

Welfare Officers	Section 49 provides that if 500 or more workers are employed in a factory, the occupier shall <u>employ in the factory</u> a such number of welfare officers as may be prescribed.
Working hours of adults	<p>Chapter VI of the Act provide for the working hours of adults. This chapter provides for working hours in a day, weekly working hours, weekly holidays, and intervals for rest. Spread over of duty, night shift etc.,</p> <p>Section 54 provides that no adult worker shall be required or allowed to work in a factory for more than nine hours on any day.</p> <p>Section 55 provides that the periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that the worker shall work for more than five hours before he has had <u>an interval for the rest of at least half an hour</u>.</p> <p>Section 56 provides that the periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest, they shall not spread over more than ten and half hours on any day.</p> <p>Section 51 provides that no adult worker shall be required or allowed to work in a factory for more than 48 hours on any week.</p>
Weekly holidays	<p>Section 52 provides that no adult worker shall be required or allowed to work in a factory on the first day of the week unless-</p> <ul style="list-style-type: none"> ● he has or will have a holiday for a whole day on one of the three days immediately before or after the said day; and ● the manager of the factory, has, before the said day or the substituted day whichever is earlier- <ol style="list-style-type: none"> 1. delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted; and 2. displayed a notice to that effect in the factory.
Compensatory holidays	Section 53 provides that if a worker is deprived of any of the weekly holidays he shall be allowed within the month in which the holidays were due to him or within two months immediately following that

	month, compensatory holidays of equal number to the holidays so lost shall be given.
Shift duty	<p>Section 57 provides that where a worker in a factory works on a shift which extends beyond midnight-</p> <ul style="list-style-type: none"> ● for the purposes of Section 52 and 53, a holiday for a whole day shall mean in his case a period of 24 consecutive hours beginning when his shift ends; ● the following day for him shall be deemed to be the period of 24 hours beginning when such <u>shift ends</u>, and the hours he has <u>worked after midnight</u> shall be counted in the previous day. <p>Section 58 provides that the work shall not be carried on in any factory by means of a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time.</p>
Overtime	<p>Section 59 provides that where a worker works in a factory for more than 9 hours on any day or for more than 48 hours in any week, he shall, in respect of the overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.</p> <p>The term 'ordinary rate of wages' is defined as the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional <u>sale to workers of food grains</u> and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work. Where any workers are paid on a piece rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job <u>during the month immediately preceding the calendar month</u> during which the overtime work was done and such time rates shall be deemed to be the ordinary rate of wages of those workers.</p>
Double employment	Section 60 imposes the restriction that no adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

Register of adult workers	Section 62 provides that a register of adult workers shall be maintained, showing <ul style="list-style-type: none"> ● the name of each adult worker in the factory; ● the nature of the work; ● the group, if any, in which he is included; ● where his group works on shifts, the relay to which he is allotted; ● such other particulars as may be prescribed.
Employment of women	Section 66 provides that the provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions- <ul style="list-style-type: none"> ● no exemption from the provisions of Section 54 may be granted in respect of any woman; ● no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.; ● the State Government may authorize the employment of any women between the hours of 10 PM and 5 A.M.; ● there shall be no change of shifts except after a weekly holiday or any other holiday.
Employment of young persons	Chapter VII of the Act deals with the employment of young persons.
Prohibition of employment of young children	Section 67 provides that no child who has not completed his 14th year shall be required or allowed to work in any factory.
Adolescent worker	Section 68 provides that a child who has completed his 14th year or an adolescent shall not be allowed to work in any factory unless- <ul style="list-style-type: none"> ● a certificate of fitness granted is in the custody of the manager of the factory; and ● such child or adolescent carries while he is at work a token giving a reference to such certificate.
Certificate of fitness	Section 69(1) provides that a certifying surgeon shall, on the application of <u>any young person or his parent or guardian</u> accompanied by a document signed by the Manager of a factory that such person will be employed therein if certified to be fit for work in a factory, or on the application of the Manager of the factory in which any young person

	<p>wishes to work, examine the such person and ascertain his fitness for work in a factory.</p> <p>Section 69(2) provides that the certifying surgeon, after examination, may grant to a such young person, in the prescribed form or may renew-</p> <ul style="list-style-type: none"> ● a certificate of fitness to work in a factory as a child, if he is satisfied that the young person has completed his 14th year, that he has attained the prescribed physical standards and that he is fit for such work; ● a certificate of fitness to work in a factory as an adult if he is satisfied that the young person has completed his 15th year and is fit for a full day's work in a factory. <p>The <u>certificate granted by the certifying surgeon</u> shall be valid for a period of 12 months from the date thereof. He shall revoke any certificate granted or renewed if in his opinion the holder of it is no longer fit to work in the capacity stated therein in a factory. In case the certifying surgeon refuses to give a certificate he has to give reasons for the same. If a certificate is given under certain conditions, the young person shall not be allowed in any factory except in accordance with those conditions. The occupier is to pay the fee for getting the certificate from the certifying surgeon and the same shall not be recovered from the <u>young person, his parents or guardian</u>.</p>
Working hours for children	<p>Section 71 provides that no child shall be employed or permitted to work in any factory for more than four and a half hours on any day and during the night. The period of work of all children employed in a factory shall be limited to two shifts which shall not overlap or spread over more than five hours each. Each child shall be employed in only one of the relays which shall not, except with the previous permission. <u>No female child</u> shall be allowed to work in any factory except, between 8 A.M. and 7 P.M.,</p>

Register of child workers	Section 73 provides that the Manager of every factor in which children are employed shall maintain a register of child workers showing- <ul style="list-style-type: none"> ● the name of each child worker in the factory; ● the nature of his work; ● the group, if any, in which he is included; ● where his group works on shifts, the relay to which he is allotted; and ● the number of his certificate of fitness granted under Section 69.
Annual Leave with wages	Chapter VIII of the Act deals with annual leave granted to workers with wages.
Annual leave	<p>Section 79 provides that every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed leave with wages for a number of days calculated at the rate of-</p> <ul style="list-style-type: none"> ● if an adult, one day for every 20 days of work performed by him during the previous calendar year; ● if a child, one day for every 15 days of work performed by him during the previous calendar year. <p>The following shall be deemed to be days on which the worker has worked for the purpose of computation of the period of 240 days or more-</p> <ul style="list-style-type: none"> ● any days of <u>layoff, by agreement or contract</u> or as permissible under the standing orders; ● in the case of a female worker, maternity leave for any number of days not exceeding 12 weeks; and ● the leave earned in the year prior to that in which the leave is enjoyed <p>but the above shall not be entitled to a worker to earn leave. The leave admissible shall be exclusive of <u>all holidays</u> whether occurring during or at either end of the period of leave.</p> <p>In calculating the leave fraction of leave of half a day or more shall be treated as one full day's leave and a fraction of less than half a day shall be omitted.</p>

Carry forward of leave	If a worker does not in any calendar year take the whole of the leave allowed to him any leave not taken by him shall be <u>carried over to the succeeding year</u> . The total number of leave that may be carried forward shall not exceed 30 days in the case of an adult or 40 in the case of a child. A worker, who has <u>applied for leave</u> with wages but has not been granted, shall be entitled to carry forward the leave refused without any limit.
Availing of leave	A worker may, at any time, apply in writing to the Manager not less than 15 days before the date on which he wishes his <u>leave to begin</u> , to take all the <u>leave or any portion</u> thereof allowable to him during the calendar year. Such application shall be made not less than 30 days before the date on which he wishes his leave to begin if he is employed in a public utility service. An <u>application for leave shall not</u> be refused unless refusal is in accordance with the <u>scheme for the time being in operation</u> .
Wages during leave period	Section 80 provides that a worker shall be entitled to wages at a rate equal to the daily average of his total full-time earnings for the days on which he actually worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of food grains and other articles. In case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of the total full-time earnings for the days on which he actually worked during the last calendar month preceding his leave, in which he actually worked.
Advance payment	Section 81 provides that a worker who has been allowed leave for not less than four days , in the case of an adult, and five days , in the case of a child , shall, before his leave begins to be paid the wages due for the period of the leave allowed.
Encashment of leave	Section 79(3) provides that if a worker is discharged or dismissed from services or quits his employment or is superannuated or dies while in service, during the course of the calendar year , he or his heir or nominee, shall be entitled to the wages in lieu of the quantum of leave to which he was entitled immediately before such <u>termination of his services</u> . Such payment shall be made before the expiry of the second

	working day from the date of discharge, dismissal or quitting and where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.
Penalties	<p>Section 92 provides that if there is any infringement of any of the provisions of this Act or of any rules made there under or of any order in writing given, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a <u>term which may extend to 2 years</u> or with fine which may extend to <u>`1 lakh or with both</u>. If the contravention is continued after conviction, with a further fine which may extend to <u>`1000/- for each day on which the contravention so continued</u>.</p> <p>If the contravention resulted in an accident causing death or serious bodily injury, the fine shall not be less than `25,000/- in the case of an <u>accident causing death</u>, and `5000/- in the case of an accident causing <u>serious bodily injury</u>.</p>
Liability of owners	Section 93 provides that where in any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach roads, drainage, water supply, lighting and sanitation. The owners of the premises shall be liable as if they were the occupier or manager of a factory for any contravention of the provisions of this Act.
Enhanced penalty	Section 94 provides that if any person who has been convicted of any offence punishable under Section 92 of the Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to 3 years or with fine which shall not be less than `10,000/- but which may extend to ` 2 lakhs or with both . For any adequate and special reasons recorded in writing, the Court may impose a fine of less than `10,000/- . No cognisance shall be taken of any conviction made more than 2 years before the commission of the offence for which the person is subsequently convicted.
Penalty for obstructing	Section 95 provides that whoever-

Inspector	<ul style="list-style-type: none"> ● willfully obstructs an Inspector in the exercise of any power conferred on him; or ● fails to produce on demand any registers or other documents in his custody before the Inspector or conceals or prevents any worker in a factory from appearing before; or ● being examined by, an Inspector <p>shall be punishable with <u>imprisonment for a term</u> which may extend to six months or with fine which may extend to `10,000/- or with both.</p>
Penalty for contravention of the provisions relating to hazardous process	Section 96A provides that whoever fails to comply with or contraventions any of the provisions of Section 41B, 41C or 41H or the rules made there under, shall, in respect of such failure or contravention, be punishable with imprisonment for a term which may extend to seven years and with fine which may extend to '2 lakhs and in case of the failure or contravention continues, with additional fine which may extend to `5000/- for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. If the failure or contravention continues beyond a period of one year after the date of conviction , the offender shall be punishable with imprisonment for a term which may extend to ten years.
Offences by workers	Section 97 provides that if any worker employed in a factory contravene any provision of this Act or any rules or by order made there under, <u>imposing any duty or liability</u> on workers, he shall be punishable with a fine which may extend to ` 500/-
Penalty for using a false certificate of fitness	Section 98 provides that whoever knowingly uses or attempts to use, as a certificate of fitness granted to himself a certificate granted to another person or who, having procured such a certificate , knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with imprisonment for a term which may extend to 2 months or with fine which may extend to `1,000/- or with both.
Penalty for permitting double employment of child	Section 99 provides that if a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him or obtaining any director benefits from his wages shall be punishable with a fine which may extend to `1000/- unless it appears to the Court that

	the child so worked without the consent or connivance of the parent, guardian or person.
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MCQs

1. In which year did the factories act come into force?

- a. 23rd September 1948
- b. 1st April, 1949
- c. 4th April, 1949
- d. 12th September, 1948

Answer: b. 1st April 1949

2. How many days in advance does the occupier of factory premises gives notice of occupancy to the chief inspector?

- a. 15 days
- b. 20 days
- c. 10 days
- d. 25 days

Answer: a. 15 days

3. What are the general duties of an Occupier?

- A. Maintenance of a plant and system of work in a factory are safe, without risks to health.
- B. Ensure safety and absence of risks to health in, the use, handling, storage and transport of articles and substances.

- C. Specifying the area
 D. Defining the local mean time ordinarily deserved therein.

- a. D
- b. C
- c. Only A & B
- d. All of the above

Answers: c. Only A & B

4. Which provisions regarding health are mentioned in sections 11 to 20 in the factories act?

- A. Cleanliness
- B. Dust and fumes
- C. Ventilation and temperature
- D. Disposal of wastes

- a. Only B & C
- b. Only A & D
- c. None of the above
- d. All of the above

Answer: d. All of the above

5. As per the factories act, after how many years should the factory premises be painted and refurbished?

- a. 5 years
- b. 2 years
- c. 10 years
- d. Annually

Answer a. 5 years

6. As per section 2 in the factories act, who will be called an adult?

- a. A person who has completed 21 years of age
- b. A person who is less than 19 years of age
- c. A person who has completed 24 years of age

d. A person who has completed 18 years of age

Answer: d. A person who has completed 18 years of age

7. Section 2(g) under the act defines _____

- a. Factory
- b. Manufacturing process
- c. Worker
- d. Occupants

Answer: b. Manufacturing process

8. If there are _____ numbers of employees, then the employer has to provide a canteen.

- a. 250
- b. 510
- c. 320
- d. 100

Answer: a. 250

9. As per section 94, a person who repeats an offence shall be punishable with imprisonment for a term which may extend up to _____ years and a fine which shall not be less than 10,000 Rs but which may extend up to _____ or both.

- a. 3 years/ 2,00,000 Rs
- b. 5 years/ 1,20,000 Rs
- c. 2 years/ 2,50,000 Rs
- d. 4 years/ 3,00,000 Rs

Answer: a. 3 years/ 2,00,000 Rs

10. If a company has _____ a number of employees, then the appointment of a safety officer is mandatory under the factories act.

- a. 500
- b. 100
- c. 1000
- d. 10000

Answer: c. 1000

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Chapter 2 : Wages Concepts and Theories

The term 'wage' refers to a payment made under contract by an employer to a worker in lieu of the services rendered by the latter. The most commonly accepted unit to measure such service is time. Wages may thus be paid on basis of hours, days, month or even year.

Theories of wages have evolved over time, from early subsistence and standard of living theories, to modern theories of human resource management and compensation. These theories seek to explain the factors that determine wages, including market forces, labor productivity, and the role of employers and employees in setting wages.

Money wage refers to the actual amount of money that an employee receives as payment for their work. It is the nominal amount of money paid to an employee in exchange for their labor.

Real wage, on the other hand, refers to the purchasing power of the money wage. It takes into account the effects of inflation on the money wage and reflects the actual value of the wage in terms of the goods and services it can buy.

Theories of Wages:

Subsistence Theory

The subsistence theory of wages, proposed by David Ricardo, suggests that the price of labor is determined by the minimum amount needed for a worker and their family to survive. When wages rise above this level, more workers enter the labor force, which increases the supply of labor and brings wages back down to the subsistence level. When wages fall below this level, workers are discouraged from having families and the supply of labor decreases, causing wages to rise back to the subsistence level. The theory assumes that workers are motivated by self-interest and will only work if they can earn enough to survive.

Limitations

- The subsistence theory is completely outdated and has no practical application, especially in developed Countries
- It also ignores the importance of demand for labour and the role of trade unions in determining wages.

Wages Fund Theories

The Wages Fund Theory proposed by J.S. Mill suggests that wages are determined by two factors: the fixed wage fund, which is the amount of money set aside for the payment of labor, and the number of workers seeking employment. As the wage fund is limited, an increase in wages for

one group of workers can only come at the expense of another group. Thus, reducing the number of workers is the only way to raise wages overall.

Additionally, trade unions cannot increase wages for the entire labor class since any gains made by one group would be offset by losses suffered by another.

Limitations

- That wages are not necessarily paid out of circulating capital alone.
- The Wages Fund Theory is applicable at best in an under-developed country that has capital deficiency, and stands rejected now.

Purchasing Power Parity Theory

The purchasing-power theory of wages concerns the relation between wages and employment and the business cycle. It is not a theory of wage determination but rather a theory of the influence spending has (through consumption and investment) on economic activity.

The classical economists, most notably Pigou, had argued that a cut in wages during unemployment and depression in the economy would help in restoring full employment

This viewpoint was criticised by Keynes, who propounded a new theory applicable to the economy as a whole and not particularly wages. Keynes considered determination of wage rate from a macro viewpoint, as an income for the wage earners. If the wage rate is high, workers would have more purchasing power, which, in turn, would increase the aggregate demand for goods and the level of output. Conversely, if the wage rate is low, purchasing power of labour would be less, which would lower the aggregate demand. Low aggregate demand would have an adverse impact on the level of employment and output. Therefore a cut in the wage rate instead of removing unemployment and depression would further accentuate the problem.

Residual Claimant Theory

The Residual Claimant Theory has been proposed by Walker, wages are the residue after the other factors of production have been paid. In other words, after rent, interest and profit have been paid, the remainder of the total output would go to workers as wages. Several authors consider this theory to be optimistic, as it suggests the possibility of increase in wages through increased efficiency of workers.

Marginal productivity Theory

One of the most prominent of neoclassical theories of wages, the marginal productivity theory, is associated initially with John Bates Clark and was developed later by Marshall, Jevons and Walras. It is basically a theory of distribution, and can be applied to any factor of production, although it has been most prominently used for determination of wages.

The marginal productivity theory rests on the assumptions of a perfectly competitive market and profit maximisation motive of employers. It postulates that demand for labour is determined by the value of output of an additional worker. The marginal product of labour is the amount by which the output would be increased if a unit of labour was increased, with the quantities of other factors of production remaining constant.

Since the employer is motivated by profit, he wants to pay as little as possible—certainly not more than the factor's marginal productivity (here labour). No factor input would agree to accept a return that was less than its marginal productivity if perfect competition existed. So, in a free market, the equilibrium factor price is determined by marginal productivity (here wage).

Limitations

- The assumption of perfect competition.
- Labour is assumed to be perfectly mobile, which does not hold in the real world.

Bargaining Theory of wages

Proposed by John Davidson, this theory of wage determination is based on negotiations between employers and unions, with the assumption that the two parties, labour and employer, have conflicting objectives. Each wants the maximum share of the firm's profits and is aware of the costs of a strike and the risks of participating in one.

Efficiency wage Theory

The term 'efficiency-wages' was coined by the noted economist, Alfred Marshall. The efficiency wage hypothesis is a complete digression from the marginal productivity theory explained earlier. It postulates that in certain situations employers may find it more beneficial to pay wages to their workers higher than their marginal revenue product. The underlying idea is that the value of a worker may depend on how much he/she is paid, because richer workers are more productive or better motivated to avoid unemployment. This theory is more modern and practical in approach as it takes a holistic view of wages. Demand

Demand and supply theory

According to this theory, wages are determined by the interaction of demand and supply, just like any commodity. Demand for labour partly reflects productivity of labour and partly the market value of the product at different levels of production. Factors that determine the demand for labour include derived demand, elasticity of demand for labour and technical progress. Supply of labour, on the other hand, depends on the number of workers and the number of hours per day they are prepared to work. It is governed by the prevailing wage rate in the market and

preference of labour for leisure. Workers earn to meet their needs, which may include basic necessities of food, clothing and shelter, education and health and entertainment of self and dependents. Due to the trade-off between hours of work and hours of leisure, the supply curve of labour is not normally upward sloping, but is backward bending beyond a particular wage.

Wage Board

In order to address issues with pay fixation, the government created wage boards at the industry level in the 1950s and 1960s. These boards participate and finalise the proposals with input from representatives of the workforce, employers, and independent members.

Constitution of Wage Board

A Wage Board is tripartite by structure:

1. A chairperson
2. An equal number of representatives of employers and employees (two members each)
3. Two other independent members (an economist and a consumers' representative) nominated to the Board.

The Chairman is appointed by the appropriate Government in consultation with the Chief Justice of the High Court concerned or the Supreme Court of India. Any person who is or has been eligible to be appointed as a Judge of a High Court shall be qualified for appointment as the Chairman. Usually a Member of Parliament is nominated to represent consumers. The appropriate Government appoints workers' and employers' representatives on the recommendations of the most representative workers' and employers' organisations respectively in the sector concerned.

Function of wage Boards

- A Wage Board adjudicates industrial disputes referred to it with the assistance of independent members.

The First National Commission on Labour (1969) stated that a Wage Board functions as an efficient mechanism for setting wages, as it strives to establish wages in line with the economic and social policies of the government, operating within a general framework.

- It is required to work out a wage structure based on the principles of fair wages formulated by the Committee on Fair Wages.
- A Wage Board must evaluate the following factors in addition to those pertaining to fair compensation:
 - (i) The needs of the industry in a developing economy,
 - (ii) The system of payment by results,

- (iii) The special characteristics of the industry in various regions and areas,
 - (iv) The categories of workers to be covered (this may be according to the definition in the Industrial Disputes Act, 1947), and
 - (v) The working hours in the industry.
- A Board may be assigned additional tasks like working out the principles that should govern payment of bonus and framing of gratuity schemes to workers in the concerned industry.

Chapter 3 : Minimum Wages Act, 1948

Introduction	<ul style="list-style-type: none"> ● The concept of minimum wages first evolved with reference to remuneration of workers in those industries where the level of wages was substantially low as compared to the wages for similar types of labour in other industries. ● The International Labor Conference of the International Labor Organization (ILO) adopted a draft convention on minimum wages. ● It required the member countries to create and maintain a machinery whereby minimum wages can be fixed for workers employed in industries in which no arrangements exist for the effective regulation of wages and where wages are exceptionally low.
The object of the Act	The object of this Act is to provide for fixing minimum rates of wages in certain employments.
Applicability	This Act extends to the whole of India . The Act provides the list of employments for which this Act is applicable in the schedule to this Act.
Effect	This Act came into effect on 15.03.1948 .

Important Definitions

Adolescent	Section 2(a) defines the term 'adolescent' as a person who has completed his fourteenth year of age but has not completed his eighteenth year .
Adult	Section 2(aa) defines the term 'adult' as a person who has completed his eighteenth year of age .
Appropriate Government	<p>Section 2(b) defines the term 'appropriate Government' as-</p> <ul style="list-style-type: none"> ● in relation to any scheduled employment carried on by or under the authority of the Central Government or a railway administration or in relation to a mine oilfield or major port or any corporation established by a Central Act - the Central Government; and ● in relation to any other scheduled employment the State

	Government;
Child	Section 2(bb) defines the term 'child' as in relation to any other <u>scheduled employment</u> of the State Government.
Cost of living index	Section 2(d) defines the expression 'cost of living index number' in relation to employees in any scheduled employment in respect of which <u>minimum rates of wages</u> have been fixed as the index number ascertained and declared by the competent authority by notification in the Official Gazette to be the cost of living index number applicable to the employee in such employment.
Employer	<p>Section 2(e) defines the term 'employer' as any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which <u>minimum rates of wages</u> have been fixed under this Act and includes except in sub-section (3) of section 26 –</p> <ul style="list-style-type: none"> (i) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (f) of sub-section (1) of section 7 of the Factories Act 1948 (63 of 1948) as manager of the factory; (ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such government for the <u>supervision and control of employees</u> or where no person or authority is so appointed the head of the department; (iii) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the persons appointed by such authority for the <u>supervision and control of employees</u> or where no person is so appointed, the chief executive officer of the local authority; (iv) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act any person responsible to the owner for the supervision and control of the

	employees or for the payment of wages;
Wages	<p>Section 2(h) defines the term 'wages' as all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment and includes house rent allowance, but does not include –</p> <ul style="list-style-type: none"> ● the value of – <ol style="list-style-type: none"> 1. any house accommodation, supply of light, water, medical attendance; or 2. any other amenity or any service excluded by general or special order of the appropriate government; ● any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance; ● any traveling allowance or the value of any traveling concession; ● any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or ● any gratuity payable on discharge;
Employee	<p>Section 2(i) defines the term 'employee' as any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the <u>control and management of that other person</u>; and also includes an employee declared to be an employee by the appropriate government; but does not include any member of the Armed Forces of the Union.</p>
Scheduled employment	<p>Section 2(g) of the Act defines the term 'scheduled employment' as employment specified in the Schedule, or any process or branch of working forming part of such employment.</p> <p>The Schedule is divided into two parts – Part I and Part II. Part I of the</p>

	<p>schedule has 18 entries. It was realized that it would be necessary to fix minimum wages in many more employments to be identified in course of time. Accordingly, powers were given to the appropriate Government to <u>add employment</u> to the Schedule by following the procedure laid down in Section 21 of the Act. As a result, the State Government and Central Government have made several additions to the Schedule and it differs from State to State.</p> <p>Part II relates to employment in agriculture. Employment in agriculture, that is to say, in any form of farming, including the cultivation and tillage of the soil, dairy farming, the production, cultivation, growing and harvesting of any agricultural or horticultural commodity, the raising of live stock, bees or poultry and any practice performed by a farmer on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation to market from produce).</p>
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Explanation of Sections

Fixing of minimum rates of wages	<p>Section 3 provides that the appropriate Government shall fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in employment added to either Party by notification under section 27. The appropriate government may in respect of employees employed in an employment specified in Part II of the Schedule instead of fixing minimum rates of wages under this clause for the whole State fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof.</p> <p>The appropriate government may refrain from fixing minimum rates of wages in respect of any scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment but if at any time the appropriate government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the <u>number of employees in any scheduled employment</u> in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more it shall fix minimum rates of wages payable to</p>
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	<p>employees in such employment as soon as may be after such finding.</p> <p>The appropriate Government may fix a minimum rate of wages for time work, known as a <u>Minimum Time Rate</u>; piece work, known as a <u>Minimum Piece Rate</u>; a guaranteed time rate; overtime rate.</p>
Different minimum wages	<p>Section 3(3) (a) provides that different minimum rates of wages may be fixed for</p> <ul style="list-style-type: none"> ● different scheduled employments; ● different classes of work in the same scheduled employment; adults, adolescents, children and apprentices; ● different localities;
Minimum wages on wage period	<p>Section 3(3) (b) provides that minimum of wages may be fixed by any one or more of the following wage periods</p> <ul style="list-style-type: none"> ● by the hour; ● by the day; ● by the month or ● by such other larger wage-period as may be prescribed <p>and where such rates are fixed by the <u>day or by the month</u>, the manner of calculating wages for a month or for a day as the case may be indicated. Where any wage periods have been fixed under section 4 of the Payment of Wages Act 1936, minimum wages shall be fixed in accordance therewith.</p>
Review of Minimum wages	<p>Section 3(1)(b) provides that the appropriate Government may review at such intervals, as it may think fit, such intervals not exceeding five years and revise the minimum rate of wages, if necessary. Where for any reason the appropriate Government has not reviewed the <u>minimum rates of wages fixed by it with respect to any scheduled employment</u> within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the <u>said period of five years</u> shall continue in force.</p>
Minimum wages when dispute is pending	<p>Section 3(2A) provides that where in respect of an industrial dispute relating to the rate of wages payable to any employees employed in a schedule employed is pending before</p> <ul style="list-style-type: none"> ● A Tribunal or National Tribunal under the Industrial Disputes Act,

	<p>1947; or</p> <ul style="list-style-type: none"> ● Before any like authority under any other law for the time being force; or ● An award made by any Tribunal, National Tribunal or such authority is in operation <p>and a notification is issued by the appropriate Government for fixing the minimum wages or revision of minimum wages, during the pendency of the above proceedings, no minimum wage cannot be fixed by the appropriate Government during the said period.</p>
Minimum Rate of wages	<p>Section 4(1) provides that any minimum rate of wages fixed or revised by the appropriate government in respect of scheduled employment may consist of –</p> <ul style="list-style-type: none"> ● a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate government may direct, to accord as nearly as practicable with the variation in the <u>cost of living index number</u> applicable to such workers; or ● a basic rate of wages with or without the <u>cost of living allowance</u> and the cash value of the concessions in respect of suppliers of essential commodities at concession rates, where so authorized; or an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions if any. <p>Section 4(2) provides that the cost of living allowance and the cash value of the concessions in respect of the supply of essential commodities at the concession rate shall be computed by the competent authority at such intervals and in accordance with <u>such directions</u> as may be specified or given by the appropriate government.</p>
Procedure for fixing and revising minimum wages	<p>Section 5 (1) provides that In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate government shall, either</p> <ul style="list-style-type: none"> ● appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision as the case may be; or

	<ul style="list-style-type: none"> by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date not less than two months from the date of the notification on which the proposals will be taken into consideration. <p>Section 5(2) provides that after considering the advice of the committee or committees all representations received by it before the date specified in the notification, the appropriate government shall by notification in the Official Gazette, fix, or, as the case may revise the minimum rates of wages in respect of each scheduled employment and unless such notification otherwise provides it shall come into force on the expiry of three months from the date of its issue. Where the appropriate government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1) the appropriate government shall consult the Advisory Board also.</p>
Correction of errors	Section 10 of the Act provides that if there is any clerical or arithmetical mistake in any order fixing or revising minimum rates of wages or errors arising therein from any accidental slip or omission , the appropriate Government may, at any time, by notification correct the same. Every such Notification shall, as soon as may be after it is issued, be placed before the Advisory Board for information.
Advisory Board	Section 7 of the Act provides that the purpose of co-coordinating work of committees and subcommittees appointed under section 5 and advising the appropriate government generally in the matter of fixing and revising minimum rates of wages the appropriate government shall appoint an Advisory Board.
Central Advisory Board	<p>Section 8 of the Act provides that for the purpose of advising the Central and State Governments in the matters of the fixation and revision of minimum rates of wages and other matters under this Act and for co-coordinating the work of the Advisory Board, the Central Government shall appoint a Central Advisory Board.</p> <p>The Central Advisory Board shall consist of persons to be nominated by the Central Government representing employers and employees in the scheduled employments who shall be equal in number and independent</p>

	persons <u>not exceeding one-third of its total number of members; one of such independent persons shall be appointed the Chairman of the Board by the Central Government.</u>
Composition of Committee	Section 9 of the Act provides that each of the committees' sub-committees and the Advisory Board shall consist of persons to be nominated by the appropriate government representing employers and employees in the scheduled employments who shall be equal in number and independent persons <u>not exceeding one-third of its total number of members; one of such independent persons</u> shall be appointed the Chairman by the appropriate government.
Wages kind	<p>Section 11(1) of the Act provides that Minimum wages payable under this Act shall be paid in cash.</p> <p>Section 11(2) provides that where it has been the custom to pay wages wholly or partly in kind, the appropriate government being of the opinion that it is necessary in the circumstances of the case may, by notification in the Official Gazette, authorize the payment of minimum wages either wholly or partly in kind.</p> <p>Section 11(3) of the Act provides that if the appropriate government is of the opinion that provision should be made for the supply of essential commodities at concession rates, the appropriate Government may, by notification in the Official Gazette, authorize the provision of such supplies at concessional rates.</p> <p>Section 11(4) of the Act provides that the cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates shall be estimated in the prescribed manner.</p>
Payment of minimum rate of wages	Section 12 of the Act provides that where in respect of any scheduled employment a notification under section 5 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorized within such time and subject to such conditions as may be prescribed. This provision will not affect the provisions of the Payment of Wages Act, of 1936.

Fixing hours for a normal working day	<p>Section 13(1) of the Act provides that in regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act the appropriate government may –</p> <ul style="list-style-type: none"> ● fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals. Rule 24 provides that the number of hours which shall constitute a normal working day shall be ● in the case of an adult – 9 hours; the working day of an adult worker shall be so arranged that inclusive of the intervals of rest, if any, shall not spread over more than 12 hours on any day; ● in case of a child – 4.5 hours. No child shall be permitted to work for more than 4.5 hours on any day. ● provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest; ● provide for payment for work on a day of rest at a rate not less than the overtime rate. <p>Section 13(2) provides that the provisions of sub-section (1) shall in relation to the following classes of employees apply only to such extent and subject to such conditions as may be prescribed:-</p> <ul style="list-style-type: none"> ● employees engaged in urgent work, or in any emergency which could not have been foreseen or prevented; ● employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned; ● employees whose employment is essentially intermittent; ● employees engaged in any work which for technical reasons has to be completed before the duty is over; ● employees engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces. <p>Section 13(3) provides that for the purposes of subsection (2), employment of an employee is essentially intermittent when it is declared to be so by</p>
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	<p>the appropriate government on the ground that the daily hours of duty of the employee or if there be no daily hours of duty as such for the employee the hours of duty normally include periods of inaction during which the employee may be on duty but is not called upon to display either <u>physical activity or sustained attention.</u></p>
Overtime	<p>Section 14(1) provides that where an employee whose minimum rate of wages is fixed under this Act by the hour, by the day or by such a longer wage period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate government for the time being in force whichever is higher.</p> <p>Rule 25 provides that when a worker works more than 9 hours on any day or more than 48 hours in a week, he shall be entitled to Overtime wages</p> <ul style="list-style-type: none"> ● in case of employment in agriculture - one and a half times the ordinary rate of wages; ● in case of any other scheduled employment – double the ordinary rate of wages. <p>A register in this regard shall be maintained. If no overtime wage is paid for a particular month a NIL entry should be made.</p> <p>Section 14(2) provides that this Act shall not prejudice the operation of the provisions of Section 59 of the Factories Act in any case where those provisions are applicable.</p>
Wages of a worker who works less than normal working day	<p>Section 15 of the Act provides that if an employee whose minimum rate of wages has been fixed under this Act by the day works on any day on which he was employed for a <u>period of less than the requisite number of hours constituting a normal working day</u>, he shall, save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day. However that he shall not be entitled to receive wages for a full normal working day –</p> <ul style="list-style-type: none"> ● in any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him

	<p>with work; and</p> <ul style="list-style-type: none"> ● in such other cases and circumstances as may be prescribed.
Wages for two or more classes of work	Section 16 of the Act provides that where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, the employer shall pay to such employee in respect of the time respectively occupied in each such class of work, wages at not less than the minimum rate in force in respect of each such class.
Minimum time rate wages for piece work	Section 17 of the Act provides that where an employee is employed on piece work for which a minimum time rate and not a minimum piece rate has been fixed under this Act the employer shall pay such employee wages at not less than the minimum time rate.
Cash value of wages	Rule 20 provides that the retail prices at the nearest market shall be taken into account in computing the cash value of wages paid in kind and of essential commodities supplied at concessional rates . The computation shall be made in accordance with such directions as may be issued by the Central Government from time to time.
Time of payment of wages	<p>Rule 21(1) provides that the wages of a worker in any scheduled employment shall be paid on a working day</p> <ul style="list-style-type: none"> ● in the establishment for which less than 1000 persons are employed – before the expiry of the 7th day; ● in other establishments – before the expiry of 10th day after the last wage period in respect of which the wages are payable. <p>Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.</p>
Condition for payment of wages	The wages of an employed person shall be paid to him without deduction of any kind except those authorized by or under the rules.
Deductions	<p>Every payment made by the employed person to the employer or his agent shall be deemed to be a deduction of wages. Deductions from the wages shall be one of or more of the following</p> <ul style="list-style-type: none"> ● fines;

	<ul style="list-style-type: none"> ● absence from duty; ● damage or loss of goods entrusted to the employed person for custody where the damage is directly attributable to his neglect or default; ● loss of money for which he is required to account where such loss is directly attributable to his neglect or default; ● house accommodation supplied by the employer; ● such amenities and services supplied by the employer; ● advances or for adjustment of over payment of wages; ● income tax payable by the employed person; ● by order of a Court or other competent authority; ● repayment of advances from any provident fund; ● payment to co-operative societies; ● loans advanced by the employer; ● payment of insurance premium; ● adjustment of amounts, other than wages paid in error in excess of what is due to him; ● with the written authorization of the employed person; with the written authorization for contributions to National Defence Fund or the Prime Minister's National Relief Fund or to any Defence Savings Scheme approved by the Central Government; ● loans granted for house building. <p>The prior approval of the Inspector or any other officer authorized is obtained in writing before making such deductions unless the employee gave his consent in writing to such deductions.</p> <p>The total amount of deductions from the wages shall not exceed</p> <ul style="list-style-type: none"> ● 75% of such wages where such deductions are wholly or partly made for payments to Consumer Co-operative Stores run by any Co-operative Society; and ● 50% of such wages in any other case. <p>If the total amount of deductions that have to be made in the wage period from the wages exceed the limit, the excess shall be carried forward and recovered from the wages of succeeding wage periods or wager periods in a such number of instalments as may be necessary.</p>
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Fines	<p>Fine may be imposed on an employed person for damage or loss caused by him. The act or omission or the damage or loss in respect of which the fine is proposed, the employed persons shall be explained personally and also in writing about the same. The employed person shall be given an opportunity to offer any explanation in the presence of another person.</p> <p>The amount of fine that is imposed on him shall also be intimated to him. The fine imposed shall be subject to such limits imposed by the Central Government. All fines <u>imposed and deductions</u> made shall be recorded in the register.</p>
Weekly day of rest	<p>Rule 23 provides that an employee to whom this Act is applicable shall be allowed a day of rest every week which shall ordinarily be Sunday, but the employer may fix any other day of the week as the rest day for any employee in his employment.</p> <p>The employee should be informed about his weekly day of rest. To get the weekly day of rest the employee has to work for a continuous period of not less than six days a week.</p>
Night shift	<p>Rule 24A provides that where a worker in a scheduled employment works on shift which extends beyond midnight</p> <ul style="list-style-type: none"> ● a holiday for the whole day for the purposes of weekday rest shall, in his case mean a period of 24 consecutive hours beginning from the time when his shift ends; and ● the following day in such a case shall be deemed to be the period of 24 hours beginning from the time when such shift ends and the hours after midnight during which such worker was engaged in work shall be counted towards the previous day.
Claims	<p>If there is any short payment of wages or wages at over time etc. may be claimed by the employee himself or through any legal practitioner or any official of a registered trade union authorized by him or any Inspection or any person acting with the permission of the Authority by applying to the concerned authority. For this purpose the appropriate Government may appoint</p> <ul style="list-style-type: none"> ● any Commissioner for Workmen's Compensation;

	<ul style="list-style-type: none"> ● or any Officer of the Central Government exercising functions as a Labor Commissioner for any region; ● or any Officer of the State Government not below the rank of Labor Commissioner; ● or any other Officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate <p>to be the authority to hear and decide for any specified area all claims.</p> <p>The claim shall be presented to the authority by the employee within six months from the date on which the minimum wages or other amount became payable. The Authority may file a claim beyond the six months if he is satisfied that the applicant had sufficient cause for not making the application within the prescribed period. Rule 27 provides that a single application in respect of a number of employees may be filed before the authority. The application shall be made in duplicate in Forms VI, VIA or VII, one copy of which shall bear the prescribed court fee. The authorization shall be given in Form VIII.</p> <p>The Authority shall serve the copy of the application to the employer by registered post or a notice in Form IX to appear before him on a specified date. He shall hear the applicant and the employer and after such further inquiry, if any, as it may consider necessary may, without prejudice of any other penalty to the employer, direct</p> <ul style="list-style-type: none"> ● the payment to the employee of the amount by which the minimum wages payable to him <u>exceed the amount actually paid</u>, together with compensation as the authority may think fit, not exceeding 10 times the amount of such excess; ● in any other case, the payment of the amount together with the payment of such compensation as the Authority may think fit, not exceeding '10. <p>If the employer fails to appear on the specified date the Authority may hear and determine the application ex parte. If the applicant fails to appear on the specified date the application will be dismissed. Any such order may be set aside on sufficient cause being shown by the defaulting party within one month of the date of the said order and the application shall be re-heard.</p>
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	<p>If the Authority finds the application is a vexatious one he may impose a penalty on the employees not exceeding `50/- to the employer.</p> <p>The amount due may be recovered as if it were a fine imposed by the Authority of a Magistrate. Every direction of the Authority shall be final.</p>
Exemption to employer	<p>Section 23 provides that where an employer is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him, to have any other person whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved the employer proves to the satisfaction of the Court</p> <ul style="list-style-type: none"> ● that he has used due diligence to enforce the execution of this Act; and ● that the said other person committed the offence in question without his knowledge, consent or connivance, <p>that the other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged. For this purpose, the employer may be examined on oath, and <u>the evidence of the employer or his witness</u>, if any, shall be subject to cross-examination by or on behalf of the person whom the employer charges as the actual offender and by the prosecution.</p>
The obligation of employer	<p>Section 18 imposes some obligations on the employer in keeping and maintenance of registers and records.</p> <p>Section 18(1) provides that every employer shall maintain such registers and records giving such <u>particulars of employees employed by him, the work performed by them</u>, the wages paid to them, the receipts given by them and such other particulars and in such Form as may be prescribed.</p> <p>Section 18(2) provides that every employer shall keep exhibited, in such manner as may be prescribed, in the factory, workshop or place where the employees in the scheduled employment may be employed, or in the case of out workers, in such factory, workshop or place as may be used for <u>giving out-work to them</u>, notices in the prescribed form containing the prescribed particulars.</p>

	<p>Section 18(3) provides that the appropriate Government may, by rules made under the Act, provide for the <u>issue of wage books or wage slips</u> to employees employed in any scheduled employment in respect of which minimum rates of wages have been fixed and prescribe the manner in which the entries shall be made and authenticated in such wage books or <u>wage slips by the employer or his agent.</u></p> <p>Maintaining such registers and records are mandatory. There is no exemption to this <u>mandatory obligation</u> of the employer including any contractor. Therefore every employer, including a contractor who engaged labourers for others who own the establishment/factory etc., is bound by the provisions of this Act, to comply with the requirements of maintaining registers etc.,</p>
	<p>The following are the forms prescribed for registers and records</p> <p>Form – I : Register of Fines;</p> <p>Form – II : Register of deductions for damage or loss caused to the employer, By the neglect or default of the employed persons;</p> <p>Form III : Unified Annual Return;</p> <p>Form IV ; Overtime Register for workers;</p> <p>Form V : Muster Roll;</p> <p>Form IX-A : Notice</p> <p>Form X : Register of Wages;</p> <p>Form XI : Wage slip.</p>
	<p>A wage slip shall be issued by every employer to every person employed by him at least a day prior to the disbursement of wages. Entries in the Register of Wages and wage slips shall be authenticated by the employer or any person authorized by him on this behalf. The registers shall be kept at the work spot and maintained up-to-date. If no fine is imposed for any wage period a NIL entry is to be made. The above documents shall be preserved for a period of three years after the date of the last entry made therein.</p> <p>All registers and records shall be produced on demand before the <u>Inspector</u> during the course of the inspection of the establishment. Any infringement of the provisions as noticed and communicated by the Inspector shall be</p>

	rectified by the employer and a compliance report shall be submitted to the Inspector on or before the date specified by him.
Annual Return	Rule 21 (4A) provides for the filing of annual returns by the employer. The Annual Return shall be filed by the employer on or before the 1st of February in each year by uploading the same in Form III on the web portal of the Ministry of Labor and Employment and also filed with the Inspector.
Publicity of notice	Rule 22 provides that notices in Form IXA containing the minimum rates of wages fixed together with the extracts of the Act, the rules made there under and the name and address of the Inspector shall be displayed in English and in a language understood by the majority of the workers in the employment at the main entrances to the establishment and at its office and shall be maintained in a clean and eligible condition. Such notices shall also be displayed on the notice boards of all sub-divisional and district officers.
Unpaid amount	Section 22D provides that if the employer could not able to pay the amount due to the employee on <u>account of his death before payment or on account</u> of his whereabouts not being known, the same should be deposited with the prescribed authority who shall deal with the money so deposited in such manner as may be prescribed.
Contracting out	Section 25 of the Act provides that any contract or agreement , whether made before or after the commencement of this Act, whereby an employee either <u>relinquishes or reduces</u> his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act.
Penalties	Section 22 provides punishment for certain offences. The section provides that any employer who <ul style="list-style-type: none"> • pays to an employee less than the minimum rates of wages fixed for that employee's class of work, or less than the amount due to him under the provisions of this Act; or • contravenes any rule or order made under Section 13 (fixing hours for normal working days etc.,) shall be punishable with imprisonment for a term which may extend to 6

	<p>months, or with fine which may extend to `500/- or with both. In imposing any fine for an offence the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings under Section 20.</p> <p>Section 22A provides a general provision for the punishment of other offences. This section provides that any employer who contravenes any provision of this Act or of any rule or order made there under shall if no other penalty is provided for such contravention by this Act, be punishable with a fine which may extend to `500.</p>
Offences of by companies	<p>Section 22C provides that if the person coming to any offence is a company, every person who at the time the offence was committed was in charge of, and <u>was responsible to, the company for the conduct of the business of the company as well as the company</u> shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.</p> <p>If the concerned person proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the such offence. If it is proved that the offence has been committed with the consent or connivance of, or is <u>attributable to any neglect</u> on the part of, any director, manager, secretary or another officer of the company, such director, manager, secretary or another officer of the company shall also be deemed to be guilty of that offence and shall be proceeded against and punished accordingly.</p>
Cognizance of offences	<p>Section 22B provides that no court shall take cognizance of a complaint against any person for an offence</p> <ul style="list-style-type: none"> ● under Section 22(a) unless an application in respect of the facts constituting such offence has been presented under Section 20 and has been granted wholly or in part, and the appropriate Government or an officer authorized by it in this behalf has sanctioned the making of the complaint; ● under Section 22(b) or under Section 22A, except on a complaint made by, or with the sanction of an Inspector. <p>No Court shall take cognizance of an offence under Section 22, unless a</p>

	complaint is made within one month of the grant of sanction and under Section 22A, unless a complaint is made within six months of the date on which the offence is alleged to have been committed .
Bar of suits	Section 24 provides that no Court shall entertain any <u>suit for the recovery of wages</u> for the sum claimed <ul style="list-style-type: none"> ● forms the subject of an application under Section 20 which has been presented by or on behalf ● of the plaintiff, or ● has formed the subject of a direction under that section in favour of the plaintiff, or ● has been adjudged in any proceeding under that shall not be due to the plaintiff; or <p>could have been recovered by an application under that Act.</p>
Powers of appropriate Government	The following are the powers of the appropriate Government <ol style="list-style-type: none"> 1. Section 26 provides that the appropriate Government may, subject to such conditions, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees or all or any class of employees employed in the scheduled employment; 2. Section 27 gives power to State Government to add any employment in either part of the schedule; 3. Section 28 gives power to the Central Government to directions to a State Government as to carrying into execution this Act in the State; 4. Section 29 gives power to the Central Government to make rules; 5. Section 30 gives power to the appropriate Government to make Rules.

PRACTICE MCQs

1) When did the Minimum Wages Act, come into force?

- A) 01 April 1966
- B) 15 March 1948
- C) 01 May 1960
- D) 01 April 1949

Answer B) 15 March 1948

2) Which section of the Minimum Wages Act 1948 deals with a Single application in respect of a number of employees?

- A. Section 12 of the Minimum Wages Act 1948
- B. Section 21 of the Minimum Wages Act 1948
- C. Section 14 of the Minimum Wages Act 1948
- D. Section 20 of the Minimum Wages Act 1948

Answer B. Section 21 of the Minimum Wages Act 1948

3) Which section of the Minimum Wages Act 1948 deals with the Power of the State Government to add to Schedule _ ?

- A. Section 27 of the Minimum Wages Act 1948
- B. Section 24 of the Minimum Wages Act 1948
- C. Section 23 of the Minimum Wages Act 1948
- D. Section 28 of the Minimum Wages Act 1948

Answer – A. Section 27 of the Minimum Wages Act 1948

4) Section 15 of the Minimum Wages Act 1948 deals with _____?

- A. Composition of committees, etc.
- B. Wages of a worker who works for less than a normal working day
- C.. Advisory Board.
- D. Single application in respect of a number of employees.

Ans- B. Wages of a worker who works for less than a normal working day

5) Payment of minimum rates of wages., is provided in section ____ of the Minimum Wages Act 1948

- A. Section 34 of the Minimum Wages Act 1948
- B. Section 22 of the Minimum Wages Act 1948
- C. Section 12 of the Minimum Wages Act 1948
- D. Section 28 of the Minimum Wages Act 1948

Ans- C. Section 12 of the Minimum Wages Act 1948

6) Section 29 of the Minimum Wages Act 1948 provides _?

- A. Power of the Central Government to make rules.
- B. Exemption of the employer from liability in certain cases.
- C. Penalties for certain offences.
- D. Wages for two or more classes of work

Ans-A Power of the Central Government to make rules

7) Which section of the Minimum Wages Act 1948 deals with Transactions not regarded as transfer?

- A. Section 72 of the Minimum Wages Act 1948
- B. Section 49 of the Minimum Wages Act 1948
- C. Section 47 of the Minimum Wages Act 1948
- D. Section 59 of the Minimum Wages Act 1948

Answer – C. Section 47 of the Minimum Wages Act 1948

8) Section 31 of the Minimum Wages Act 1948 deals with _____?

- A. Validation of fixation of certain minimum rates of wages.
- B. Cognizance of offences

- C. Maintenance of registers and records.
- D. Exemptions and exceptions.

Ans- A. Validation of fixation of certain minimum rates of wages.

9) Which section of the Minimum Wages Act 1948 deals with Minimum time rate wages for piece work. ?

- A. Section 13 of the Minimum Wages Act 1948
- B. Section 17 of the Minimum Wages Act 1948
- C. Section 14 of the Minimum Wages Act 1948
- D. Section 15 of the Minimum Wages Act 1948

Answer B. Section 17 of the Minimum Wages Act 1948

10) Section 10 of the Minimum Wages Act 1948 deals with_____?

- A. Fixing of minimum rates of wages.
- B. Maintenance of registers and records.
- C. Correction of errors
- D. Procedure for fixing and revising minimum wages.

Answer- C. Correction of errors

Chapter 4 : Payment of Wages Act, 1936

Introduction	<ul style="list-style-type: none"> ● The Payment of Wages Act, 1936 regulates the payment of wages to certain classes of persons employed in the industry. ● It was enacted to ensure that the wages payable to employees covered by the Act are disbursed by the employers within the <u>prescribed time limit</u> and that <u>no deductions</u> other than those authorized by law are made by the employers. ● The Act applies proprio vigore to the payment of wages to persons employed in any factory or to persons employed in a railway by a railway administration either directly or through a subcontractor. ● Further the State Governments are empowered to extend the provisions of the Act to cover persons employed in any industrial establishment or <u>any class or group of industrial establishments</u> as defined in the Act.
Note:	With effect from 11.09.2012 the employees drawing wages up to 18,000 per month are covered under this Act
Applicability of the Act	The Act extends to the whole of India.
Effect	The Act came into effect on 28th March 1937 .

Important definitions

Employed person	Section 2(i) defines the expression 'employed person' as including the legal representative of a deceased employed person;
Employer	Section 2(ia) defines the term 'employer' as including the legal representative of a deceased employer;
Industrial establishment	<p>Section 2(ii) defines the expression 'industrial establishment' as any-</p> <ul style="list-style-type: none"> ● tramway service, or motor transport service engaged in carrying passengers or goods or both by road, for hire or reward; ● air transport service other than such service belonging to or

	<p>exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;</p> <ul style="list-style-type: none"> ● Dock, wharf or jetty; ● inland vessel, mechanically propelled; ● mine, quarry or oil-field; ● Plantation; ● workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale; ● establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation or to the supply of water or relating to the generation transmission and distribution of electricity or any other form of power is being carried on; ● any other establishment or class of establishments which the Central Government or a State Government may having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by notification, in the Official Gazette.
Wages	<p>Section 2(vi) defines the term 'wages' as all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would if the terms of employment, express or implied, were fulfilled, by payable to a person employed in respect of his employment or of work done in such employment and includes –</p> <ul style="list-style-type: none"> ● any remuneration payable under any award or settlement between the parties or order of a court; ● any remuneration to which the person employed is entitled in <u>respect of overtime work or holidays</u> or any leave period; ● any additional remuneration payable under the terms of employment (whether called a bonus or by any other name) ● any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the <u>payment of such sum whether with or without deductions</u>, but does not provide for

	<p>the time within which the payment is to be made;</p> <ul style="list-style-type: none"> ● any sum to which the person <u>employed is entitled under any scheme</u> framed under any law for the time being in force, <p>but does not include</p> <ul style="list-style-type: none"> ● any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court; ● the value of any house-accommodation or of the supply of light water medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government; ● any contribution paid by the employer to any pension or provident fund and the interest which may have accrued thereon; ● any travelling allowance or the value of any travelling concession; ● any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or ● any gratuity payable on the termination of employment.
Responsibility for payment of wages (Section 3)	<p>Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,—</p> <ol style="list-style-type: none"> 1. in factories, if a person has been named as the manager of the factory under clause (f) of subsection (1) of section 7 of the Factories Act, 1948 (63 of 1948); 2. in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishment; 3. upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned; 4. in the case of contractor, a person designated by such contractor who is directly under his charge; and 5. in any other case, a person designated by the employer as a

	person responsible for complying with the provisions of the Act ; the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.
Fixation of wage period (Section 4)	In payment of the wages it is important to fix the wage period. Section 4 of the Act provides that every responsibility for the payment of wages shall fix periods in respect of which wages shall be paid. This section further provides that no wage period shall exceed one month. The wage period may be daily, weekly or fortnightly or for any period but the period should <u>not exceed one month</u> .
Time of payment of wages	<p>Section 5 provides the date on which the payment of wages is to be done.</p> <p>The wages of every person employed upon or in any railway, factory or industrial or another establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day;</p> <p>The wages of every person employed upon or in any other railway, factory or industrial or another establishment, shall be paid before the expiry of the tenth day, after the last day of the wage-period in respect of which the wages are payable.</p> <p>In the case of persons employed on a dock, wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be, shall be paid before the expiry of the seventh day from the day of such completion;</p> <p>Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated;</p> <p>Where the employment of any person in an establishment is</p>

	<p>terminated due to the closure of the establishment for any reason other than a weekly or other recognized holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his <u>employment is so terminated</u>.</p> <p>All payments of wages shall be made on a working day.</p>
Exemption	<p>Section 5(3) provides that the appropriate Government may by general or special order, exempt to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) or to persons employed as daily-rated workers in the Public Works Department of the appropriate Government from the operation of this section in respect of wages of any such persons or class of such persons.</p> <p>Provided that in the case of persons employed as daily-rated workers as aforesaid, no such order shall be except in consultation with the Central Government.</p>
Mode of payment	<p>Section 6 provides that, 'All wages shall be paid in currency coins or currency notes or by cheque crediting the wages in the bank account of an employee', with or without the consent of the employees.</p> <p>Provided that the Appropriate Government may by notification in the Official Gazette, specify the industrial or other establishments, the employer of which shall pay to every person employed in such industrial or other establishments, the wages only by cheque or by crediting the wages in his bank account.</p>
Deduction from wages	<p>Section 7 gives the details of deduction from wages. The wages of an employed person shall be paid to him without deductions of any kind <u>except those authorized by or under this Act</u>. Every payment made by the employed person to the employer or his agent shall for the purposes of this Act, be deemed to be a deduction from wages.</p> <p>Any loss of wages resulting from the imposition, for good and sufficient cause upon a person employed of any of the following penalties,</p>

namely:-

- the withholding of **increment or promotion** (including the stoppage of increment at an efficiency bar);
- the reduction to a lower post or time scale or to a lower stage in a time scale; or
- suspension;

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in **conformity with the requirements** of any which may be specified in this behalf by the Appropriate Government by notification in the Official Gazette.

Section 7(2) provides that **Deductions from the wages** of an employed person shall be made only in accordance with the provisions of this Act and may be of the following kinds only namely:

- fines;
- deductions for absence from duty;
- deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for **loss of money for which he is required to account**, where such damage or loss is directly attributable to his neglect or default;
- deductions for **house-accommodation** supplied by the employer or by government or any housing board set up under any law for the time being in force (whether the government or the board is the employer or not) or any other authority engaged in the business of **subsidizing house-accommodation** which may be specified in this behalf by the appropriate Government by notification in the Official Gazette;
- deductions for such amenities services supplied by the employer as the Appropriate Government or any officer specified by it in this behalf may by **general or special order** authorize;
- deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the **interest due in respect** thereof, or for

	<p>adjustment of over-payments of wages;</p> <ul style="list-style-type: none"> ● deductions for recovery of loans made from any fund constituted for the welfare of labor in accordance with the rules approved by the appropriate Government and the interest due in respect thereof; ● deductions for recovery of loans granted for house-building or other purposes approved by the appropriate Government and the interest due in respect thereof; ● deductions of income-tax payable by the employed person; • deductions required to be made by order of a court or other authority competent to make such order; ● deductions for subscriptions to and for repayment of advances from any provident fund to which the Provident Funds Act 1952 applies or any recognized provident funds as defined in section 2(38) of the Indian Income Tax Act 1961 or any provident fund approved in this behalf by the appropriate Government during the continuance of such approval; ● deductions for payments to co-operative societies approved by the appropriate Government or any officer specified by it in this behalf or to a scheme of insurance maintained by the Indian Post Office and ● deductions, made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Saving Bank in furtherance of any savings scheme of any such government. ● deductions made with the written authorization of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Unions Act, 1926 for the welfare of the employed persons or the members of their families, or both, and approved by the appropriate Government or any officer specified by it in this behalf, during the continuance of such approval;
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	<ul style="list-style-type: none"> ● deductions made, with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under the Trade Unions Act, 1926; ● deductions, for payment of insurance premium on Fidelity Guarantee Bonds; ● deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes; ● deductions for recovery of losses sustained by a railway administration on <u>account of the failure</u> of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration, whether in respect of fares, freight, demurrage wharfage and cranage or in respect of sale of food in catering, establishments or in respect of sale of commodities in grain shops or otherwise; ● deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default; ● deductions, made with the written authorization of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette specify; ● deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees. Nothing contained in this section shall be construed as precluding the employer from recovering from the wages of the employed person or otherwise any amount payable by such person under any law for the time being in force other than the Indian Railways Act 1890.
Limit of deductions	Section 7(3) provides up to which <u>limit of the wage</u> , the deductions may be made from the wages of the employees. Notwithstanding anything contained in this Act, the total amount of deductions which may be made in any wage period from the wages of any employed person shall not exceed –

	<ul style="list-style-type: none"> ● in cases where such deductions are wholly or partly made for payments to co-operative societies - 75% of such wages and ● in any other case – 50% of such wages. <p>Where the total deductions authorized under sub-section (2) exceed seventy-five per cent or as the case may be, fifty per cent of the wages the excess may be recovered in such manner as may be prescribed.</p>
Fines	<p>Section 8 of the Act provides imposing of fines by the employer on the employees. The procedure of imposition of fine is detailed as below:</p> <ul style="list-style-type: none"> ● No fine shall be imposed on any employed person who is under the age of fifteen years; ● No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the appropriate Government or of the prescribed authority, may have specified by notice; ● A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places. ● No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines. ● The total amount of fine which may be imposed in any one wage period on any employed person shall not exceed an amount equal to three per cent of the wages payable to him in respect of that wage period. ● No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of 90 days from the day on which it was imposed. ● Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed. ● All fines and all realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; all

	<p>such realizations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.</p>
Deductions for the absence of duty (Section 9)	<ul style="list-style-type: none"> ● Section 9 provides for the deductions from the wages of the employed person for his absence from duty. ● Deductions may be only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work. ● The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage period for which the deduction is made in a larger proportion than the period for which he was absent bears to the total period, within such wage-period during which by the terms of his employment, he was required to work. <p>Subject to any rules made on this behalf by the Appropriate Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.</p> <p>For the purposes of this section an employed person shall be deemed to be absent from the place where he is required to work if although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.</p>
Deductions for damage or loss	<ul style="list-style-type: none"> ● Section 10 provides for the deductions to be made from the wages of the employee for the damage or loss caused to the <u>employer by the employee</u> in the course of his work. ● A deduction shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.

	<ul style="list-style-type: none"> • A deduction shall not be made until the employed person has been given an opportunity of showing cause against the deduction or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.
Register for deductions	Section 10(2) provides all deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.
Deduction for services rendered	A deduction under clause (d) or clause (e) of sub-Section (2) of Section 7 shall not be made from the wages of an employed person, unless the house-accommodation , amenity or service has been accepted by him, as a term of employment or otherwise, and a such deduction shall not exceed an amount equivalent to the value of the <u>house-accommodation amenity or service</u> supplied and, in the case of deduction under the said clause shall be subject to such conditions as the Appropriate Government may impose.
Deductions for recovery of advances	Section 12 provides that deductions for the recovery of advances shall be subject to the following conditions namely: <ul style="list-style-type: none"> • recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses; • recovery of an advance of money given after employment began shall be subject to such conditions as the appropriate Government may impose; • recovery of advances of wages not already earned shall be subject to any rules made by the appropriate Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.
Deductions for recovery of loans	Section 12A provides that deductions for recovery of loans granted shall be subject to any rules made by the appropriate Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.
Deductions for payments to Co-	Section 13 provide that deductions shall be subject to such conditions as the appropriate Government may impose.

operative Societies and Insurance Schemes	
Maintenance of Registers and records	<p>Section 13A provides that every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed.</p> <p>Every register and record required to be maintained under this section shall for the purposes of this Act, be preserved for a period of <u>three years after the date of the last entry made therein.</u></p>
Inspectors	<p>Section 14 provides for the appointment of an Inspector for the purposes of this act. An Inspector of Factories appointed under sub-section (1) of section 8 of the Factories Act 1948 shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him. The appropriate Government may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies. The appropriate Government may, by notification in the Official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within <u>which and the class of factories and industrial or other establishments</u> in respect of which they shall exercise their functions</p>
Powers of Inspectors	<p>Inspector may,-</p> <ul style="list-style-type: none"> ● make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made there under are being observed; ● with such assistance, if any, as he thinks fit, enter inspect and search any premises of any railway, factory or industrial or other establishment at any reasonable time for the purpose of carrying out the objects of this Act; ● supervise the payment of wages to persons employed upon any railway or in any factory or industrial or other establishment;

	<ul style="list-style-type: none"> ● require by a written order the production at such place, as may be prescribed, of any register maintained in pursuance of this Act and taken on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act; ● seize or take copies of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer; ● exercise such other powers as may be prescribed: <p>No person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.</p> <p>Every employer shall afford an Inspector all reasonable facilities for making any entry inspection supervision examination or inquiry under this Act.</p>
Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims	<p>Section 15 deals with claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims. It provides that the appropriate Government may, by notification in the Official Gazette, appoint-</p> <p>(a) any Commissioner for Workmen's Compensation; or</p> <p>(b) Any officer of the Central Government exercising functions as,-</p> <p style="margin-left: 20px;">(i) Regional Labour Commissioner; or</p> <p style="margin-left: 20px;">(ii) Assistant Labour Commissioner with at least two years experience; or</p> <p>(c) Any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or</p> <p>(d) a presiding officer of any <u>Labour Court or Industrial Tribunal</u>, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or</p> <p>(e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate, as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims.</p>

Provided that where the appropriate Government considers it necessary so to do, it may **appoint more than one authority** for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

Sub-section (2) of section 15 provides that where contrary to the provisions of the Act any deduction has been made from the wages of an employed person or any **payment of wages has been delayed such person himself or any legal practitioner** or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act or any other person acting with the permission of the authority appointed under subsection(1) may apply to such authority for a direction under sub-section (3)

However, every such application shall be presented within twelve months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made as the case may be. Any application may be admitted after the said period of **twelve months when the applicant satisfies** the authority that he had sufficient cause for not making the application within such period.

As per sub-section (3) when any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other **person responsible** for the payment of wages under section 3, or give the man the opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the **refund to the employed person** of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct

	<p>the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees.</p> <p>A claim under the Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority. It may be noted that the period of <u>three months may be extended if both parties</u> to the dispute agree for any bona fide reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner.</p> <p>No direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to-</p> <ul style="list-style-type: none"> (a) a bona fide error or bona fide dispute as to the amount payable to the employed person; or (b) the occurrence of an emergency, or the existence of exceptional circumstances, the <u>person responsible for the payment of the wages</u> was unable, in spite of exercising reasonable diligence; or (c) the failure of the employed person to apply for or accept payment. <p>As per sub-section (4) if the authority hearing an application under this section is satisfied that the application was either malicious or vexatious the authority may direct that a penalty not exceeding three hundred seventy-five Rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application, or in any case in which compensation is directed to be paid under sub-section (3) the applicant ought not to have been compelled to seek redress</p>
Single application in respect of claims from an unpaid group	<p>Section 16 provides that employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if deductions have been made from their wages in contravention of this Act for the same cause and during the same wage-period or periods or if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.</p> <p>A single application may be presented under section 15 on behalf or in</p>

	<p>respect of any number of employed persons belonging to the same unpaid group and in such case, every person on whose behalf such application is presented may be <u>awarded maximum compensation</u> to the extent specified in sub-section (2) of section 15.</p> <p>The authority may deal with any number of separate pending applications presented under section 15 in respect of persons belonging to the same unpaid group as a single application presented under sub-section (2) of this section and the provisions of that sub-section shall apply accordingly.</p>
Appeal	<p>Section 17 provides that an appeal against an order dismissing either wholly or in part an application made under section 15(2) or against a direction made under sub-section (3) or sub-section (4) of that section may be preferred within thirty days of the date on which the order or direction was made in a <u>Presidency-town</u> before the Court of Small Causes and elsewhere before the District Court –</p> <ul style="list-style-type: none"> ● by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees or such direction has the effect of imposing on the employer or the other person a financial liability exceeding one thousand rupees or ● by an employed person or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf or any Inspector under this Act or any other person permitted by the authority to make an application under section 15(2) if the total amount of wages claimed to have been withheld from the employed person exceeds twenty rupees or from the unpaid group to which the employed person belongs or belonged exceeds fifty rupees or ● by any person directed to pay a penalty under section 15(4) <p>No appeal shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited the amount payable under the direction appealed against. Any order dismissing either wholly or in part an application made under section 15(2) or a direction made under sub-section (3) or sub-</p>

	<p>section (4) of that section shall be final.</p> <p>Where an employer prefers an appeal under this section the authority against whose decision the appeal has been preferred may, and if so directed by the Court shall, pending the decision of the appeal withhold payment of any sum in deposit with it.</p> <p>The Court may if it thinks fit submit any question of law for the decision of the High Court and if it so does shall decide the question in conformity with such decision.</p>
Attachment of property of the employer or other person responsible for payment of wages	<p>Section 17A provides that where at any time after an application has been made section 15(2) the authority, or where at any time after an appeal has been filed under section 17 by an employed person or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf or any Inspector under this Act or any other person permitted by the authority to make an application under section 15(2) the Court referred to in that section, is satisfied that the employer or other person responsible for the payment of wages under section 3 is likely to evade payment of any amount that may be directed to be paid under section 15 or section 17 the authority or the Court, as the case may be, except in cases where the authority or court is of opinion that the ends of justice would be defeated by the delay, after giving the employer or other person an opportunity of being heard, may direct the attachment of so much of the property of the employer or other person responsible for the payment of wages as is in the opinion of the authority or Court, sufficient to satisfy the amount which may be payable under the direction.</p>
Penalties	<p>Section 20 provides for the penalties that are imposable under this Act. Section 20(1) provides that Whoever is responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely section 5 except sub-section (4) thereof section 7 section 8 except sub-section (8) thereof, section 9 section 10 except sub-section (2) thereof and section 11 to 13 both inclusive shall be punishable with fine which shall not be less than two hundred rupees but which may extend to `1,000.</p>

Section 20(2) provides that whoever contravenes the provisions of section 4 sub-section (4) of section 5 section 6 sub-section (8) of section 8 sub-section (2) of section 10 or section 25 shall be punishable with a fine which **may extend to `3,750/-.**

Section 20(3) provides that whoever is required under this Act to **maintain any records or registers** or to furnish any information or return –

- fails to maintain such register or record; or
- willfully refuses or without lawful excuse neglects to furnish such information or return, or
- willfully furnishes or causes to be furnished any information or return which he knows to be false; or
- refuses to answer or willfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act

shall for each such offence be punishable with fine which shall not be less than **`1,500/- but which may extend to `7,500/-.**

Section 20(4) provides that whoever –

- willfully obstructs an Inspector in the discharge of his duties under this Act; or
- refuses or willfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision or inquiry authorized by or under this Act in relation to any railway, factory or industrial or other establishments; or
- willfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act; or
- prevents or attempts to prevent or does anything which he has any reason to believe is likely to **prevent any person from appearing** before or being examined by an Inspector acting in pursuance of his duties under this Act;

shall be punishable with fine which shall not be less than `1,500 but which may extend to `7,500.

	<p>Section 20(5) provides that If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving contravention of the same provision he shall be punishable on a subsequent conviction with imprisonment for a term which shall <u>not be less than one month but which may extend to six months and with fine which shall not be less than `3,750 but which may extend to `22,000.</u> No cognizance shall be taken of any conviction made more than two years before the date on which the commission of the offence which is being punished came to the knowledge of the Inspector.</p> <p>Section 20(6) provides that if any person fails or willfully neglects to pay the wages of any employed person by the date fixed by the authority in this behalf, he shall, without prejudice to any other action that may be taken against him be punishable with an <u>additional fine which may extend to `750 for each day for which such failure or neglect continues.</u></p>
Bar of suits	<p>Section 22 provides that no Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed –</p> <ul style="list-style-type: none"> ● forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or ● has formed the subject of a direction under section 15 in favour of the plaintiff; or ● has been adjudged in any proceeding under section 15 not to be owned to the plaintiff; or ● could have been recovered by an application under section 15.
Contracting out	Section 23 of the Act provides that any contract or agreement whether made before or after the commencement of this Act whereby an employed person relinquishes any right conferred by this Act shall be <u>null and void</u> in so far as it purports to deprive him of such right.
Display of the Act	Section 25 provides that the person responsible for the payment of wages of persons employed in a factory or an industrial or other establishment shall cause to be displayed in such factory or industrial or other establishments a notice containing such abstracts of this Act

	and of the rules made there under in English and in the language of the majority of the persons employed in the factory, or industrial or other establishments as may be prescribed.
Payment of undisbursed wage in case of death of employed person	<p>Section 25A provides that subject to the other provisions of the Act all amounts payable to an employed person as wages shall if such amounts could not or cannot be paid on account of his death before payment or on account of his whereabouts not being known –</p> <ul style="list-style-type: none"> ● be paid to the person nominated by him in this behalf in accordance with the rules made under this Act; or ● where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed. <p>Where, in accordance with the provisions of sub-section (1), all amounts payable to an employed person as wages –</p> <ul style="list-style-type: none"> ● are paid by the employer to the person nominated by the employer person; or ● are deposited by the employer with the prescribed authority, the employer shall be discharged of his liability to pay those wages.

MCQs

1. In which year was the first suggestion for the legislation in the act made?

- a. 1934
- b. 1925
- c. 1936
- d. 1937

Answer: b. 1925

2. Choose the correct date and year on which the payment of wages act was passed.

- a. 23rd April 1936
- b. 28th March, 1937
- c. 25th April, 1937
- d. 27th April 1936

Answer: a. 23rd April 1936

3. The power is vested in the _____ to make the act applicable to the payment of wages to any class of persons employed in any establishment or class of establishments specified in section 2(h) by giving 3 month's notice to that effect.

- a. Central Government
- b. Acting Government
- c. State Government
- d. Judicial Court

Answer: c. State Government

4. What is the maximum wage period for the payment of wages?

- a. 1-month
- b. 40 days
- c. 45 days
- d. 60 days

Answer: a. 1 month

5. In any factory or industrial establishment where less than 1000 employees are employed the wages shall be paid before the expiry of the ____ day.

- a. 10th-day
- b. 2nd-day
- c. 7th-day
- d. None of the above

Answers: c. 7th day

6. Which of these deductions under section 7 of the payment of wages act is not authorised?

- a. Deduction for Fines
- b. Deduction for payment of Income tax

- c. Deduction for Payment of insurance
- d. Deduction for payment of uniform and property

Answer: d. Deduction for payment of uniform and property

7. What is the maximum limit of fines to be imposed on an employee?

- a. Should not exceed an amount equal to 5% of the wages payable
- b. Should not exceed an amount equal to 1% of the wages payable
- c. Should not exceed an amount equal to 3% of the wages payable
- d. Should not exceed an amount equal to 10% of the wages payable

Answer: c. Should not exceed an amount equal to 3% of the wages payable

8. Which section of the act covers deduction for damage or loss?

- a. Section 10
- b. Section 9
- c. Section 12
- d. Section 7

Answer: a. Section 10

9. What is the penalty for those who contravene the provision of section 4 subsection (4) of sections 5 or 10 or 25?

- a. 500 Rupees
- b. 5000 Rupees
- c. Upto 500 Rupees
- d. None of the above

Answers: c. Upto 500 Rupees

10. No fine shall be imposed on the employees under the age of –

- a. 10
- b. 15
- c. 18
- d. None of the above

Answers: B 15

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Chapter 5 : Employees' Provident Funds and Miscellaneous Provision Act, 1952

Applicability

Section 1(3) provides that subject to Section 16, this Act applies-

- To every establishment which is a **factory** engaged in any industry specified in **Schedule I** and in which **20 or more persons are employed**; and
- To any other establishment employing **20 or more** persons or class of such establishments which the Central Government may, by notification in **the Official Gazette**, specify in this behalf.
- The Central Government may apply the provisions of this Act to any establishment employing such number of persons less than 20 as may be specified in the notification. Not less than 2 months' notice is to be given by the Central Government to such establishments;
- Where it appears to the Central Provident Fund Commissioner, that the employer and the majority of the employees have agreed that the provisions of this Act should be made applicable to their establishment, he may, by notification, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement
- Once the Act is covered to any establishment it shall **continue** to apply notwithstanding the number of the persons employed therein shall at **any time falls below 20**.

Non- Applicability

Section 16(1) of the Act provides that this Act is not applicable to the following-

- To any establishment registered under the Co-operative Societies Act, 1912 or under any other law for time being in force in any State relating to co-operative Societies, employing less than **50 persons and working without the aid of the power**; or
- To any other establishment belong to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

- To any other establishment set up under the Central, Provincial or State Act and whose employees are entitled to the benefits of **contributory provident fund** or **old age pension** in accordance with any scheme or rule framed under that Act governing such benefits

Withdrawal from the fund

Withdrawal from the fund is allowed for the following purposes-

- For the purchase of a dwelling house/flat or for the construction of a dwelling house including the acquisition
- of a suitable site for this purpose;
- For repayment of loans in special cases;
- Withdrawal within one year before the retirement;
- Withdrawal upto 75% of the balance, if not employed from one month or more, subject to approval of P.F. Commissioner or any officer authorised by him.

Such withdrawals are not required to be repaid.

Advances from the fund

Advances from the fund are paid for the following purposes-

- * For illness in certain cases;
- * For marriages or post matriculation education of children;
- * In abnormal conditions such as calamity of exceptional nature such as flood, earthquakes or riots – (non-refundable)
- * Granted to members affected by cut in the supply of electricity; (non-refundable)
- * Grant of advance to members who are physically handicapped; (non-refundable)

Employees' Pension Scheme - Section 6A

The Central Government framed Employees' Pension Scheme for the purpose of providing for-

- Superannuation pension;
- Retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

- Widow or widower's pension;
- Children pension or orphan pension payable to the beneficiaries of such employees.
- The Pension Scheme may provide for all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that scheme

Contribution

There is no contribution from the employee. The employer is to contribute 8.33% of the basic wages, dearness allowance and retaining allowance, if any of the concerned employees as may be specified in the pension scheme. Contribution is not payable when the employee crosses 58 years of age since the scheme ceases on **completion of 58 years**

Pension Fund

A pension fund has been created for the purpose of this scheme. The Pension Fund shall vest in and administered by the Central Board. The pension scheme may provide for all or any of the matters in Schedule II, as detailed below-

- The employees or class of employees to whom the Pension scheme shall apply;
- The portion of employers' contribution to the Provident Fund which shall be entitled to the Pension Fund and the manner in which it is credited;
- The minimum qualifying service for being eligible for pension and the manner in which the employees may be granted the benefits of their past service;
- The regulation of the manner in which and the period of service, for which no contribution is received;
- The manner in which the employees' interest will be protected against default in payment of contribution by the employer;
- The manner in which the accounts of the Pension fund shall be kept and investment of moneys belonging to Pension Fund to be made subject to such pattern of investment as may be determined by Central Government;
- The form in which an employee shall furnish particulars about himself and the members of his family whenever required;

- The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme;
- The scale of pension and pensionary benefits and the conditions relating to the grant of such benefits to the employees;
- The manner in which the exempted establishments have to pay contribution towards the pension scheme and the submission of returns relating thereto;
- The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose;
- The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund;
- Any other matter which is to be provided for in the Pension Scheme or which may be necessary for the purpose of implementation of the Pension Scheme

Employees' Deposit linked Insurance Scheme- Section 6C

The Central Government made the Employees' Deposit Linked Insurance Scheme, 1976 which came into effect from 01.09.1976. It applies to all factories and other establishments to which the Act applies **except tea factories in State of Assam.**

The wage ceiling limit under Employees Deposit linked Insurance Scheme has been increased from ` 6,500 to ` 15,000.

The insurance benefit under the scheme shall be an amount between **2.5 lakhs and 6 lakhs.**

- ❖ The Deposit Linked Insurance Fund has been created for this purpose. In this Fund the employer shall pay such amount not being **more than 1%** of the aggregate of basic wages, dearness allowance and retaining allowance of every such employee in relation to whom he is the employer.
- ❖ The employer shall pay into the **Insurance Fund** such further amount of money not exceeding **one fourth of the contribution** which is required to make as the Central Government may from time to time determine to meet all the expenses in connection with the administration of the scheme other than the expenses towards the cost of any benefits provided by or under that scheme.
- ❖ Where the monthly pay of an employee exceeds `15,000 the contribution payable is

restricted to the amounts payable on a monthly pay of `15,000, dearness allowance, retaining allowance and cash value of food concession

Determination of moneys due from employers

Section 7A provides that in case where a dispute arises regarding the applicability of this Act to an establishment, the Authority concerned may conduct such enquiry as he may deem necessary decide such dispute and determine the amount due from any employer under the provision of this Act, the scheme or the Pension Scheme or the Insurance Scheme as the case may be. Before passing such order the employer concerned shall be given a reasonable opportunity of representing his case.

For the purpose of conducting inquiry the Authority shall have the same powers as are vested in a court under CPC for trying a suit in respect of the following matters-

- enforcing the attendance of any person or examining him on oath;
- requiring the discovery and production of documents;
- receiving evidence on affidavit;
- Issuing commissions for the examination of witnesses.

- a) Where the employer, employee or any other person required to attend the inquiry, fails to attend such inquiry, the Authority shall decide the case **ex parte and pass orders** based on the available documents put forth before him.
- b) The employer, within **three months** from the date of communication of such order, may apply to the Authority to set aside the ex-parte order showing that there are sufficient causes for not enabling him to attend the hearing on the prescribed date.
- c) If the Authority is satisfied, he may set aside the ex-parte order and shall appoint a date for proceeding with the inquiry

Review of order under Section 7A

Section 7B provides that any person aggrieved by an order under Section 7A may apply for a review of that order to the Officer who passed the order, if he-

- discovered new and important matter of evidence which after the exercise of due diligence was not within his knowledge; or
- could not be produced by him at the time when the order was made; or

- on account of some mistake; or
- error apparent on the face of the record; or
- for any other sufficient reason

Such officer may also on his own motion review his order if he is satisfied that it is necessary so to do any such ground.

Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application. Where the officer is of opinion that the application for review should be granted, he shall grant the same.

Determination of escaped amount

Section 7C provides that the officer can re-open the case within **five years** from the date of order passed under **Section 7A** or **Section 7B** if he has reason to believe that by reason of omission or failure on the part of the employer to make any document or report available, or to disclose fully and truly all material facts any amount so due from such employer for any period has escaped his notice.

The Officer may pass **appropriate orders re- determining** the amount due from the employer in accordance with the provisions of this Act.

Transfer of Accounts

Section 17A provides that where an employee employed in an establishment to which the Act applies, leaves his employment and obtains re-employment in **other establishment** to which this **Act does not apply**, the amount of accumulations to the credit of such employee shall be transferred to the credit of his account in the provident fund of the establishment in which he is re-employed, if the employee so desires and the rules, in relation, to that provident fund permit such transfer.

Penalties

1. **Section 14(1)** provides that for the purpose of avoiding any payment whoever knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to one year, or with **fine of `5,000** or with both.
2. **Section 14(1A)** provides that an employer, who contravenes or makes default in complying with the provisions of **Section 6** as it relates to the payment of inspection charges, administrative charges shall be punishable with imprisonment for a term which may extend to three years but-

- Which shall not be less than **one year and fine of `10,000** in case of default of payment of the employees' contribution ;
 - Which shall not be less than six months and a **fine of `5,000** in any other case.
- 3. Section 14(2)** provides that subject to the provisions of this Act, the Scheme, the Pension Scheme or the Insurance scheme may provide that any person who contravenes or makes default in complying with, any of the provisions thereof shall be punishable with imprisonment for a term which may extend to one year or with fine which may **extend to `4,000 or with both**.
- 4. Section 14(3)** provides that whoever, contravenes or makes default in complying with any provision of this Act or of any condition subject to which exemption was granted shall, if no other penalty is elsewhere provided by or under this Act for such contravention or noncompliance, be punishable with imprisonment which may **extend to six months** but which shall not be less than **one month** and shall be liable to fine which may extend to **`5,000**.

Offences by companies

- 1. Section 14A (1)** provides that if the person committing an offence under this Act, the Scheme etc., is a company, every person who at the time of the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- 2.** Nothing contained in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.
- 3. Section 14A(2)** provides that where an offence under the Act, the scheme or the pension scheme or the Insurance scheme has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

PRACTICE MCQs

1. Which one of the following will not include in the definition of basic wages?

- a) Dearness Allowances
- b) Overtime
- c) Cash value for consideration
- d) All of the above**

2. The contribution of employer to insurance fund is-

- a) 1%**
- b) 10%
- c) 12%
- d) None of the above.

3. Contribution of 10% to PF is applicable to-

- a) Any establishment in which less than 20 employees are employed;
- b) Any establishment declared as sick than 20 employees are employed; industrial company;
- c) Jute company;
- d) All of the above.**

4. The minimum administrative charge payable by the employer to the fund is

- a) 75
- b) 500**
- c) 1000
- d) None of the above

5. The maximum penalty recoverable from the employer who makes the default in payment of any contribution to the fund is-

- a) 5%
- b) 10%

- c) 15%
- d) 25%

6. Withdrawal from PF may be allowed for-

- a) Marriage of the employer;
- b) Post matriculation education of children;
- c) **For the purchase of a dwelling place;**
- d) For illness in certain cases.

7. The Employees' Pension Scheme provides for-

- a) Superannuation pension;
- b) Orphanage pension;
- c) **Both (a) and (b);**
- d) None of (a) or (b).

8. Contribution of the employer to employees' pension scheme is-

- a) **8.33%**
- b) 10%
- c) 12%
- d) None of the above

9. The following cannot be nominated for the purposes of EPF Act-

- a) Wife;
- b) **Sons of a deceased sons who have attained majority;**
- c) Father in law;
- d) Unmarried daughter

10. While filing appeal to EPF Appellate Tribunal the employer has to deposit ___ of the amount due from him.

- a) 25%
- b) 50%
- c) 75%
- d) None of the above



Chapter 6 : Maternity Benefit Act, 1961

The Maternity Benefit Act, 1961 regulates employment of women in certain establishments for a certain period before and after childbirth and provides for maternity and other benefits. It extends to the whole of India.

- Maternity Benefits are aimed to protect the dignity of motherhood by providing for the full and healthy maintenance of women and her child when she is not working.
- The Maternity Benefit Act, 1961 is applicable to mines, factories, circus industry, plantations, shops and establishments employing ten or more persons.
- It can be extended to other establishments by the State Governments.

Appropriate Government: It means in relation to an establishment being a mine or an establishment where in persons are employed for the exhibition of equestrian acrobatic and other performances the Central Government and in relation to any other establishment the State Government.

“Commissioning Mother” means a biological mother who uses her egg to create an embryo implanted in any other woman. {Section 3(ba)}

“Maternity benefit” means the payment referred to in sub-section (1) of section 5 (Section 3(h))

“Wages” means all remuneration paid or payable in cash to a woman if the terms of the contract of employment express or implied were fulfilled and includes –

(1) such cash allowances (including dearness allowance and house rent allowances) as a woman is for the time being entitled to

(2) incentive bonus and

(3) the money value of the concessional supply of food grains and other articles but does not include —

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of service; (Section 3(n)}

Employment of or work by women prohibited during certain periods	<p>1 Section 4 of the Act provides that no employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery, miscarriage or medical termination of pregnancy.</p> <p>2 It also specifies that no women shall work in any establishment during the six weeks immediately following the day of her <u>delivery, miscarriage or medical termination of pregnancy.</u></p> <p>3 It may be noted that if a pregnant women makes request to her employer, she shall not be given to do during the period of one month immediately preceding the period of six weeks, before the date of her expected delivery, any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the fetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.</p>
Right to payment of maternity benefits	<ul style="list-style-type: none"> ➤ Every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. ➤ The average daily wage means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948 or ten rupees, whichever is the highest. ➤ A woman shall be entitled to maternity benefit if she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than eighty days in the twelve months immediately preceding the date of her expected delivery. ➤ The maximum period for which any woman shall be entitled to

	<p>maternity benefit shall be twenty-six weeks of which not more than eight weeks shall precede the date of her expected delivery. However the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery</p> <ul style="list-style-type: none"> ➤ If a woman dies during this period, the maternity benefit shall be payable only for the <u>days up to and including the day of her death.</u> ➤ Where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period ➤ If the child also dies during the said period, then, for the days up to and including the date of the death of the child ➤ A woman who legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be. ➤ In case where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.
Notice of claim for maternity benefit	<ul style="list-style-type: none"> ➤ Section 6 deals with notice of claim for maternity benefit and payment thereof. As per the section any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in prescribed form, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

	<ul style="list-style-type: none"> ➤ In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery. Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery. ➤ On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit ➤ The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof, that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.
Creche Facility	<ul style="list-style-type: none"> ➤ Every establishment having fifty or more employees shall have the facility of creche within such distance as may be prescribed, either separately or along with common facilities. ➤ The employer shall allow four visits a day to the creche by the woman, which shall also include the interval for rest allowed to her. ➤ Every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under the Act.
Nursing breaks	Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months
Abstract of Act and Rules there under to be exhibited	As per section 19 an abstract of the provisions of this Act and the rules made there under in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed.
	<ul style="list-style-type: none"> ➤ Section 21 provides that if any employer fails to pay any amount

	<p>of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of the Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees.</p> <ul style="list-style-type: none">➤ However, the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.➤ If any employer contravenes the provisions of the Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under the Act for such contravention, be punishable <u>with imprisonment</u> which may extend to one year, or with fine which may extend to five thousand rupees, or with both.➤ Where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.
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PRACTICE MCQs

1. Parliament has passed Maternity Benefits Bill, 2016 to raise maternity leave for working from 12 weeks to?
 - a) 22 weeks
 - b) 20 weeks
 - c) 26 weeks**
 - d) 24 weeks

2. Which of the following enactment stipulates for nursing break to a women employee ?
 - a) Equal Remuneration Act, 1976
 - b) Maternity Benefit Act, 1961**
 - c) Apprentices Act, 1961
 - d) The Child Labour (Prohibition and Regulation) Act, 1986

3. Till what age of the child will a mother get 2 nursing breaks in the course of her daily work?
 - a) 12 Months
 - b) 6 Months
 - c) 18 Months
 - d) 15 Months**

4. No contribution is required for getting benefit under which of the following legislation?
 - a) Maternity Benefit Act
 - b) Employees' Compensation Act
 - c) Both (a) and (b)**
 - d) None of the above

5. What is the minimum number of days that a woman should have worked in an establishment before claiming the maternity benefit?
 - a) 365 Days
 - b) 120 Days
 - c) 80 Days**

- d) 240 Days
6. The maternity benefit act, 1961 applies to:
- Factories, Mines, Plantation
 - Shops, Establishments
 - An establishment where persons are employed for the exhibition of equestrian or acrobatics
 - All of the above**
7. A women suffering from illness arising out of pregnancy, delivery, pre-matured birth of child or mis-carriage shall be allowed to an extended maternity benefit of:
- 15 Days
 - One Month**
 - Three Months
 - Six Months
8. A women who legally adopts a child below the age of three months shall be entitled to maternity benefits from the date the child is handed over to the adopting mother for a period of how many weeks under the provisions of the Maternity Benefit (Amendment) Act, 2017?
- 12 weeks
 - 26 weeks
 - 18 weeks
 - 8 weeks
9. The maternity benefit act, 1961 provides that a women will be granted, besides maternity leave a medical bonus which shall be:
- ₹ 150
 - ₹ 2500
 - ₹ 3500**
 - ₹ 1000
10. _____ means in relation to an establishment being a mine or an establishment where in persons are employed for the exhibition of equestrian acrobatic and other

performances the Central Government and in relation to any other establishment.

- a) Employer
- b) Appropriate Government**
- c) Establishment
- d) Factory



Chapter 7 : Payment Of Gratuity Act, 1972

The Payment of Gratuity Act, 1972 provides for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto. It extends to the whole of India.

The Payment of Gratuity Act provides for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments

The Payment of Gratuity Act has been amended from time to time to bring it in tune with the prevailing situation. The Act has been amended to enhance the ceiling on amount of gratuity from **Rs.10 lakh to Rs.20 lakh** as well as to widen the scope of the definition of “employee” under section 2 (e) of the Act.

Applicability	Application of the Act to an employed person depends on two factors. Firstly, he should be employed in an establishment to which the Act applies. Secondly, he should be an “employee” as defined in Section 2(e) . According to Section 1(3) , the Act applies to: (a) every factory, mine, oilfield, plantation, port and railway company; (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months; (c) such other establishments or class of establishments in which ten or more employees are employed, or were employed, on any day of the preceding twelve months as the Central Government may, by notification specify in this behalf
Employee	According to Section 2(e) as amended by the Payment of Gratuity (Amendment) Act, 2009 “employee” means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government.
Family	Section 2(h) defines the term ‘family’ in relation to an employee, shall be deemed to consist of-

	<ul style="list-style-type: none"> i) in case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the dependent parents of his wife and the widow and children of his predeceased son, if any; ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any.
Employer	<p>Section 2(f) defines the term 'employer', in relation to any establishment, factory, mine, oilfield, port, Railway Company or shop-</p> <ul style="list-style-type: none"> ■ belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by appropriate Government for the supervision or control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned; ■ belonging to, or under the control of, any local authority, the person appointed by such authority for supervision and control of employees or where no person has been so appointed, the Chief Executive Officer of the local authority; ■ in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oil field, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person
Appropriate Government	<p>"Appropriate Government" means:</p> <p>(i) in relation to an establishment:</p> <ul style="list-style-type: none"> (a) belonging to, or under the control of, the Central Government, (b) having branches in more than one State,

	<p>(c) of a factory belonging to, or under the control of the Central Government.</p> <p>(d) of a major port, mine, oilfield or railway company, the Central Government.</p> <p>(ii) in any other case, the State Government. [Section 2(a)]</p> <p>It may be noted that many large establishments have branches in more than one State. In such cases the 'appropriate Government' is the Central Government and any dispute connected with the payment or non-payment of gratuity falls within the jurisdiction of the 'Controlling Authority' and the 'Appellate Authority' appointed by the Central Government under Sections 3 and 7.</p>
Retirement	Section 2(q) of the Act defines the term 'retirement' as termination of the service of an employee otherwise than on superannuation
Superannuation	Section 2(r) defines the term 'superannuation' as in relation to an employee, the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment
Disablement	Disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

Wages	<p>Section 2(s) defines the term 'wages' as all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, over time wages and any other allowance.</p>
Exemption	<p>Section 5 of the Act gives powers to the appropriate Government to give exemption to any establishment from the purview of this Act, if it is satisfied that the employees in such establishment are in receipt of gratuity or pensionary benefits not less favorable than the benefits covered under this Act.</p>
Display notice of	<p>Rule 4 provides that the employer shall display conspicuously a notice at or near the main entrance of the establishment in bold letters in English and in a language understood by the majority of the employees specifying the name of officer with designation authorized by the employer to receive on his behalf notices under the Act or the rules.</p>
Payment of Gratuity	<p>Section 4(1) provides that gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,-</p> <ul style="list-style-type: none">➤ on his superannuation, or➤ on his retirement; or➤ resignation, or➤ on his death or disablement due to accident or disease; <p>The completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement. In the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if <u>no nomination has been made</u>, to the heirs.</p>
Nomination	<p>An employee covered by the Act is required to make nomination in accordance with the Rules under the Act for the purpose of payment of gratuity in the event of his death. The rules also provide for change in nomination.</p>

Continuous service	<p>Section 2A deals with the continuous service. According to this section-</p> <ol style="list-style-type: none"> 1 an employee shall be said to be in 'continuous service' for a period if he has, for that period been in un- interrupted service, including service which may be interrupted on account of sickness, accident leave, absence from duty without leave (not being absence in respect of which an order treating the absence as break in service has been passed in accordance with the standing orders, rules or regulations governing the employees of the establishment), lay off, strike or a lock out or cessation of work not due to any fault of the employee, whether such uninterrupted or interrupted service was rendered before or after the commencement of the Act; 2 where an employee (not being an employee employed in a seasonal establishment) is not in continuous service within the meaning of clause (1) for any period of 1 year or 6 months, he shall be deemed to be in continuous service under the employer: <ol style="list-style-type: none"> a) for the said period of one year, if the employee during the period of 12 calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than- <ol style="list-style-type: none"> i) 190 days in the case of an employee employed below the ground in mine or in an establishment which works for less than 6 days a week; and ii) 240 days in any other case; b) for the period of 6 months, if the employee during the period of 6 calendar months preceding the date with reference to which the calculation is to be made, has actually worked under the employer for not less than-
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- i) 95 days, in the case of an employee below the ground in a mine or in an establishment which works for less than 6 days in a week; and
ii) 120 days in any other case.

The explanation to this section provide that for the purpose of clause (2), the number of days on which the employee has actually worked under an employer shall include the days on which-

- he has been laid off under an agreement or as permitted by the standing orders made under the Industrial Establishment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
- he has been on leave with full wages, earned in the previous year;
- he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- in the case of a female, she has been on maternity leave, so however, that the total period of such maternity leave does not exceed 26 weeks.

Amount Gratuity Payable	<p>Gratuity is calculated on the basis of continuous service as defined above i.e. for every completed year of service or part in excess of six months, at the rate of fifteen days wages last drawn. The maximum amount of gratuity allowed under the Act is Rs. 20 lakh. The ceiling on the amount of gratuity from Rs. 10 lakh to Rs.20 lakh has been enhanced by the Payment of Gratuity (Amendment) Act, 2018</p> <p>Formula for calculation of gratuity =</p> <p>Last wage drawn × 15/26 × completed years of service</p> <p>In calculation of gratuity one month is taken as 26 days.</p>
Forfeiture of Gratuity	<p>The Act deals with this issue in two parts. Section 4(6)(a) provides that the gratuity of an employee whose services have been <u>terminated for any act of willful omission or negligence causing any damage or loss</u> to, or destruction of, property belonging to the employer, gratuity shall be forfeited to the extent of the damage or loss or caused. The right of forfeiture is limited to the extent of damage. In absence of proof of the extent of damage, the right of forfeiture is not available .</p> <p>Section 4(6)(b) deals with a case where the services of an employee have been terminated:</p> <ul style="list-style-type: none"> (a) for riotous and disorderly conduct or any other act of violence on his part, or (b) for any act which constitutes an offence involving moral turpitude provided that such offence is committed by him in the course of his employment. <p>In such cases the gratuity payable to the employee may be wholly or partially forfeited. Where the service has not been terminated on any of the above grounds, the employer cannot withhold gratuity due to the employee</p>

Determination of the amount of gratuity

- **Section 7** prescribes the procedure for determination of the amount of gratuity. As soon as the gratuity becomes payable, the employer shall, whether the employee has made application or not, determine the amount of gratuity. Then

he is to give notice to the person to whom the gratuity is payable and also to the Controlling Authority, specifying the amount of gratuity so determined. The notice shall be in Form L.

- The employer shall arrange to pay the amount of **gratuity within 30 days** from the date of its becoming payable to the person to whom it is payable. If it is not paid within the stipulated period the employer is liable to **pay interest at the rate of 10% per annum**. If the delay in payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment, on this ground, no interest is payable.
- If the claim for gratuity is not found admissible, issue a notice in Form 'M' to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible. In either case a copy of the notice shall be endorsed to the controlling authority

Dispute

Section 7(4) provides that if there is a dispute as to the amount of gratuity payable to the employee, the employer shall deposit the gratuity with the Controlling Authority. The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the amount of gratuity payable to an employee. If as a result of such inquiry any amount in excess of the amount deposited by the employer is found to be payable, the controlling authority shall direct the employer to pay such amount as is in excess of the amount deposited by him.

Then the Controlling Authority shall pay the amount of the deposit-

- to the applicant where he is the employee; or
- where the applicant is not the employee, to the nominee or heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

Application for gratuity

- i) **Rule 7(1)** provides that an employee who is eligible for payment of gratuity under the Act, or any person authorized, in writing, to act on his behalf, shall apply, ordinarily within **thirty days** from the date the gratuity became payable, in **Form 'I'** to the employer. Where the date of superannuation or retirement of an employee is known, the employee may apply to the employer before thirty days of the date of

superannuation or retirement.

- ii) **Rule 7(2)** provides that a nominee of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 4 shall apply, ordinarily within thirty days from the date of gratuity became payable to him, in **Form 'J' to the employer**. An application in plain paper with relevant particulars shall also be accepted. The employer may obtain such other particulars as may be deemed necessary by him.
- iii) **Rule 7(3)** provides that a legal heir of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 4 shall apply, ordinarily within one year from the date of gratuity became payable to him, in **Form 'K' to the employer**.
- iv) **Rule 7(4)** provides that where gratuity becomes payable under the Act before the commencement of these rules, the periods of limitation specified in sub-rules (1), (2) and (3) shall be deemed to be operative from the date of such commencement.
- v) **Rule 7(6)** provides that an application under this rule shall be presented to the employer either by personal service or by registered post acknowledgement due.

Notice for payment of gratuity

1. Within **fifteen days** of the receipt of an application under rule 7 for payment of gratuity, the employer shall-
 - i) if the claim is found admissible on verification, issue a notice in **Form 'L'** to the applicant employee, nominee or legal heir, as the case may be, specifying the amount of gratuity payable and fixing a date, not being later than the thirtieth day after the date of receipt of the application, for payment thereof, or
 - ii) if the claim for gratuity is not found admissible, issue a notice in **Form 'M'** to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible. In either case a copy of the notice shall be **endorsed to the controlling authority**.
2. In case payment of gratuity is due to be made in the employer's office, the date fixed for the purpose in the notice in **Form 'L'** under clause (1) of sub-rule (1) shall be re fixed by the employer, if a written application in

this behalf is made by the payee explaining why it is not possible for him to be present in person on the date specified.

3. If the claimant for gratuity is a nominee or a legal heir, the employer may ask for such witness or evidence as may be deemed relevant for establishing his identity or maintainability of his claim, as the case may be. In that 'case, the time limit specified for issuance of notices under sub-rule (1) shall be operative with effect from the date such witness or evidence, as the case may be, called for by the employer is furnished to the employer.
4. A notice in **Form 'L' or Form 'M'** shall be served on the applicant either by personal service after taking receipt or by registered post with acknowledgement due.

A notice under sub-section (2) of section 7 shall in
Form 'L'

Mode of payment

- **Rule 9** provides that the gratuity payable under the Act shall be paid in cash or, if so desired by the payee, in **Demand Draft or bank Cheque** to the eligible employee, nominee or legal heir, as the case may be. In case the eligible employee, nominee or legal heir, as the case may be, so desires and the amount of gratuity payable is less than **one thousand rupees**, payment may be made by **postal money order** after deducting the postal money order commission there from from the amount payable.
- Intimation about the details of payment shall also be given by the employer to the controlling authority of the area.
- In the case of nominee, or an heir, who is minor, the controlling authority shall invest the gratuity amount deposited with him for the benefit of such minor in term deposit with the State Bank of India or any of its subsidiaries or any **Nationalized Bank**.

Application for direction

Rule 10 provides that if the employer-

- refuses to accept nomination; or
- to entertain an application for gratuity; or
- rejects the eligibility of gratuity; or
- indicates less amount than the eligible amount of gratuity in the notice; or

- fails to issue notice

the eligible person to receive the gratuity may file an application in **Form – N** within 90 days from the date of occurrence of the cause, to the Controlling authority for the issue of directions to the employer. Additional copies are to be sent along with the application for the purpose of issuing the same to the opposite parties.

If the said application is filed after the limitation period of 90 days, the Controlling Authority may admit the application if the applicant shows sufficient cause for the delay in filing the application.

The said application may be submitted to the Controlling authority in person or it may be sent through registered post with acknowledgment due.

Directions issued by Authority

On receipt of an application under **rule 10** the controlling authority shall, by issuing a notice in **Form ‘O’**, call upon the applicant as well as the employer to appear before him on a specified date, time and place, either by himself or through his authorized representative together with all relevant documents and witnesses, if any.

Any person desiring to act on behalf of an employer or employee, nominee or legal heir, as the cases may be, shall present to the controlling authority a letter of authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act together with a written statement explaining his interest in the matter and praying for permission so to act.

The controlling authority shall record thereon an order either according his approval or specifying, in the case of refusal to grant the permission prayed for, the reasons for the refusal.

A party appearing by an authorized representative shall be bound by the acts of the representative

- * After completion of hearing on the date fixed under sub-rule (1), or after such further evidence, examination of documents, witnesses, hearing and enquiry, as may be deemed necessary, the controlling authority shall record his finding as to whether any amount is payable to the applicant under the Act. A copy of the finding shall be given to each of the parties.
- * If the employer concerned fails to appear on the specified date of hearing after due service of notice without sufficient cause, the controlling authority may proceed to hear and determine the application ex parte. If the applicant fails to appear on the specified date of hearing without sufficient cause, the controlling authority may dismiss the application. Such an order may, on good

cause being shown within thirty days of the said order, be reviewed and the application re-heard after giving **not less than fourteen days'** notice to the opposite party of the date fixed for rehearing of the application.

- * The sittings of the controlling authority shall be held at such times and at such places as he may fix and he shall inform the parties of the same in such manner as he thinks fit.
- * The controlling authority may authorize a clerk of his office to administer oaths for the purpose of making affidavits.
- * The controlling authority may, at any stage of the proceedings before him, either upon or without an application by any of the parties involved in the proceedings before him, and on such terms as may appear to the controlling authority just, **issue summons to any person in Form 'P'** either to give evidence or to produce documents or for both purposes on a specified date, time and place.
- * Any notice, summons, process or order issued by the controlling authority may be served either personally or by registered post acknowledgement due or in any other manner as prescribed under the Code of Civil Procedure, 1908.
- * Where there are numerous persons as parties to any proceeding before the controlling authority and such persons are members of any trade union or association or are represented by an authorized person, the service of notice on the Secretary, or where there is no Secretary, on the principal officer of the trade union or association, or on the authorized person shall be deemed to be service on such persons.
- * If a finding is recorded that the applicant is entitled to payment of gratuity under the Act, the controlling authority shall **issue a notice to the employer concerned in Form 'R'** specifying the amount payable and directing payment thereof to the applicant under intimation to the controlling authority within thirty days from the date of the receipt of the notice by the employer. A copy of the notice shall be endorsed to the applicant employee, nominee or legal heir, as the case may be.

Powers of the Controlling Authority

For the purpose of conducting an inquiry the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely

- a. enforcing the attendance of any person or examining him on oath;
- b. requiring the discovery and production of documents;
- c. receiving evidence on affidavits;

d. issuing commission for the examination of witnesses.

Appeal

- * Any person aggrieved by an order may, within **60 days** from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf.
- * The appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.
- * The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority

Recovery of gratuity

Section 8 provides that if the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with **compound interest** thereon at the **rate of nine per cent per annum**, from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto.

Penalties

- * **Section 9(1)** provides that whoever, for the purpose of avoiding any payment to be made by himself under this Act or enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to **one thousand rupees**, or with both.
- * **Section 9(2)** provides that an employer who contravenes, or makes default in complying with, any of the provisions of this Act or any rule or order made there under shall be punishable with imprisonment for a term which may **extend to one year**, or with fine which may extend to **one thousand rupees**, or with both.
- * Where the offence relates to **non-payment of any gratuity payable** under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than **three months** unless the court trying the offence, for reasons to be recorded by it in writing is of opinion that a lesser term of imprisonment or

the imprisonment or a fine would meet the ends of justice.

Exemption of employer from liability in certain cases

Section 10 provides that where an **employer** is charged with an **offence punishable** under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than **three clear days'** notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court-

- that he has used due diligence to enforce the execution of this Act, and
- that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence;

Cognizance of offence

- Section 11 provides that no court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government.
- Where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time, the appropriate Government shall authorize the controlling authority to make a complaint against the employer, whereupon the controlling authority shall, within fifteen days from the date of such authorization, make such complaint to a magistrate having jurisdiction to try the offence.
- No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Protection of Gratuity

Gratuity has been exempted from attachment in execution of any decree or order of any Civil, Revenue or Criminal Court. This relief is aimed at providing payment of gratuity to the person or persons entitled there to without being affected by any order of attachment by an decree of any Court.

Display of abstract of the Acts and Rules

The employer shall display an abstract of the Act and the rules made there under as given in Form 'U' in English and in the language understood by the majority of the employees at conspicuous place at or near the main entrance of the establishment



PRACTICE MCQs

1. Which does not amount to retirement?

- a) Retrenchment;
- b) Resignation;
- c) Dismissal;
- d) Superannuation.**

2. Gratuity is payable to an employee-

- a) On his superannuation;
- b) Retirement;
- c) Retrenchment;
- d) In all the above cases.**

3. The gratuity is payable to an employee shall not exceed-

- a) 12 months pay;
- b) 16 months pay;
- c) 20 months pay;**
- d) 24 months pay.

4. The employer shall display an abstract of the Act and the Rules in Form No-

- a) U**
- b) H
- c) O
- d) N

5. If sufficient cause is shown the appropriate Government may condone the delay in filing appeal against
the order of the Controlling Authority, for-

- a) 30 days;
- b) 60 days;**

- c) 90 days;
- d) No time limit.

6. Nomination is to be made by an employee-

- a) Immediately on his appointment;
- b) After completion of one year service;**
- c) After he is made permanent;
- d) None of the above.

7. Which one of the following is to be included in the definition of 'wage'?

- a) Dearness allowance;**
- b) Overtime allowance;
- c) Commission;
- d) House rent allowance.

8. If an employer intends to close the business he is to send notice to the Controlling Authority within _____ before the intended closure.

- a) 10 days;
- b) 30 days;
- c) 60 days;**
- d) 90 days.

9. Nomination is to be filed in _____

- a) Single form
- b) Duplicate**
- c) Triplicate
- d) Quadruplicate.

10. Which will not amount to service of notice under the rule?

- a) Personal service;

b) By registered post;

c) By courier;

d) Both a and b.



Chapter 8 : Employees' State Insurance Act, 1948

Objective

The object of the Act is to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.

Applicability

This Act extends to whole of India. This Act applies to-

- * in the first instance applicable to all factories, including factories belonging to the Government, other than season factories;
- * the appropriate Government may, in consultation with the corporation and where the **appropriate Government** is a State Government, with the approval of Central Government, after giving one month's notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment or classes of establishments, industrial, commercial, agricultural or otherwise;
- * a factory or an establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below the limit specified by or under this Act or the manufacturing process therein ceases to be carried on with the aid of power.

Appropriate Government	<i>Section 2(1) defines the term 'appropriate Government', in respect of establishments under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government</i>
Confinement	Section 2(3) defines the term 'confinement' as labour resulting in the issue of a living child or labour after 26 weeks of pregnancy resulting in the issue of a child, whether alive or dead.
Employment injury	Section 2(8) defines the term 'employment injury' as a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of employment, being an insurable employment, whether the accident occurs or the occupation disease is contracted within or outside the territorial limits of India.
Factory	Section 2(12) defines the term 'factory' as any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding 12 months and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed.

Dependent	<p>Section 2(6A) defines the term 'dependent' as any of the following of a deceased insured person:</p> <ul style="list-style-type: none"> * a widow, a legitimate or adopted son who has not attained the age of 25 years, an unmarried legitimate or adopted daughter; * a widowed mother; * if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of 25 years and is infirm; * if wholly or in part dependent on the earnings of the insured person at the time of his death- <ul style="list-style-type: none"> o a parent other a widowed mother; o a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor; * a minor brother or an unmarried sister or a widowed sister if a minor; * a widowed daughter-in-law; * a minor child of a pre-deceased son; * a minor child of a pre-deceased daughter where no parent of the child is alive; or * a paternal grand-parent if no parent of the insured person is alive.
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Family	<p>Section 2(11) defines the term 'family' as all or any of the following relatives of an insured person-</p> <ul style="list-style-type: none"> * a spouse; * a minor legitimate or adopted child dependent upon the insured person; * a child who is wholly dependent on the earnings of the insured person and who is- <ul style="list-style-type: none"> ○ receiving education, till he or she attains the age of 21 years; ○ an unmarried daughter; * a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the insured person, so long as the infirmity continues; * dependent parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government; * in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependent upon the earnings of the insured person.
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Insured Person	Section 2(14) defines the term 'insured person' as a person who is or was an employee in respect of whom contributions are or were payable under the Act and who is by reason thereof, entitled to any of the benefits provided by this Act
Permanent partial disablement	Section 2(15A) defines the expression 'permanent partial disablement' as such disablement of a permanent nature , as <u>reduces the earning capacity</u> of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement. Every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement
Immediate employer	Section 2(13) defines the terms 'immediate employer' in relation to employees employed by or through him, as a person who has undertaken the execution, on the premises of a factory or an establishment to which this Act applies or under the supervision of the principal employer or his agent, of the whole or any part of any work which is ordinarily part of the work of the factory or establishment of the principal employer or is preliminary to the work carried on in, or incidental to the purpose of, any such factory or establishment, and includes a person by whom the services of an employee who has entered into a contract of service with him are temporarily lent on hire to the principal employer and includes a contractor
Permanent partial disablement	Section 2(15A) defines the expression 'permanent partial disablement' as such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement. Every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement

Permanent total disablement	<p>Section 2(15B) defines the expression 'permanent total disablement' as such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident in such disablement. The permanent total disablement shall be deemed to result from every injury specified in Part I of the Second Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to 100% or more.</p>
Principal Employer	<p>Section 2(17) defines the term 'principal employer' as-</p> <ul style="list-style-type: none"> ○ in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under the Factories Act, 1948, the person so named; ○ in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the Department; ○ in any other establishment, any person responsible for the supervision and control of the establishment.
Seasonal factory	<p>Section 2(19A) defines the term 'Seasonal factory' as a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortications of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year-</p> <ul style="list-style-type: none"> □ in any process of blending, packing or repacking of tea or coffee; or □ in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify

Temporary disablement	Section 2(21) defines the term ‘temporary disablement’ as a condition resulting from an employment which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work which he was doing prior to or at the time of the injury.
Wages	<p>Section 2(22) defines the term ‘wages’ as all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes any payment to an employee in respect of any period of authorized leave, lock out, strike which is not illegal or lay-off and other additional remuneration, if any, paid at intervals not exceeding two months, but not include-</p> <ul style="list-style-type: none"> □ any contribution paid by the employer to any pension fund or provident fund, or under this Act; □ any travelling allowance or the value of any travelling concession; □ any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or □ any gratuity payable on discharge. <p>In ‘Regional Director, Employees’ State Insurance Corporation’ – 1994 LLR 1 (SC) it was held that bonus or ex-gratia amount is not ‘wages’. The following are treated as wages-</p> <ul style="list-style-type: none"> □ LIC Premium subsidy; □ House rent allowance, heat, gas and dust allowance and incentive allowance; □ Incentive bonus; □ Over time allowance
Employees’ State Insurance Incorporation	Section 3 provides for the establishment of Employees’ State Insurance Corporation with effect from 01.10.1948. The Corporation is a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

Constitution of Corporation	<p>Section 4 provides that the Corporation shall consist of a Chairman, a Vice Chairman and other members representing the interests of employers, employees, state governments, union territories and medical professions. Three members of the Parliament and the Director General of the Corporation are its ex-officio members.</p> <p>Section 5 provides for the term of office of members of Corporation. Section 6 provides for the eligibility for re-nomination or re-election.</p> <p>All orders and decisions of the Corporation shall be authenticated by the signature of the Director General.</p>
Regional Boards	<p>Section 25 provides that the Corporation may appoint Regional Boards, Local Committees and Regional and Local Medical Benefit Councils in such areas and in such manner and delegate to them such powers and functions, as may be provided by the regulations.</p>

Other bodies of Corporation

1. Standing Committee	<p>Section 8 of the Act provides for the constitution of Standing Committee which shall be constituted form among its members consisting of-</p> <ul style="list-style-type: none"> • a Chairman; • three members of the Corporation; • three members of the Corporation representing such three State Governments; • eight members elected by Corporation – • three members from among the members of the Corporation representing employers; three members from among the members of the Corporation representing employees; • one member from among the members of the Corporation representing medical profession; and • one member from among the members of the Corporation elected by Parliament.
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	<ul style="list-style-type: none"> • the Director General of the Corporation, ex-officio.
Term of office	<p>Section 9 provides that the term of office of a member of the Standing Committee shall be two years from the date on which his election is notified. A member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation</p>
Powers of the Standing Committee	<p>Section 18 provides that subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.</p> <p>The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf. The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.</p>
Meetings of Standing Committee, Corporation and Medical Benefit Council	<p>Section 20 of the Act provides that the Standing Committee shall meet at such times and places and shall observe such rules or procedure in regard to transaction of business at their meetings as may be specified in the regulations made in this behalf.</p>
2. Medical Benefit Council	<p>Section 10 provides for the constitution of Medical Benefit Council consisting of-</p> <ul style="list-style-type: none"> • the Director General of ESI, ex-officio – Chairman; • the Director General, Health Services, ex-officio – Co-Chairman; • the Medical Commissioner of the Corporation – ex-officio; • one member each representing each state other than Union territories; • three members representing employers; • three members representing employees; • three members representing the medical profession; among them one shall be a woman.
Term of office	<p>The term of the office of the members of Medical Benefit Council (last three categories) shall be four years from the date on which the appointment is notified.</p>

Duties of Medical Benefit Council	<p>Section 22 provides the duties of the Medical Benefit Council as to-</p> <ul style="list-style-type: none"> • advise the Corporation and the Standing Committee on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other connected matters; • have such powers and duties of investigation as may be prescribed in relation to complaints against medical practitioners in connection with the medical treatment and attendance; and • perform such other duties in connection with the medical treatment and attendance as may be specified in the regulations.
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Disqualification

Section 13 provides that a person shall be disqualified as a member of the Corporation, the Standing Committee or the Medical Benefit Council-

- if he is declared to be of unsound mind by a competent court; or
- if he is an undischarged insolvent; or
- if he has directly or indirectly by himself or by his partner any interest in a subsisting contract with, or any work being done for, the Corporation except as a medical practitioner or as a share holder of a company; or • if before or after commencement of this Act, he has been convicted of an offence involving moral turpitude.

Resignation

Section 11 provides that a member of the Corporation, the Standing Committee or the Medical Benefit Council may resign his office by notice in writing to the Central Government and his seat fall vacant on the acceptance of the resignation by Government.

Cessation

Section 12 provides that a member of the Corporation, the Standing Committee or the Medical Benefit Council shall cease to be a member if he fails to attend three consecutive meeting. The Corporation, the Standing Committee or the Medical Benefit Council may restore the membership subject to the rules made by the Government.

Registration of employees

Every employee is to register himself under the provisions of the Act. Registration is the process of obtaining and recording information about his employment which is insurable employment. This process also identifies to provide the benefits available under the Act that are related to the

contributions paid by the employer on behalf of insured employees. The employee is required to give his details and his family details to his employer. A family photo is also to be provided so that the employer can register the employee. Registration is the process of obtaining and recording information about the entry of an employee into 'insurable employment', for the purpose of his identification under the Act. Registration of employee is the process of identification to provide the benefits under the Act which are related to the contributions paid by the employer on behalf of each of the insured persons. At the time of joining the insurable employment, an employee is required to provide his and his family details to the employer along with a family photo so that the employer can register the employee online. This exercise of registering an employee has to be a onetime exercise in life time of an employee. The insurance number generated on the first occasion of registration is to be used throughout his life time irrespective of change of employment including change of place.

Employees' State Insurance Fund

Section 26 of the Act provides for the creation of Employees' State Insurance Fund held and administered by the Corporation. All contributions paid under this Act and all other moneys received on behalf of the corporation shall be paid into this fund. The grants, donations and gifts received from the Central Government or any State Government, local authority or any individual or body whether incorporated or not, are also paid into this Fund.

Purposes for which the fund may be expended

Section 28 of the Act provides the Central Government may utilize the State Insurance Fund only for the following purposes:

- defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act;
- payment of any sums under any contract entered into for the purpose of this Act by the Corporation or the Standing Committee or by any officer duly authorized by the Corporation or the Standing Committee in that behalf;
- payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;
- defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;
- defraying expenditure, within the limits prescribed, on measures for the improvement of the health, welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured; and

- such other purposes as may be authorized by the Corporation with the previous approval of the Central Government.

Contributions

- The contribution payable under this Act is of two types – one is the **contribution of the employer** and the other is the **contribution of the employee** which is recovered from his wages and remitted to the Fund.
- The present rate contribution is **3.25% and 0.75%** of workers' wages by employers and employees respectively
- Contribution against employee must be deposited within due date. One shall not be able to deposit contribution online after 42 days from the end date of the contribution period.
- Employee whose salary per day is ` 176/- or less need not to pay Employee's contribution and the same will be paid by the Govt. However, employer will have to pay their share of contribution.
- The employer is required to file monthly contributions online through ESIC portal on a monthly basis in respect of all its employees after duly registering them.
- Through this, the employer has to file employee wise number of days for which wages paid and the amount of the wages paid respectively to ascertain the amount of contributions payable.
- The total amount of contribution, both by the employer and the employee, for each month is to be deposited in any branch of SBI in cash or by cheque or demand draft on generation of such a challan through ESIC portal using credentials.
- The contributions can also be paid through SBI internet banking.

Principal employer to pay contribution in the first instance

- **Section 40 (1)** provides that the principal employer shall pay in respect of all employer, whether directly employed by him or by or through an immediate employer, both the employer's contribution and the employee's contribution.
- **Section 40(4)** provides that any sum deducted by the principal employer from wages shall be deemed to have been entrusted to him by the employee for the purpose of paying the contribution in respect of which it was deducted.
- The principal employer shall bear the expenses of remitting the contributions to the corporation.

Recovery of contribution from immediate employer

- **Section 41** provides that a principal employer, who has paid contribution in respect of an employee employed through an immediate employer, shall be entitled to recover the amount of the contribution so paid from the immediate employer, either by deduction from any amount payable to him.
- The immediate employer shall maintain a register of employees employed by or through him and submit the same to the principal employer before the settlement of any amount payable by him.

Method of payment of contribution

Section 43 provides that the Corporation may make regulations for payment and collection of contributions payable. Such regulations may provide for-

- the manner and time of payment of contributions;
- the payment of contributions by means of adhesive or other stamps affixed to or impressed upon books, card or otherwise and regulating the manner, times and conditions, in, at and under which, such stamps are to be affixed or impressed;
- the date of which evidence of contributions have been paid is to be received by the Corporation;
- the entry in or upon books or cards of particulars of contributions paid and benefits distributed in the case of the insured persons to whom such books or cards relate; and
- the issue, sale, custody, production, inspection and delivery of books or card and the replacement of books or cards which have been lost, destroyed or defaced.

Recovery of contributions

Section 45B provides that any contribution payable under this Act may be recovered as an arrear of land revenue.

Section 45C provides that the authorized officer may issue certificate to Recovery Officer, who in turn proceed to recover the amount by one or more of the modes mentioned below-

- attachment and sale of moveable or immovable property of the factory or establishment or, as the case may be, the principal, or immediate employer;
- arrest of the employer and his detention in prison;

- approving a receiver for the management of the movable or immovable properties of the factory or establishment or, as the case may be, the employer.

The attachment shall first be effected against the properties of the factory or the establishment and such attachment and sale is insufficient for recovering the whole of the amount of arrears, the Recovery Officer may take such proceedings against the property of the employer.

Benefits

Section 46 provides that the insured persons , their dependents shall be entitled to the following benefits-

- periodical payments to any insured person in case of his sickness;
- periodical payments to an insured woman in case of confinement or mis-carriage or sickness arising out of the pregnancy, confinement, premature birth of child or miscarriage;
- periodical payments to an insured person suffering from a disablement as a result of an employment injury sustained as an employee;
- periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee;
- medical treatment for and attendance on insured persons;
- payment to the eldest surviving member of the family of an insured person, who has died, towards the expenditure on the funeral of the deceased insured person; if the injured person at the time of his death does not have a family, the funeral payment will be paid to the person who actually incurs the expenditure.

The amount of such payment shall not exceed such amount as may be prescribed by the Central Government. The claim for such payments shall be made **within 3 months** of the death of the insured person or within such extended period as the Corporation allow in this behalf.

Bar against receiving compensation under any other law

Section 53 provides that an insured person or his dependants shall not be entitled to receive or recover, whether from the employer or from any other person, any compensation or damages under the Workmen Compensation Act, 1923 or any other law for the time being in force or otherwise in respect of an employment injury sustained by the insured person as an employee.

Medical benefit

- **Section 56** provides that an insured person or a member of his family whose condition

requires medical treatment and attendance shall be entitled to receive medical benefits.

- Such medical benefit may be given either in the form of out-patient treatment and attendance in a hospital or dispensary, clinic or other institution or by visits to the home of the insured person or treatment as in-patient in a hospital or other institution.
- A person shall be entitled to medical benefit during any period for which contributions are payable in respect of him or which he is qualified to claim sickness benefit or maternity benefit or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations.

Establishment of hospital by Corporation

Section 59 provides that the Corporation may, with the approval of the State Government, establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of insured persons and their families.

Benefits not assignable

Section 60 provides that the right to receive any payment or any benefit under this Act shall not be transferable or assignable.

Benefits not to be combined

Section 65 provides that an insured person shall not be entitled to receive for the same period-

- both sickness benefit and maternity benefit; or
- both sickness benefit and disablement benefit for temporary disablement; or
- both maternity benefit and disablement benefit for temporary disablement. Where a person is entitled to more than one of the benefits he shall be entitled to choose which benefit he shall receive.

Repayment of benefit improperly received

Section 70 provides that where any person has received any benefit or payment under this Act when he is now lawfully entitled to receive the same, he shall be liable to the Corporation the value of the benefit or the amount of such payment, or in the case of his death his representative shall be liable to repay the same from the assets of the deceased, if any, in his hands. The amount recoverable may be recovered as if it were an arrear of land revenue or by the Recovery Officer.

Employer not to reduce wages etc.

Section 72 provides that no employer by reason only of his liability for any contributions payable under this Act shall, directly or indirectly reduce the wages of any employee, or except as

provided by the regulations discontinue or reduce benefits payable to him under the conditions of his service, which are similar to the benefits conferred by this Act.

Employer not to dismiss or punish the employee during sickness etc.

Section 73 provides that no employee shall dismiss, discharge or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall be, except as provided under the regulations, dismiss, discharge or reduce or otherwise punish an employee during the period which he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulars to arise out of the pregnancy or confinement rendering the employee unfit for work.

Adjudication of disputes and claims

Section 74 provides that the State Government shall constitute an ESI Court for such local area as may be specified in the notification.

Section 75 provides that ESI Court may decide any question or dispute arises as to-

- whether any person is an employee within the meaning of this Act or whether he is liable to pay the employee's contribution; or
- the rate of wages or average daily wages of an employee for the purposes of this Act; or
- the rate of contribution payable by a principal employer in respect of any employee;
- the person who is or was the principal employer in respect of any employee; or
- the right of any person to any benefit and as to the amount and duration thereof; or
- any direction issued by the Corporation on a review of any payment of dependants' benefit; or
- any other matter which is in dispute between-
 - a principal employer and the Corporation; or
 - a principal employer and an immediate employer; or
 - a person and the Corporation; or
- an employee and a principal or immediate employer, The following claims shall be decided by ESI Court-
 - claim for the recovery of contributions from the principal employer;
 - claim by a principal employer to recover contributions from any immediate employer;
 - claim against a principal employer;

- claim for the recovery of the value or amount of the benefits received by a person when he is not lawfully entitled thereto; and
- any claim for the recovery of any benefit admissible under the Act

An appeal shall lie to the High Court from an order of ESI Court if it involves a substantial question of law. The appeal shall be filed within 60 days from the date of the order of ESI Court.

Jurisdiction of Civil Court

Section 75(3) provides that no Civil Court have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which is to be decided by a medical board or a medical appeal tribunal or ESI Court.

Section-75: Deals with provisions for Adjudication of Disputes & claims:

If any employer or employee under the Act has any disputes/questions that may be settled by E.I. Court after adjudicating the matter if made before it, subject to the condition that **50 % security deposit** is required to be made u/s.75 (2B) (unless it is waived/reduced for the reasons recorded by the Ld. Court).

PENAL PROVISIONS UNDER SECTIONS 84 TO 86 OF ESI ACT, 1948:

Section - 84	<ul style="list-style-type: none"> ➤ This section deals with penalties for making wrong / false statements made by the Insured Persons with a view to take any benefit which is not admissible to him under the Act. ➤ Such Act is an offence punishable under Act with imprisonment for a term which may extend to six months or with fine which may extend to Two thousand rupees or with both. ➤ It is also provided under this section that if an insured person is convicted by the Court for an offence committed by him under this section, he shall not be entitled to any cash benefits available under the Act for such a period as may be prescribed by the Central Government.
Section - 85	<ul style="list-style-type: none"> ➤ This section deals with penalties for non – compliance with the various provisions of the ESI Act and Regulations made there under. ➤ Such non- compliance with any of the provisions of the Act constitutes an offence committed by the employer of a covered Factory /

	Establishment which is punishable under Section 85(a) to 85(g) of the Act.
Section 85(a)	- Envisages that if an employer fails to pay any contribution payable under the Act within the prescribed time-limit, he thus commits an offence u/s 85(a) of the Act, which is punishable with imprisonment for a term which may extend to three years u/s 85(i) of the Act, provided it shall not be less than One year and fine of Ten thousand rupees u/s 85(i) (a) of the Act where employees' share of contribution is deducted by the employer from their wages but not paid. In other case where term of imprisonment shall not be less than 6 months and fine of Five thousand rupees u/s 85(i) (b)
Section 85(b) to 85(g)	Says that if an employer commits an offence under this section for noncompliance with any other provisions of the Act, which is punishable with imprisonment for a term which may extends to One year or with fine up to Four thousand rupees or with both
Section 85 – A	<ul style="list-style-type: none"> ➤ This section deals with enhanced punishment in certain cases after previous conviction. If any employer convicted by a Court for an offence punishable under the Act, committing the same offence, shall, for every such subsequent offence, be punished with imprisonment for a term which may extend to Two years and with fine of Five thousand rupees. ➤ It is provided that if such subsequent offence is for failure to pay contribution payable under the Act, the employer shall, for every such subsequent offence, be punished with imprisonment for a term which may extend to Five years but which shall not be less than Two years and shall be liable to pay fine of Twenty Five Thousand rupees
Section 85 – B	<p>Provides that the corporation may recover damages from the employer by way of penalty under this section if any employer fails to pay contribution payable under the Act within the specified time-limit or pays contribution belatedly provided that before recovering such damages, the employer shall be given a reasonable opportunity of being heard.</p> <ol style="list-style-type: none"> In case of change of Management including transfer of undertaking to worker's Co-operative or in case of merger or amalgamation of Sick Industrial Unit with a healthy company, damages levied/ leviable can be waived completely. In other cases, depending on merits, damages levied/leviable can be waived upto 50%.

	c. In exceptional hard cases, the damages levied/leviable can be waived either partially/totally.
Section-85-C	<ul style="list-style-type: none"> ➤ Provides that where an employer is convicted for an offence of non-payment of contribution under this Act, the Court in addition to giving any punishment by order, direct him to pay the amount of contribution for which he was convicted within a time period. The Court can also extend the time given periodically. ➤ If the employer still fails to pay the contribution and submit returns within the time given by the court or within the extended time period given, the employer is deemed to have committed a further offence and shall be punishable with imprisonment under Section-85 and is also liable to pay a fine which may extend to one thousand rupees for every day of default
Section-86	<ul style="list-style-type: none"> ➤ Provides that no prosecution under this Act shall be instituted without previous sanction of the Insurance Commissioner or of such other officer of the corporation as may be authorized in this behalf by the Director General of the Corporation. ➤ It is also provided that No Court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence under this Act. ➤ And No Court shall take cognizance of any offence under this Act except on a complaint made in writing in respect thereof.

PRACTICE MCQs

1. The contribution shall be paid in a bank within ____ days of the last day of the calendar month in which the contribution fall due for any wage period.

- (a) 7
- (b) 14
- (c) 21**
- (d) 30

2. An appeal shall lie to High Court from the orders of ESI within _____ days from the date of order of the ESI Court.

- (a) 30
- (b) 60**
- (c) 90
- (d) None of the above.

3. A member of the Corporation shall cease to be a member if he fails to attend _____ consecutive meeting.

- (a) 3**
- (b) 5
- (c) 7
- (d) None of the above

4. ESI Fund consists of-

- (a) Contribution;
- (b) Grants from governments;
- (c) Donations;
- (d) All the above.**

5. The Corporation may with the approval of _____ establish and maintain in a State, hospitals, dispensaries etc.,

- (a) Central Government;
- (b) State Government;**
- (c) Local Authority;

(d) None of the above.

6. Who will not be considered as an employee?

(a) Canteen workers;

(b) Casual workers;

(c) Partners;

(d) Part time employee.

7. Who, among the following, is not the Principal Employer?

(a) Occupier of the factory;

(b) Owner of the factory;

(c) Legal representative of the owner;

(d) Legal representative of the contractor.

8. Seasonal factory is the one which is engaged for a period not exceeding _____ in a year.

(a) 7 months;

(b) 6 months;

(c) 3 months;

(d) None of the above

9. Which, among the following, will not be included in the definition of 'wages'?

(a) Payment made on authorized leave;

(b) Travelling allowance;

(c) Payment made on lock out;

(d) Payment made for lay off

10. ESI Corporation is a;

(a) Partnership firm;

(b) Limited Liability Partnership;

(c) Body Corporate;

(d) Hindu Undivided Family

Chapter 9 : Employees Compensation Act, 1923

Employees or Worker's Compensation Act, 1923 is one of the most important social security law. The act's main aim is to provide financial protection and assistance to employees and their dependents through compensation in case of any accidental injury occurs during the course of employment. It is generally applicable to the cases where such incidents lead to either death or disablement of the worker.

It shall come into force on the first day of July, 1924.

Applicability

- It applies to all employees working in mines, factories, plantations, construction establishments, oilfields, etc. Moreover, it applies to establishments which are under Schedule II of the Worker's Compensation Act.
- The act applies to persons who are working abroad or outside India as per Schedule II of the Act.
- It applies to a person recruited as the mechanic, helper, driver, etc. in connection with a motor vehicle. It also applies to a captain or members of the crew of an aircraft.
- Moreover, the act does not cover the members of armed forces of the U&W who are already under ESI (Employee State Insurance) Act.

Exception- The act does not apply to the members of armed forces of the Union & Workmen who are covered under ESI (Employee State Insurance) Act.

Objectives- To impose statutory liability on employer for injuries suffered by workman and employees out of and in the course of employment.

Employer's Liability

(A) Cases where they have to pay

- Injury by accident during employment
- Diseases in occupation

(B) Cases where they do not have to pay

- In case of any injury or damage which does not lead to the semi or total disablement of the workers for a period exceeding 3 days.
- In case of any injury which does not result in death or permanent total disablement under the following circumstances:
 - the workman present at the time of the work under the control of drink or drugs.
 - when the worker deliberately disobeys the rule which ensures their safety.
 - non-application of the devices which are especially for the safety of the workers.

Condition when employer is not liable to pay compensation

According to the workmen's compensation act, an employer has to pay the compensation to its employee when he /she encounter some personal injury due to an accident that arose during an employee's employment. An employer is not liable for paying the compensation if-

- An injury that doesn't result in partial or total disablement of the employee for more than three days
- Any injury that doesn't result in permanent total disability or death because of an accident in the influence of drug or drink
- If an employee meets with an accident that is caused because of willful disobedience of the rules by him/her and willful safety guard removal

Amount of Compensation-

- Where death results from the injury an amount equal to 50% of the monthly wages of the deceased employee multiplied by the relevant factor or an amount of Rs 1,20,000/- whichever is more.
- Where permanent total disablement results from the injury an amount equal to 60% of the monthly wages of the injured employee multiplied by the relevant factor or **Rs 1,40,000/-** whichever is **more**.
- **Permanent Partial Disability:** In such cases, the amount payable is a percentage of the loss of earning capacity due to the injury. These injuries are mentioned in Part II of Schedule I of the Act.

Temporary Disability: 25% of the employee's monthly wages.

Rights of workmen under this Act

1. **Section 3** – To receive compensation for disablement and death resulting from personal injury caused by accident or occupational disease arising out of and in the course of employment.
2. **Section 6** – To apply to the commissioner for review half – monthly payment if his condition deteriorates.
3. **Section 10** – To apply to the commissioner for determining the claim and the amount of the commissioner if the employer denies the claim, or determines an inadequate amount of compensation.
4. **Section 30** – Can appeal to the High Court against the Commissioner's order, if he feels aggrieved by any of the orders.

Reports of fatal accidents and serious bodily injuries

Employer shall send the report of any accident occurring on his premises which results in death or serious bodily injury within **seven days** of the death or serious bodily injury to the **Commissioner** giving the circumstances attending the death or serious bodily injury.

Returns to be filed by the employer

Employer shall file annual return specifying the number of injuries and amount of compensation paid etc.

Compensation to contract Labours/ Employee

The principal employer shall be liable to pay to compensation to contract workers/ employees employed in the execution of the work which is ordinarily part of the trade or business of the principal.

Penalties for non-compliance

Whoever-

- a) Fails to maintain a notice- book
- b) Fails to send a statements to the commissioner
- c) Fails to send a report to the commissioner
- d) Fails to make a return of accidents in previous year
- e) Fails to inform the employee of his rights to compensation

Shall be punishable with fine which not be less than ₹ 50000/- but which may be extend to ₹ 100000/-

PRACTICE MCQs

1. Under ___ the employer of an employee is liable to pay compensation to the employee if a personal injury is caused to the employee by accident arising out of and in the course of employment.

- (a) Industrial Dispute Act
- (b) Factories Act
- (c) ESI Act
- (d) Workmen compensation Act**
- (e) Indian Companies Act

2. Under this Act, employer shall not be liable to pay compensation in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding ----- days;

- (a) 7
- (b) 3**
- (c) 5
- (d) 2

3. The Workmen's Compensation Act, 1923, the Maternity Benefit Act, 1965 and the Employees State Insurance Act, 1948

- (A) Together can be applicable.
- (B) The Maternity Benefit Act and the Employees State Insurance Act can be applicable at a time.
- (C) The Workmen's Compensation Act and the Employees State Insurance Act can be applicable at a time.
- (D) If the Workmen's Compensation Act and the Maternity Benefit Act are applicable, the Employees State Insurance Act is not applicable.**

4. Which of the following risks of life is covered by the Employees' Compensation Act, 1923

- (a) Sickness and Disablement
- (b) Maternity and Death
- (c) Disablement, Death and Occupational Diseases**
- (d) Unemployment and Old-age

5 While calculating compensation for permanent total disablement or partial disablement how much percentage of his wages is multiplied by the relevant factor?

(a)50%

(b)60%

(c)75%

(d)100%

6 A person who gets temporary disablement due to accident arising out of and during the course of employment will be paid

(a)25% of his wages per month during the period of disability

(b)50% of his wages per month during the period of disability

(c)75% of his wages per month during the period of disability

(d)100% of his wages per month during the period of disability

7 Temporary disablement benefit will be paid to an injured workmen under the Employees' Compensation Act 1923 for a maximum period of-

(a)Three Months

(b)Six Months

(c)One Year

(d)Five Years

8 What is the minimum amount of compensation fixed under the Employees' compensation Act 1923 to be payable to a workmen in case of death?

(a)Rs.10000

(b)Rs. 25000

(c) Rs. 140000

(d) Rs. 120000

9 An employer in whose premises an accident occurs which results in death or serious bodily injury will be required to give a notice or send a report to the commissioner within:

(a) 7 days of the occurrence

(b) 15 days of the occurrence

(c) One month of the occurrence

(d) He is not required to send any report to the commissioner

10 Under the Employee's Compensation Act 1923 the list of occupational diseases is provided under which schedule?

(a) Schedule I

(b) Schedule II

(c) Schedule III

(d) Schedule IV

11. Employer's liability for compensation is given under

(a) Section 3

(b) Section 4

(c) Section 5

(d) Section 6

Chapter 10 : Pension Fund Regulatory and Development Authority Act, 2013

Short title, extent and commencement

1. This Act may be called the Pension Fund Regulatory and Development Authority Act, 2013.

2. It extends to the **whole of India**.

3. It shall come into force on such date as the **Central Government** may, by notification in the Official Gazette, appoint:

Provided that **different dates** may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

National Pension System [Section 20]

(1) The **contributory pension system** notified by the Government of India in the Ministry of Finance vide notification number F. No. 5/7/2003-ECB & PR, dated the 22nd December 2003, shall be deemed to be the National Pension System with effect from the **1st day of January 2004**, and such National Pension System may be amended from time to time by regulations.

(2) Notwithstanding anything contained in the said notification, the National Pension System shall, on the commencement of this Act, have the following basic features, namely:—

(a) every subscriber shall have an **individual pension account** under the National Pension System;

(b) withdrawals, not exceeding **twenty-five per cent** of the contribution made by the subscriber, may be permitted from the individual pension account subject to the conditions, such as purpose, frequency and limits, as may be **specified by the regulations**;

(c) the functions of recordkeeping, accounting and switching of options by the subscriber shall be effected by the **central recordkeeping agency**;

(d) there shall be a choice of multiple pension funds and multiple schemes: Provided that—

(a) the subscriber shall have an option of investing up to **hundred per cent** of his funds in Government Securities; and

- (b) the subscriber, seeking **minimum assured returns**, shall have an option to invest his funds in such schemes providing minimum assured returns as may be notified by the Authority;
- (e) there shall be portability of **individual pension accounts** in case of change of employment;
- (f) **collection and transmission of contributions** and instructions shall be through points of presence to the central recordkeeping agency;
- (g) there shall not be any implicit or explicit assurance of benefits except **market-basedguarantee mechanism** to be purchased by the subscriber;
- (h) a subscriber shall not exit from the National Pension System except as may be specified by the regulations; and
- (i) at the exit, the subscriber shall purchase an **annuity from a life insurance company** in accordance with the regulations.

(3) In addition to the individual pension account mentioned in Clause (a) of sub-section (2), a subscriber may also, at his option, have an **additional account under the National Pension System** having the features mentioned in Clauses (c) to (g) of sub-section (2) and also have the additional feature that the subscriber shall be **free to withdraw part** or all of his money at any time from the additional account.

Central Recordkeeping Agency [Section 21]

(1)The Authority shall, by granting a certificate of registration under sub-section (3) of Section 27, appoint a central recordkeeping agency: Provided that the Authority may, in the public interest, appoint **more than one central recordkeeping agency**.

(2) The central recordkeeping agency shall be responsible for receiving instructions from subscribers through the points of presence, transmitting such instructions to pension funds, effecting switching instructions received from subscribers and discharging such other duties and functions, as may be assigned to it under the certificate of registration or as may be determined by regulations.

(3) All the assets and properties owned, leased or developed by the central record-keeping agency, shall constitute **regulated assets and upon expiry of the certificate** of registration or earlier revocation thereof, the Authority shall be entitled to appropriate and take over the regulated assets, either by itself or through an administrator or a person nominated by it in this behalf:

Point of presence [Section 22]

(1) The Authority may, by granting a certificate of registration under sub-section (3) of Section 27, permit **one or more persons** to act as a point of presence for the purpose of receiving contributions and instructions, transmitting them to the **Trustee Bank or the central recordkeeping agency**, as the case may be, and paying out benefits to subscribers in accordance with the regulations made by the Authority from time to time in this regard.

(2) A point of presence shall function in accordance with the **terms of its certificate of registration** and the regulations made under this Act.

Pension funds [Section 23]

(1) The Authority may, by granting a certificate of registration under sub-section (3) of Section 27, permit **one or more persons to act as a pension fund** for the purpose of receiving contributions, accumulating them and making payments to the subscriber in such manner as may be specified by regulations.

(2) The number of pension funds shall be determined by regulations and the Authority may, in the public interest, vary the number of pension funds: Provided that at **least one of the pension funds shall be a Government company**.

(3) The pension fund shall **function in accordance with the terms of its certificate of registration** and the regulations made under this Act.

(4) The pension fund shall **manage the schemes** in accordance with the regulations.

Certain restrictions on foreign companies or individuals or association of persons [Section 24]

The aggregate holding of equity shares by a foreign company either by itself or through its subsidiary companies or its nominees or by an individual or by an association of persons, Whether registered or not under any **law of a country outside India** taken in aggregate in the pension fund shall not exceed twenty-six per cent of the paid-up capital of such fund or such percentage as may be approved for an Indian insurance company under the provisions of the **Insurance Act, 1938, whichever is higher**.

Prohibition of investment of funds of subscribers outside India [Section 25]

No pension fund shall **directly or indirectly** invest outside India, the funds of subscribers.

Eligibility norms of the central recordkeeping agency, etc. [Section 26]

The central recordkeeping agency, points of presence and pension funds, shall satisfy the eligibility norms as may be specified by the regulations, including **minimum capital requirement, past track record** including the ability to provide guaranteed returns, costs and fees, geographical reach, customer base, information technology capability, human resources and such other matters.

Chapter 11 : Industrial Health and Safety

Definitions

Safety is defined as “an action, procedure or contrivance designed to lower the occurrence or risk of injury, loss and danger to persons, property or the environment”.

It may also be defined as “the state of being secure from harm, injury, danger or risk, often as a result of planned measures or preparations”.

Industrial Safety

Industrial safety is defined as “measures or techniques implemented to reduce the risk of injury, loss and danger to persons, property or the environment, in any facility or place involving the manufacturing, producing and processing of goods or merchandise”.

Safety Measures Followed in US Nuclear Power Plants

- ‘Safety-in-Depth’ construction
- Uranium fuel is encased in solid ceramic pellets
- Fuel rods filled with pellets are grouped into fuel assemblies
- Multiple layers of protection
- Radiation levels are continuously monitored
- Plant operators are highly trained using simulators
- Training courses are accredited
- Operators must pass NRC exams to earn licences
- Operators are continuously retrained and retested
- Federal regulation by the NRC ensures safety
- NRC inspectors continuously monitor plants
- Three-tiered approach results in excellent safety record.

Theories of Industrial Safety

The following theories about accidents and risk-taking behaviour are covered:

1. Psychological theories
2. Structural theories
3. Psycho-sociological theories.

Psychological Theories

Psychology is a field that studies people's behavior, including their thoughts, feelings, and motivations. One theory in psychology focuses on how individual and group factors can affect workers' behavior, including their tendency to have accidents. Some people may be more likely to have accidents because of their personality traits. Others may take risks because of personal reasons, even if they know the outcome could be negative.

Social pressures can also play a role in how people view risk-taking. For example, if it's seen as brave or admirable, people may want to take risks to fit in with their peers. This can create a culture where some risks are seen as acceptable, even if they're actually dangerous. In work groups, this culture can lead to a shared understanding of what's safe and what's not, even if it doesn't match up with objective facts.

Structural Theories

Structural theories of accident causation give due weightage to the socio-economic, political and technological aspects of work organization, rather than individual attitudes and behaviour.

The key to safer working lies in the better design of jobs and restructuring the work to prevent accidents from occurring, instead of constantly seeking ways to persuade people to adopt safer practices in badly-designed and dangerous work environments.

The theme of the structural theorists is of the incompatibility of business interests and human interests.

The argument is that if industries and society prioritize productivity over everything else, safety policies will not be effective. This is because in industries where production speed is highly valued, people may take risks and shortcuts that can lead to more accidents and hazards. Therefore, to have effective safety policies, there needs to be a shift in priorities towards valuing safety as much as productivity.

Psycho-sociological Theories

Psycho-sociological theories make an effort to link both the above theoretical approaches and stress on the interrelationships between attitudes, actions and structures.

Behaviour is considered as a function of the variable, both within the person and within his/her environment. The relative contributions of various forms of influence to the individual performance can be determined only if each set of variables (corresponding to attitudes, action and structure) is defined and measured independently of the others.

For example, when a workman undertakes a dangerous assignment, perhaps without the safety precautions, it is necessary to assess the nature and the strength of the pressures on him from his workmates, and/or the management, how he perceives the demands of his job, the hazards

involved, his knowledge, skills and past experience to understand why and he behaves as he does.

Industrial Safety: Whose responsibility

Employer responsibility

- Provide a workplace free from recognized hazards causing serious injury or death
- Provide and use safety devices, safeguards, work practices, methods, processes, and means to make the workplace safe
- Prohibit employees from entering any unsafe workplace
- Not construct an unsafe workplace
- Prohibit alcohol and narcotics in the workplace
- Prohibit the use of unsafe tools and equipment and take responsibility for their safe condition
- Establish, supervise, and enforce effective rules for a safe and healthy work environment
- Control chemical agents to prevent worker exposure to hazards and protect workers from hazardous concentrations of biological agents during handling or use of materials or waste.

Manager responsibility

Managing industrial safety responsibilities includes

- Plan, implement, and monitor safety activities in compliance with statutory laws and regulations.
- Provide safety education, training, and culture-building for employees and contract workers to prevent personal injuries and promote safety awareness.
- Conduct mock drills and emergency preparedness planning.
- Ensure safe operating practices with respect to man/machine/material and environment, including occupational health and safety measures.
- Monitor day-to-day safety operations, including permit-to-work system, plant safety inspection checklists, group safety rounds, and fire training and systems.
- Ensure all statutory compliances on OHSAS (Occupational Health Safety Assessment Series), ISO 9000 and ISO 14000.
- Environmental pollution control activities including STP.
- Planning and coordinating the safety awareness activities like celebration of National Safety Day (4th March), safety exhibition, safety posters, safety wall-painting, safety thoughts, online safety training, booklets, etc.

Industrial Safety Products

1. Industrial goggles
2. Eye/face protection
3. Chemical protection gloves
4. Heat protection apparels
5. Safety belts
6. Chemical protection apparels
7. Respiratory protection
8. Wind sock

Industrial safety and Training

Ensuring a safe and healthy workplace is not only a crucial aspect of human resources, but it is also a legal requirement. Regardless of their job level, employees should be aware of potential health and safety hazards, the measures to mitigate these risks, and the standard safety regulations and compliance protocols. As a result, it is highly recommended to provide industrial safety training programs, particularly for individuals working with hazardous materials, laboratory personnel, machine tool operators, and electrical workers.

A highly adaptable Industrial Safety Training programme helps employees to:

1. **Select** proper protective clothing to safeguard eyes, ears, skin, and mouth within the workplace.
2. **Demonstrate** proper practice to avoid the most common kinds of accidents.
3. **State** the correct practice to follow to avoid electric shock when using electric tools.
4. **Demonstrate** safe practice when using common types of ladders and scaffolding.
5. **State** the key points for the safe use of powered industrial trucks, and for both gravity and powered conveyors.
6. **Describe** procedures for the treatment of electric shock.

Government Statutory Machineries for Industrial Safety

Safety committee

The functions of the safety committee include:

1. Promulgate and promote the company's policy of accident prevention.
2. Discover accident hazards and potential causes of injury.
3. Disseminate information concerning accidents, hazards and preventive measures.
4. Encourage among employees the development of the 'sixth sense', that is, a state of awareness.
5. Consider accident statistics, causes of accident and of injury arising at the workplace, and any information on those occurring elsewhere.

6. Do everything within their power to prevent accidents.

Safety Officer

Section 40 (b) of the Factories Act, 1948, provides for the appointment of a Safety officer. (1) In every factory,

- (i) wherein one thousand or more workers are ordinarily employed, or
- (ii) (ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, in which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory, the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification

(2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State government

Role of a Safety Officer

Central Labour Institute, Mumbai

Now operating under the Ministry of Labour, the Central Labour Institute was founded in 1966 and has four regional labour institutes in Kolkata, Chennai, Kanpur, and Faridabad.

Regional Labour Institute

The Regional Labour Institutes (RLIs), located in Kolkata, Chennai, Kanpur and Faridabad, are scaled-down versions of the Central Labour Institute (CLI), Mumbai, each serve a particular region of the nation. The following divisions or sections exist within each of these regional Institutes:

- (a) Industrial Safety
- (b) Industrial Hygiene
- (c) Industrial Medicine
- (d) Staff Training and Productivity
- (e) Communication
- (f) Major Accident Hazards Control
- (g) Computer Centre.

The facilities available in the Regional Labour Institutes are:

- (a) Industrial safety, health and welfare center
- (b) Mobile safety exhibition
- (c) Auditorium and conference hall
- (d) Hostel.

National Safety Committee

The National Safety Council is controlled by a Board of Directors made up of government, business, and labour union officials. It was founded in March 1966 as a non-profit, volunteer organisation. It offers the following services:

- (a) **Publication Service** which publishes Industrial Safety Chronicles, Industrial Safety News, Technical Publications, Proceedings of Seminars and Conferences.
- (b) **Safety Training Service** which provides advanced theoretical and practical training courses at different levels.
- (c) **Technical Information Service** which gives the names and addresses of manufacturers, suppliers of personal protective equipment and clothing, machinery guards and other safety devices.
- (d) **Educational Service** which propagates safety through posters, mini-posters, calendars, safety diary, exhibition, film library, radio programmes, national safety day, national contests, and the like.

The Directorate General, Factory Advice Service And Labour Institute (DGFASLI), Mumbai

The Directorate General, Factory Advice Service, and Labor Institutes, formerly known as the Office of the Chief Adviser of Factories, was established in 1945 with the purpose of advising the Central and State Governments on the implementation of the Factories Act and coordinating the factory inspection services in the States. The General Direction, Factory Advisory, and Labor Institutes (DGFASLI), comprises

Headquarters situated in Mumbai

- Central Labour Institute, Mumbai
- Regional Labour Institutes in Chennai, Kanpur, Kolkata and Faridabad.

The DGFASLI is an attached office of the Ministry of Labour and Employment, Government of India, and serves as a technical arm to assist the Ministry in formulating national policies on occupational safety and health in factories and docks. It also advises factories on various problems concerning safety, health, efficiency and well-being of the persons at workplaces.

The Directorate General of Mines Safety (DGMS)

The task of executing the provisions of the Mines Act, 1952, and the Rules and Regulations created thereunder has been given to the Directorate General of Mines Safety (DGMS).

- In order to stop the spread of fire and the threat of flooding, he looks over the equipment and electrical systems that have been given in the mines.
- He also measures the thickness of the barriers between two nearby mines.

- The DGMS also does industrial hygiene surveys, investigates all fatal accidents, certain major accidents, and dangerous occurrences, and offers suggestions for corrective actions to stop such incidents from happening again.
- He is also given the authority to bring charges in instances of statutory violations



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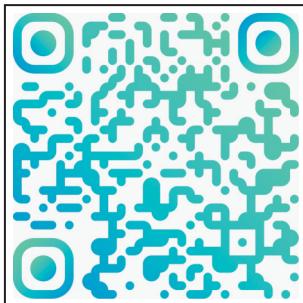
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