

RAGHAV ACADEMY

CMA INTER

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CAPSULE

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BY

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Capsule: INDIAN CONTRACT ACT, 1872

Commencement of Act	The Act came into effect from 1 st September, 1872 and applies to all contracts in India.
Essentials of a valid contract	<ul style="list-style-type: none">• an offer or proposal• intention to create legal relations• lawful consideration;• capable of contract;• genuine consent• object and consideration shall be legal and the same shall not be opposed to public policy;• The terms shall be certain;• The agreement is capable of being performed.
Offer	<ul style="list-style-type: none">• The offer must be in clear, definite, complete and final terms.• The offer must be communicated to the offeree.• The communication may be in writing or oral;• The communication may be in expressed terms or in implied terms;• The offer may be general or specific• Communication of offer is complete when it comes to the knowledge of the person to whom it is made.
Revocation of offer	Section 5 provides that a proposal may be revoked at any time before the communication of acceptance is complete as against the proposer but not afterwards.
Lapse of offer	An offer may be lapsed if- <ul style="list-style-type: none">• it is not accepted within the specified time• it is not accepted in the mode prescribed• the offeree rejects it• either the offeror or the offeree dies• the acceptor fails to fulfill a condition• the offeree makes a counter offer
Acceptance	<ul style="list-style-type: none">• Acceptance may be in oral or in writing;• It may be expressed or implied;• It must be unqualified and absolute• The conditional acceptance will amount to rejection of offer;• A counter offer for acceptance will also amount to reject of offer• It must be communicated• Mere silence does not amount to acceptance;
Revocation of acceptance	Section 5 provides that an acceptance may be revoked at any time before the communication of acceptance is complete as against the acceptor but not

	afterwards.
Void agreement	<p>The following agreements are considered to be void-</p> <ul style="list-style-type: none"> • If considerations and objects are unlawful in part – Section – 24; • Agreements without consideration – Section 25; • Agreement in restraint of marriage – Section 26; • Agreement in restraint of trade – Section 27; • Agreements in restraint of legal proceedings – Section 28; • Agreements void for uncertainty – Section 29; • Agreements by way of wager – Section 30;
CONSIDERATION	<ol style="list-style-type: none"> 1. It must move at the desire of the promisor 2. It may move from the promisee or any other person 3. Consideration must be something of value. 4. It may be an act, abstinence or forbearance or a return promise 5. It may be past, present or future 6. It must not be unlawful. 7. Consideration need not be adequate 8. It must not be illusory 9. It must not be opposed to public policy
NO CONSIDERATION – NO CONTRACT: [Sec. 25]	<p>As per section 25, an agreement made without consideration is not void in the following circumstances:</p> <ol style="list-style-type: none"> 1. Promise made on account of natural love and affection. 2. Promise to compensate for voluntary services. 3. Promise made to pay a time barred debt. 4. Gift actually made: 5. Creation of agency: 6. Charitable subscription
STRANGER TO CONTRACT / DOCTRINE OF PRIVACY OF CONTRACT	<p>The doctrine of privity of contract means that a contract is between the parties only and no third person can sue upon it except in the following circumstances where stranger to contract can sue:</p> <ol style="list-style-type: none"> 1. Beneficiaries under trust or charge 2. Marriage settlement, partition or other family arrangements 3. Acknowledgement or estoppel. 4. Agency 5. Assignee in case of insurance policy
Who are Competent to Contract? (Section 11)	<p>Following types of persons are not competent to contract:</p> <ol style="list-style-type: none"> (a) A person who has not attained the age of majority, i.e. minor. (b) A person of unsound mind (c) A person who is disqualified from contracting by some law.
FREE CONSENT	<p>Consent: ‘Two or more persons are said to consent when they agree upon the same thing in the same sense.’ - [Sec 13].</p> <p>If the parties have not agreed upon the same thing in the same sense there is no real consent and hence no contract is formed.</p>

		As per section 14 of the Contract act consent is said to be free when it is not caused by— (1) Coercion (Sec 15), or (2) Undue influence (Sec 16), or (3) Fraud (Sec 17), or (4) Misrepresentation (Sec 18), or (5) Mistake, subject to provisions of Sec 20, 21 and 22.
QUASI CONTRACTS		<ul style="list-style-type: none"> • Section 68 – Claim for necessities supplied to person incapable of contracting, or on his account • Section 69 – Reimbursement of persons paying money due by another, in payment of which he is interested • Section 70 – Obligation of person enjoying benefit of non gratuitous act • Section 71 – Responsibility of finder of goods • Section 72 – Liability of person to whom money is paid or thing delivered by mistake or under coercion
CONTINGENT CONTRACTS		Section 31 defines ‘contingent contract’ as a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.
DISCHARGE OF CONTRACTS	OF	<p>The following are the various modes or methods by which a contract is discharged.</p> <ol style="list-style-type: none"> 1. Discharge by performance 2. Discharge by agreement (Novation, Alteration, Rescission, Remission, Waiver) 3. Discharge by lapse of time 4. Discharge by operation of law (Death, Insolvency, Unauthorised Material Alteration, Merger) 5. Discharge by impossibility of performance 6. Discharge by breach of contract (Actual and Anticipatory Breach)
Contract Indemnity	of	Section 124 of the Act defines the expression ‘contract of indemnity’ as a contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person.
Contract Guarantee	of	Section 126 defines the expression ‘the contract of guarantee’ as a contract to perform the promise, or discharge the liability of a third person in case of his default.
Bailment		Section 148 defines the term ‘bailment’ as the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them.
PLEDGE		Section 172 of the Act provides that the bailment of goods as security for payment of a debt or performance of a promise is called ‘pledge’.

AGENCY	Section 182 provides that an ‘agent’ is a person employed to do any act for another or to represent another in dealing with the third person.
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CAPSULE : SALE OF GOODS ACT, 1930

Introduction	During the year 1930, Sections 76 to 123 of the Contract Act were repealed. A separate Act viz., Sale of Goods Act, 1930 was passed.
Effective date	This Act came into force from 01.07.1930.
Goods	Section 2(7) defines the term ‘goods’ as every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.
CONTRACT OF SALE	As per section 4(1) “A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.”
Essentials of Contract of Sale	<p>The following are thus the essentials of a contract of sale of goods:</p> <ol style="list-style-type: none"> (1) Bilateral contract (2) Transfer of property (3) Goods. (4) Price or money consideration (5) All essential elements of a valid contract
Subject matter of contract	<p>The subject matter of the contract –</p> <ul style="list-style-type: none"> • existing or future goods; • goods perishing before making contract; • goods perishing before sale but after agreement to sell
Rules for Ascertaining Passing of Property	<p>The provisions are discussed hereunder:</p> <p>(A) Goods must be ascertained (section 18)</p> <p>(B) Intention of the parties for such transfer (section 19)</p>
Risk Prima Facie Passes with Property	The rule regarding risk passes with the property
Transfer of Title by Non-Owners of Goods:	“ <i>Nemo dat qui non habet</i> ” means that no one can give what he himself does not have. It means a non owner cannot make valid transfer of property in goods. If the title of the seller is defective, the buyer’s title will also be subject to same defect.
EXCEPTIONS	<ol style="list-style-type: none"> 1. Sale by a mercantile agent 2. Transfer of title by Estoppels 3. Sale by a joint owner 4. Sale by person in possession under voidable contract 5. Sale by seller in possession after sale 6. Sale by buyer in possession after sale 7. Sale by an unpaid seller

CONDITIONS AND WARRANTIES	<p>Condition [Section 12(2)] A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to right to treat the contract as repudiated.</p> <p>Warranty [Section 12(3)] A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.</p>
Implied conditions are of the following types:	<p>(i) Condition as to title [Sec 14(a)] (ii) Sale by description (Sec 15) (iii) Condition as to quality or fitness (Sec 16) (iv) Sale by sample (Sec 17) (v) In case of eatables and provisions, they shall be wholesome.</p>
Implied warranties are of following types:	<p>(i) Warranty of quiet possession [Sec.14 (b)] (ii) Warranty of freedom from encumbrances [Sec.14(c)] (iii) Warranty as to quality or fitness by usage of trade: (iv) Warranty to disclose dangerous nature of goods:</p>
DOCTRINE OF CAVEAT EMPTOR	<p>Term “caveat emptor” is a Latin word which means “let the buyer beware”. This principle states that it is for the buyer to satisfy himself that the goods which he is purchasing are of the quality which he requires. If he buys goods for a particular purpose, he must satisfy himself that they are fit for that purpose.</p> <p>Exceptions: (1) Where the seller makes a false representation and the buyer relies on it. (2) When the seller actively conceals a defect in the goods which is not visible on a reasonable examination of the same. (3) When the buyer, relying upon the skill and judgement of the seller, has expressly or impliedly communicated to him the purpose for which the goods are required. (4) Where goods are bought by description from a seller who deals in goods of that description.</p>
Rights of an Unpaid Seller against the Goods	<p>An unpaid seller’s right against the goods are: (a) A lien or right of retention (b) The right of stoppage in transit. (c) The right of resale. (d) The right to withhold delivery</p>
Rights of an unpaid seller against the buyer	<p>1. Suit for price: [Sec. 55] 2. Suit for damages for non-acceptance: [Sec. 56] 3. Suit for repudiation: 4. Suit for interest: [Sec. 61]</p>

CAPSULE: NEGOTIABLE INSTRUMENTS ACT, 1881

Negotiable Instrument	<p>Section 13 of the Act defines the terms ‘negotiable instrument’ as a promissory note, bill of exchange or either payable either to order or to bearer.</p> <p>The following are not the negotiable instruments-</p> <ul style="list-style-type: none">• share certificate passing from hand to hand with blank transfers• Deposit receipts• Mate’s receipt• Bill of lading• A benefit under a letter of credit
Essential Features of a Negotiable Instrument:	<ol style="list-style-type: none">1. It must be in writing.2. It should be signed by the maker or drawer.3. There must be a promise or order to pay.4. The promise or order must be unconditional.5. It must call for payment in money and money only.6. It should call for payment of a certain sum.7. The property in the instrument may be passed in two ways: (a) by mere delivery; and (b) by indorsement and delivery.8. The consideration is also presumed to have been passed.
Promissory Note	<p>Section 4 of the Act defines the term ‘promissory note’ as an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.</p>
Bill of exchange	<p>Section 5 defines the expression ‘bill of exchange’ as an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.</p>
Cheque	<p>The term ‘cheque’ is defined under Section 6 of the Act. It is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form.</p>
Holder –	<p>Section 8 defines the term ‘holder’. The holder of a promissory note or a bill of exchange or cheque is any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.</p>
Holder in due course –	<p>Section 9 defines the term ‘holder in due course. It means any person who for consideration became the possessor and without having sufficient cause to believe</p>

	that any defect existed.
Instruments	There are various types of instruments mentioned in this Act as follows: <ul style="list-style-type: none"> • Inland instrument • Foreign instrument • Ambiguous instrument • Instruments payable on demand • Inchoate stamped instruments
CROSSING OF CHEQUES	Section 123 provides that where a cheque bears across its face an addition of the words 'and company' or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words 'not negotiable' that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.
ENDORSEMENT	The 'Indorsement' means signatures of the person which are generally made at the back of the instrument, for the purpose of transfer of rights to another person.
Dishonour	The dishonor may be due to the following reasons- <ul style="list-style-type: none"> • non acceptance; and • by nonpayment.
Protest	Section 100 provides that when an instrument is dishonored the holder may cause such dishonor to be noted and certified by a notary public. Such certificate is called a protest.

CAPSULE : INDIAN PARTNERSHIP ACT, 1932

Introduction	Before the enactment of this Act, the provisions relating to partnership were contained in Chapter XI, consisting of Section 239 to 266 of the Indian Contract Act, 1872.
Effective	The provisions of this Act came into effect from 01.10.1932 except Section 69 which deals with the effect of non registration. Section 69 of this Act came into effect with effect 01.10.1933.
WHAT IS PARTNERSHIP?	Section 4 defines the term 'partnership' as the relationship between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. The term 'partners' is defined as persons, who have entered into partnership with one another are called individually 'partners'. A 'firm' is the collective of the partners. The 'firm name' is the name under which the business is carried on.
Different types of partnership	There are four types of partnership which are as detailed below- <ul style="list-style-type: none">• General Partnership;• Limited Partnership;• Partnership at will;• Particular Partnership.
Different types of partners	The following are the various types of partners- <ul style="list-style-type: none">• Working partner or Active partner;• Sleeping or dormant partner;• Secret partner;• Limited partner;• Partner in profits only;• Nominal or ostensible or quasi partner;• Minor as a partner.
Minors as partners	Section 30 of the Indian partnership act provides that though a minor cannot be a partner of a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of the partnership by an agreement executed through his guardian with the other partners.
Election on majority	On attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership whichever date is later, a minor may within six months from such date give public notice that he has elected to become or that he has elected not to become a partner in the firm.
Procedure to form a partnership	<ul style="list-style-type: none">• First decide to who are the partners of the firm, considering the limit envisaged in the Act;• The name of the partnership firm is selected subject to the provisions of the

	<p>partnership Act;</p> <ul style="list-style-type: none"> • Select the business to be done by the partnership and object of the business; • Decide the capital to be brought by each and every partner; • Prepare the agreement deed of the firm – the deed is the vital and most significant document. The deed shall contain all aspects of the partnership firm. This documents prescribes the ‘a to z’ of the partnership firm to be formed; • The agreement should invariably in writing and signed by all partners; • The provisions contained in the agreement are binding all partners; • The partnership firm is to be registered. According to the Act the partnership firm may be registered or may not be registered. Unregistered firms have no legal protection and therefore registration of partnership firm is to be preferred. • Open bank account in the name of the partnership firm; • In the present scenario obtaining PAN is necessary and get the PAN from the Income Tax Authority; • Acquire all mandatory licences from the respective authorities for the conduct of the business; • Registration with required tax authorities i.e., direct tax as well as indirect tax such as central excise, service tax, VAT etc., • The Registration certificate is the conclusive evidence of the formation of the partnership firm.
RECONSTITUTION OF FIRM	<p>Partnership is an agreement between the members of a firm for sharing the profits of the business carried on by all or any of them acting for all. Any change in this relationship amounts to reconstitution of the partnership firm. Any change in the existing agreement of partnership amounts to reconstitution of a firm. A change in the partnership agreement brings to an end the existing agreement and a new agreement comes into being. This new agreement changes the relationship among the members of the partnership firm. Hence, whenever there is a change in the partnership agreement, the firm continues but it amounts to the reconstitution of the partnership firm.</p> <p>The reconstitution of a partnership firm may take place in the following occasions-</p> <ul style="list-style-type: none"> • Change in profit sharing ratio of the existing partners; • Admission of a new partner; • Retirement of existing partner; • Death of a partner; • Amalgamation of two partnership firm.
Application for registration	<p>Section 58 provides that for the purpose of registration a statement in the prescribed form stating-</p> <ul style="list-style-type: none"> • the name of the firm; • the place, or principal place, of business of the firm; • the names of any other places where the firm carries on business; • the date when each partner joined the firm; • the names, in full, and permanent address of the partners; and • the duration of the firm. <p>shall be prepared and duly signed by all partners, or by their agents specifically authorized in this behalf. The prescribed fee is also paid for registration. Each person, signing the statement, shall also verify it in the manner prescribed.</p>

Effect of non registration	<p>The consequences of non-registration of a firm are as under;</p> <p>(1) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm.</p> <p>(2) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.</p> <p>(3) The provisions of sub-sections (1) and (2) shall apply also to claim of set-off or other proceeding to enforce a right arising from contract, but shall not affect-</p> <p>(a) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm, or</p> <p>(b) the powers of an official assignee, receiver or Court under the Presidency-towns Insolvency Act, 1909 or the Provincial Insolvency Act, 1920. to realise the property of an insolvent partner.</p>
Modes of Dissolution of a firm	<p>(1)Dissolution without the order of the court or voluntary dissolution</p> <p>(a) Dissolution by agreement (b) Compulsory dissolution (c) Dissolution on the happenings of certain contingencies (d) Dissolution by notice of partnership at will(section 43)</p> <p>(2) Dissolution by the court (section 44)</p>

Capsule: Limited Liability Partnership Act, 2008

Introduction	LLP Act is broadly based on UK LLP Act 2000 and Singapore LLP Act 2005.
Minimum number of members	Section 6(1) prescribes that every LLP shall have at least two partners.
Reduction in minimum number of members [Section 6(2)]	If at any time the number of partners of a limited liability partnership is reduced below two and the limited liability partnership carries on business for more than six months while the number is so reduced, the person, who is the only partner of the limited liability partnership during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the limited liability partnership incurred during that period.
Designated partner	Section 7(1) provides that every LLP shall have at least two designated partners. The designated partners shall be individual and at least one of them shall be a resident of India, who has stayed in India for a period not less 182 days during the preceding one year.
Vacancy	Section 9 provides that a LLP may appoint a designated partner within 30 days of the vacancy arising for any reason. If no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.
Incorporation of LLP	The incorporation of an LLP involves the following steps: <ul style="list-style-type: none">• Reservation of name;• Submission of incorporation documents with Registrar;• Registration of LLP.
Change of registered office	<p>The notice for change of registered office shall be given to Registrar in Form No. 15, within 30 days of complying with the requirements in case of change of registered office is within the same State and within 30 days of complying in the case of registered office from one State to another State, along with the fee.</p> <p>If the change in place of registered office is from one State to another State, the LLP shall publish a general notice, not less than 21 days before filing any notice with Registrar, in a daily newspaper published in English and in the principal language of the District in which the registered office of the LLP is situated and circulating in that district giving notice of change of registered office.</p>
Unlimited liability	Section 30 provides that any act with intent to defraud creditors of the LLP or any other person, the liability of LLP and partners shall be unlimited for all or any of the debts or other liabilities of the LLP.

Statement of Account and Solvency	Every LLP shall file a Statement of Account and Solvency in Form No. 8 with the Registrar, within a period of 30 days from the end of six months of the financial year to which the Statement of Account and Solvency relates, along with the prescribed fee.
Audit of accounts	Rule 24(8) provides that the accounts of every LLP shall be audited. If the turnover of a LLP does not exceed, in any particular year `40 lakhs, or whose contribution does not exceed `25 lakhs shall not be required to get its accounts audited.
Annual return	<p>Section 35 seeks that every LLP shall be required to file with the Registrar an Annual Return duly authenticated every year in Form No. 11 along with the fees.</p> <p>The annual return of an LLP having turnover up to `5 crore during the corresponding financial year or contribution up to `50 lakhs shall be accompanied with a certificate from a designated partner to the effect that the annual return contains true and correct information.</p> <p>In all other cases, the annual return shall be accompanied with a certificate from a Company Secretary in practice to the effect that he has verified the particulars from the books and records of the LLP and found them to be true and correct.</p>

CAPSULE: FACTORIES ACT, 1948

Introduction	It came into effect from 01.04.1949.
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 adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or• pumping oil, water, sewage or any other substance; or• generating, transforming or transmitting power; or• composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or• constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or• preserving or storing any article in cold storage. <p>It includes even repair, finishing, oiling or cleaning process with view to its use, sale, transport, delivery or disposal.</p>
Factory	<p>Section 2(m) defines the term ‘factory’ as any premises including the precincts thereof-</p> <ul style="list-style-type: none">• whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or• whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,- <p>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.</p>
Occupier	Section 2(n) defines the term ‘occupier’ of a factory as the person who has ultimate control over the affairs of the factory.
Duties of occupier	<p>Section 7A prescribes the general duties of occupier.</p> <p>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.</p>
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;

	<ul style="list-style-type: none"> • dust and fume; • artificial humidification; • overcrowding; • lighting; • drinking water; • latrines and urinals; • spittoons
Safety	<p>Chapter IV of the Act prescribes the procedures to be adopted on 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	<p>The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within 90 days of the receipt of such application.</p>
Welfare	<p>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.
Employment of women	<p>Section 66 provides that the provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions-</p>

	<input type="checkbox"/> no exemption from the provisions of Section 54 may be granted in respect of any woman; <input type="checkbox"/> no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.; <input type="checkbox"/> the State Government may authorize the employment of any women between the hours of 10 PM and 5 A.M.; <input type="checkbox"/> there shall be no change of shifts except after a weekly holiday or any other holiday.
Working hours for children	<p>Section 71 provide that no child shall be employed or permitted to work in any factory for more than four and a half hours in any day and during night.</p> <p>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 5 hours each.</p> <p>Each child shall be employed in only one of the relays which shall not, except with the previous permission. <i>No female child shall be allowed to work in any factory except between 8 A.M. and 7 P.M.</i></p>
Annual leave	<p>Section 79 provides that every worker who has worked for a period 240 days or more in a factory during a calendar year shall be allowed leave with wages for a number days calculated at the rate of-</p> <input type="checkbox"/> if an adult, one day for every 20 days of work performed by him during the previous calendar year; <input type="checkbox"/> if a child, one day for every 15 days of work performed by him during the previous calendar year.
Carry forward of leave	<p>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 carried over to the succeeding year. 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.</p> <p>A worker, who has applied for leave with wages but has not been granted, shall be entitled to carry forward the leave refused without any limit.</p>
Availing of leave	<p>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 leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year.</p> <p>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.</p> <p>An application for leave shall not be refused unless refusal is in accordance with the scheme for the time being in operation.</p>

CAPSULE : PAYMENT OF GRATUITY ACT, 1972

Introduction	The term 'gratuity' is derived from the Latin word 'gratuitous'. 'Gratuity' is the payment made by the employer to the employee at the time of termination of his service either by retirement on superannuation or on resignation or on termination of the service. This is the old age retiral social security benefit.
Effect	The Act came into effect from 16th September, 1972.
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.
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.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 one year or six month, 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-<ol style="list-style-type: none">(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.3. Where an employee, employed in a seasonal establishment, is not in continuous service within the meaning of clause (1) for any period of one year or six months, he shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than 75%, of the number of days on which the establishment was in operation during such period.
Payment of Gratuity	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

	<p>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.</p> <p>In the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to the heirs.</p> <p>Section 4(2) provides that for every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned.</p> <p>In the case of piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account.</p> <p>In the case of an employee employed in a seasonal establishment, the employer shall pay the gratuity at the rate of seven days' wages for each season.</p> <p><i>Section 4(3) provides that the amount of gratuity payable to an employee shall not exceed twenty months' wages.</i></p> <p>Section 4(4) provides that for the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.</p> <p>Section 4(5) provides that nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.</p>
Forfeiture of Gratuity	<ul style="list-style-type: none"> • the gratuity payable to an employee may be wholly or partially forfeited,- <ul style="list-style-type: none"> <input type="checkbox"/> if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or <input type="checkbox"/> if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.
Amount of gratuity payable	<p>The maximum amount of gratuity allowed under the Act is `10 lakhs with effect from 08.04.2010.</p> <p>Formula for calculation of gratuity = Last wage drawn x 15/26 x completed years of service</p>

	In calculation of gratuity one month is taken as 26 days.
Nomination	<ul style="list-style-type: none"> • Each employee, who has completed one year of service, shall make nomination in Form – F; • If an employee has a family at the time of making a nomination, the nomination shall be made in favor of one or more members of his family, and any nomination made by such employee in favor of a person who is not a member of his family shall be void.; • If at the time of making a nomination the employee has no family, the nomination may be made in favor of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, a fresh nomination in favor of one or more members of his family; (Form G in 90 Days of acquiring family) • A nomination may, subject to above, be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so; (Form H)
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.

CAPSULE : EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

<p>The following three schemes have been framed under the Act by the Central Government:</p>	<p>(a) The Employees' Provident Fund Schemes, 1952; (b) The Employees' Pension Scheme, 1995; and (c) The Employees' Deposit-Linked Insurance Scheme; 1976.</p> <ul style="list-style-type: none"> ➤ The Act is now applicable to employees drawing pay not exceeding `15,000/- per month. ➤ The Act extends to whole of India. ➤ The term pay includes basic wages with dearness allowance, retaining allowance (if any), and cash value of food concession.
<p>APPLICABILITY</p>	<p>Section 1(3) provides that subject to Section 16, this Act applies-</p> <ul style="list-style-type: none"> • 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. <i>Not less than 2 months' notice</i> 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; • <i>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.</i>
<p>RELEVANT CASES</p>	<ul style="list-style-type: none"> ➤ In 'Goods Shepherd Public School V. EPF organization' – 2014 LLR 611 (Del HC) it was held that a school rightly covered under PF when the principal has affirmed about employment of 20 employees. ➤ In 'M/s Nasiruddin Beedi Merchant Limited V. CPF Commissioner' – AIR 2001 SC 850, the Supreme Court held that this Act would apply even in respect of home workers engaged through contractors and cannot be objected any more. ➤ In 'Annamma Iype V. Regional Provident Fund Commissioner' – 1993 LLR 287 it was held that wherein an establishment the strength of the employees

	<p>at a particular time is below 20, it cannot be contended by the employer that the establishment is no longer within the purview of the Act.</p>
Non applicability of the Act	<p>Section 16(1) of the Act provides that this Act is not applicable to the following-</p> <ul style="list-style-type: none"> • 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.
Contributions in PF	<ul style="list-style-type: none"> ➤ As per Section 6, the contribution which shall be paid by the employer to the Fund shall be 12%, of the basic wages, dearness allowance and retaining allowance, if any, for the time being payable to each of the employees. ➤ Employees, if they desire, may make contribution exceeding the prescribed rate but subject to the condition that employer shall not be under any obligation to contribute over and above the contribution payable as prescribed by the Government from time to time under the Act.
Advances from the fund	<p>Advances from the fund are paid for the following purposes-</p> <ul style="list-style-type: none"> • 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)
Contribution in Pension	<p>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.</p> <p>Contribution is not payable when the employee crosses 58 years of age since the scheme ceases on completion of 58 years.</p>
Employees' Deposit linked Insurance Scheme- Section 6C	<p>The Central Government made the Employees' Deposit Linked Insurance Scheme, 1976 which came into effect from 01.09.1976.</p> <p>It applies to all factories and other establishments to which the Act applies except</p>

	tea factories in State of Assam.
Contribution	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.
EPF Tribunal Appellate	<p>The Appellate Tribunal may, after giving reasonable opportunities to the parties decided the appeal.</p> <p>The Tribunal may rectify any mistake apparent from the record within five years from the date of its appeal order.</p> <p>No appeal by the employer shall be entertained unless he has deposited with it 75% o the amount due from him. The Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.</p>

CAPSULE : EMPLOYEE STATE INSURANCE ACT, 1948

Applicability	<p>This Act extends to whole of India. This Act applies to-</p> <ul style="list-style-type: none"> • in the first instance applicable to all factories, including factories belonging to the Government, <u>other than season factories</u>; • the appropriate Government may, in consultation with the corporation and where the appropriate Government is a State Government, with the approval of Central Government, <u>after giving one month's notice of its intention</u> 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. <p>The existing wage limit for coverage under the Act is <u>₹21,000 per month</u></p> <p>In 'Employees' State Insurance Corporation V. Premalal' – 2009 LLR 282 (Ker HC) it was held that ESI scheme will be applicable to <u>establishment preparing sweets with the aid of LPG</u>.</p> <p>In 'Kuriacose V. Employees' State Insurance Corporation' – (1988) 2 CLR 301 (Ker) it was held that once the Act has become applicable to a factory or an establishment, its application will be continuous.</p>
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, <u>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</u> which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding <u>seven months in a year</u>-</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.
Employees' State Insurance Corporation	<p>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.</p>
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.</p>

	Three members of the Parliament and the Director General of the Corporation are its ex-officio members.
Standing Committee	<p>Section 8 of the Act provides for the constitution of Standing Committee which shall be constituted from 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 – <ul style="list-style-type: none"> <input type="checkbox"/> three members from among the members of the Corporation representing employers; <input type="checkbox"/> three members from among the members of the Corporation representing employees; <input type="checkbox"/> one member from among the members of the Corporation representing medical profession; and <input type="checkbox"/> one member from among the members of the Corporation elected by Parliament. <input type="checkbox"/> the Director General of the Corporation, ex-officio.
Term of office	Section 9 provides that the term of office of a member of the Standing Committee shall be 2 years from the date on which his election is notified.
Medical Council Benefit	<p>Section 10 provides for the constitution of Medical Benefit Council consisting of-</p> <ul style="list-style-type: none"> <input type="checkbox"/> the Director General of ESI, ex-officio – Chairman; <input type="checkbox"/> the Director General, Health Services, ex-officio – Co-Chairman; <input type="checkbox"/> the Medical Commissioner of the Corporation – ex-officio; <input type="checkbox"/> one member each representing each state other than Union territories; <input type="checkbox"/> three members representing employers; <input type="checkbox"/> three members representing employees; <input type="checkbox"/> three members representing the medical profession; among them one shall be a woman.
Term of office	The term of the office of the members of Medical Benefit Council (last three categories) shall be 4 years from the date on which the appointment is notified.
Registration of employees	<p>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.</p> <p>This exercise of registering an employee has to be a onetime exercise in life time of an employee.</p> <p>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.</p>

Employees' State Insurance Fund	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	<p>Section 28 of the Act provides the Central Government may utilize the State Insurance Fund only for the following purposes:</p> <ul style="list-style-type: none"> • payment of benefits and provision of medical treatment • payment of fees and allowances • payment of salaries etc • establishment and maintenance of hospitals, dispensaries and other institutions • payment of contributions to any State Government, local authority or any private body or individual • defraying the cost (including all expenses) of auditing the accounts • defraying the cost (including all expenses) of the Employees' Insurance Courts • defraying the cost and other charges of instituting or defending any civil or criminal proceedings • 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	<p>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.</p> <p>The contribution shall be paid in a bank duly authorized corporation within 21 days of the last day of the calendar month in which the contribution falls due for any wage period.</p>
Benefits	<p>Section 46 provides that the insured persons , their dependents shall be entitled to the following benefits-</p> <ul style="list-style-type: none"> • 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.

Benefits assignable not	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	<p>Section 65 provides that an insured person shall not be entitled to receive for the same period-</p> <ul style="list-style-type: none"> • 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. <p>Where a person is entitled to more than one of the benefits he shall be entitled to choose which benefit he shall receive.</p>
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 regulations to arise out of the pregnancy or confinement rendering the employee unfit for work.

CAPSULE : PAYMENT OF BONUS ACT, 1965

Applicability of the Act	<p>This Act shall apply to the following:</p> <ul style="list-style-type: none">• every factory; and• every other establishment in which twenty or more persons are employed on any day during an accounting year;• any establishment or class of establishments as notified by the appropriate Government, employing such number of persons less than twenty as may be specified in the notification, that the number of persons so specified shall in no case be less than ten.• an establishment to which this act applies shall continue to be governed by the Act notwithstanding that the number of persons employed falls below twenty or the number specified in the notification.
Exempted establishments	<p>The Act will not apply to the following classes of employees-</p> <ul style="list-style-type: none">• Employees employed by the Life Insurance Corporation of India;• Seaman as defined in Section 3(42) of the Merchant Shipping Act, 1958;• Employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948 and employed by registered or listed employers;• Employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;• Employees employed by-<ul style="list-style-type: none"><input type="checkbox"/> The Indian Red Cross Society or any other institution of like nature;<input type="checkbox"/> Universities and other educational institutions;<input type="checkbox"/> Institutions (including hospitals, Chambers of Commerce and Social Institutions) established not for the purpose of profit;• Employees employed through contractors on building operations;• Employees of the Reserve Bank of India;• Employees of-<ul style="list-style-type: none"><input type="checkbox"/> The Industrial Finance Corporation of India;<input type="checkbox"/> Any financial corporation established under Section 3 or Section 3A of the State Financial Corporation Act, 1951;<input type="checkbox"/> The Deposit Insurance Corporation;<input type="checkbox"/> The Agriculture Refinance Corporation;<input type="checkbox"/> The Unit Trust of India;<input type="checkbox"/> The Industrial Development Bank of India;<input type="checkbox"/> Any other financial institution, being an establishment in public sector which the Central Government notifies in the Official Gazette with regard to the capital structure, its objects, its extent of financial assistance and any other relevant factor.• Employees of inland water transport establishments operating on routes passing through any other country.
Employee	<p>Section 2(13) defines the term 'employee' as any person employed on a salary or wage not exceeding `21,000/- per mensem (with effect from 01.04.2014) in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of</p>

	<p>employment be express or implied.</p> <p>Apprentice will not be treated as an employee.</p> <ul style="list-style-type: none"> • A temporary workman is entitled to bonus on the basis of the total number of days worked by him • A part time employee as a sweeper engaged on regular basis is entitled to bonus • A dismissed employee, reinstated with back wages, is entitled to bonus • A retrenched employee is eligible to get bonus provided he has worked for minimum qualifying period • A piece rated worked is entitled to bonus
Eligibility for bonus	<p>For this he has to work in the establishment for not less thirty workings days in that accounting year.</p> <p>An employee suspended but subsequently reinstated with full back wages cannot be treated to be ineligible for bonus for the period of suspension as held in 'Project Manager, Ahmadabad Project, ONGC V. Sham Kumar Senegal' – (1995) 1 LLJ 863.</p>
Minimum and Maximum Bonus	<p>Section 10 provides that the employer shall be bound to pay every employee in respect of the accounting year a minimum bonus which shall be 8.33 % of the salary or wage earned by the employee during the accounting year or `100/- whichever is higher, whether or not the employer has any available surplus in the accounting year.</p> <p>Section 11 provides that if the allocable surplus exceeds the amount of minimum bonus payable to the employee, the employer shall be bound to pay to every employee in that year in proportion to the salary or wage earned by the employee during the accounting year subject to the maximum of 20% of such salary or wage.</p>
Bonus limit	<p>Section 12 provides that where the salary or wage of an employee exceeds `10,000/- per month, the bonus payable to such employee shall be calculated as if his salary or wage were `10,000/- per month.</p>
Adjustment of customary bonus or interim bonus	<p>Section 17 provides that where in any accounting year an employer has paid any puja bonus or other customary bonus to an employee or an employer has paid a part of the bonus payable, then the employer shall be entitled to deduct the amount of bonus so paid from the amount of bonus payable by him to the employee in respect of that accounting year and the employee shall be entitled to receive only the balance.</p>
Time limit	<ul style="list-style-type: none"> • If there is a dispute regarding the payment of bonus is pending before any authority, then the payment shall be made within a month on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute; • In any other case, within a period of 8 months from the close of the accounting

	year.
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MINIMUM WAGES ACT, 1948

Effect	This Act came into effect from 15.03.1948.
Fixing of minimum rates of wages	The appropriate Government may fix minimum rate of wages for- <ul style="list-style-type: none">• time work, known as a Minimum Time Rate;• piece work, known as a Minimum Piece Rate;• a guaranteed time rate;• overtime rate.
Different minimum wages	Section 3(3) (a) provides that different minimum rates of wages may be fixed for- <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;
Review of Minimum wages	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.
Procedure for fixing and revising minimum wages	<ol style="list-style-type: none">1. Committee Method2. Notification Method
Wages in kind	Section 11(1) of the Act provides that Minimum wages payable under this Act shall be paid in cash.
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.

CAPSULE: PAYMENT OF WAGES ACT, 1936

Effect	The Act came into effect from 28th March, 1937.
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> <p>(a) in factories, if a person has been named as the manager of the factory</p> <p>(b) 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;</p> <p>(c) 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;</p> <p>(d) in the case of contractor, a person designated by such contractor who is directly under his charge; and</p> <p>(e) in any other case, a person designated by the employer as a person responsible for complying with the provisions</p>
Time of payment of wages	<p>Section 5 provides the date on which the payment of wages are to be done.</p> <p>The wages of every person employed upon or in any railway, factory or industrial or other 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 other 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>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 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 employment is so terminated.</p> <p>All payments of wages shall be made on a working day.</p>
Fines	<ul style="list-style-type: none">• No fine shall be imposed on any employed person who is under the age of fifteen years;• 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 3 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.

Directors under COMPANIES ACT, 2013

Number of directors	<p>The Board shall have a minimum number of</p> <ul style="list-style-type: none"> • three directors in the case of public company and • two directors in the case of a private company and • in case of One Person Company one director. <p>The maximum number of directors shall be fifteen.</p> <p>A company may appoint more than 15 directors after passing a special resolution.</p>
Resident Director	<p>Every company shall have at least one director who has stayed in India for a total period of not less than 182 days in the previous year.</p>
Women Director	<p>The following classes of companies shall appoint at least one woman director-</p> <ul style="list-style-type: none"> • every listed company; • every other public company having- <ul style="list-style-type: none"> ○ paid up share capital Rs.100 crores or more; or ○ turnover of Rs.300 crores or more. <p>A company incorporated under the Companies Act shall comply with such appointment of woman director within a period of six months from the date of its incorporation.</p> <p>Any intermittent vacancy of a woman director shall be filled up by the Board at the earliest but not later than immediate next Board meeting or three months from the date of such vacancy whichever is later.</p>
Independent director	<p>Section 149 (4) provides that every listed company is required to appoint at least one third of the total number of directors as independent director.</p> <p>The following class or classes of companies shall have at least 2 directors as independent directors-</p> <ul style="list-style-type: none"> • the Public companies having paid up share capital of Rs.10 crores or more; or • the Public companies having turnover of Rs.100 crores or more; or • the Public companies which have, in aggregate, outstanding loans, debentures and deposits exceeding Rs.50 crores.
Nominee Director	<p>A 'nominee director' means a director nominated by any financial institution in pursuance of the provisions of any law for the time being in force, or of any agreement, or appointed by the Government or any other person to represent its interests.</p>

Appointment of director elected by small share holders	<p>'Small shareholders' means a shareholder holding shares of nominal value of not more than Rs.20000/-or such other sum as may be prescribed.</p> <p>A listed company may have one director elected by small shareholders.</p> <p>Rule 7 requires that a listed company, may upon notice of not less than 1000 small shareholders or one tenth of the total number of such shareholders, whichever is lower, have a small shareholders' director elected by small shareholders.</p> <p>Such director shall not be liable to retire by rotation.</p> <p>The tenure shall not exceed a period of three consecutive years and on the expiry of the tenure such director shall not be eligible for re-appointment.</p> <p>A disqualified person for the appointment of director shall not be eligible for such appointment.</p> <p>No person shall hold the position of small shareholder's director in more than two companies at the same time.</p> <p>A small shareholders' director shall not, for a period of 3 years from the date on which he ceases to hold office as a small shareholders' director in a company, be appointed in or be associated with such company in any other capacity either directly or indirectly.</p>
First directors	<p>Section 152 (1) provides that where no provision is made in the articles of a company for the appointment of first director, the subscribers to the memorandum who are individuals shall be deemed to be the first directors of the company until the directors are duly appointed.</p>
Additional Director	<p>Section 161 (1) provide that the articles of a company may confer on its Board of Directors the power to appoint any person, other than a person who fails to get appointed as a director in a general meeting, as an additional director at any time.</p> <p>Such director shall hold office up to the date of the next annual general meeting or the last on which the annual general meeting should have been held whichever is earlier.</p>
Alternate director	<p>Section 161(2) provides that the Board of Directors of a company may, if so authorized by its articles or by a resolution passed by the company in general meeting, appoint a person not being a person holding any alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period not less than 3 months from India.</p>
Appointment of Directors	<p>Every director, save as otherwise expressly provided in the Act, shall be appointed by the company in general meeting.</p>

	<p>The main requirement for the appointment of a director is that he is to obtain Director Identification Number ('DIN' for short).</p> <p>A person to be appointed as director shall furnish his DIN and a declaration that he is not disqualified to become a director under the Act.</p> <p>The said person is to give his consent to hold the office as director and the same is to be filed with the Registrar within 30 days of his appointment in Form - DIR -2.</p> <p>The company shall, within 30 days of the appointment of a director, file such consent with the Registrar in Form - DIR-12 along with the fee prescribed.</p>
Rotation of directors	<p>Unless the articles provide for the retirement of all directors at every annual general meeting, not less than two thirds of the total number of directors of a public company shall-</p> <ul style="list-style-type: none"> • be persons whose period of office is liable to determination by retirement of directors by rotation; and • be appointed by the company in general meeting. <p>The directors to retire by rotation at every annual general meeting shall be those who have been longest in office since their last appointment, but as between persons who became directors on the same day, those who are to retire shall, in default of and subject to any agreement among themselves, be determined by lot.</p> <p>The company may fill up the vacancy by appointing the retired director or some other person thereto.</p>
Re-appointment of Director	<p>A director liable to be retired may be re appointed in the general meeting.</p> <p>No person who is or has been a director of a company which-</p> <ul style="list-style-type: none"> • has not filed financial statements or annual returns for any continuous period of 3 financial years; or • has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more, shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of 5 years from the date on which the said company fails to do so.
Director Identification Number	<p>Every individual, who is to be appointed as director of a company shall make an application electronically in Form No. DIR-3 to the Central Government for allotment of DIN along with the prescribed fees.</p> <p>The form shall be verified by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.</p>

	<p>On application, the system shall generate an application number.</p> <p>The Central Government shall process the application and decide the approval or rejection and communicate the same to the applicant along with the DIN allotted in case of approval by way of a letter by post or electronically or in any other mode within 30 days from the receipt of such application.</p> <p>If any defect is found in the application the Central Government shall give intimation of such defect or incompleteness to the applicant by placing it on its web site and by email to the applicant to rectify such defects within 15 days from the date of intimation.</p> <p>The DIN allotted shall be valid up to the life time of the Director. The said number shall not be allotted to any other person. Similarly a person shall be allotted only one DIN.</p> <p>The director, on allotment of DIN, is to intimate the company in Form No. DIR-3C within 15 days from the intimation, given to him.</p> <p>Every company shall, within 15 days of the receipt of intimation, furnish the same with the Registrar.</p>
Disqualifications for appointment of director	<p>Section 164 of the Act details the disqualification of a person for the appointment as a Director. A person shall not be eligible for appointment as a Director of a company, if-</p> <ul style="list-style-type: none"> (a) he is of unsound mind and stands so declared by a competent court; (b) he is an undischarged insolvent; (c) he has applied to be adjudicated as an insolvent and his application is pending; (d) he has been convicted by a Court of any offence, whether involving moral turpitude or otherwise and sentenced to imprisonment for not less than 6 months and a period of 5 years has not elapsed from the date of expiry of the sentence; (e) if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of 7 years or more, he shall not be eligible to be appointed as a director in any company; (f) an order disqualifying him for appointment as a director has been passed by the Court or Tribunal and the order is in force; (g) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others and six months have elapsed from the last day fixed for the payment of the call; (h) he has been convicted of the offence dealing with related party transactions under Section 188 at any time during the last preceding five years; or (i) he has not obtained DIN.

Vacation of office of a director	<p>Section 167 provides that the office of a Director shall become vacant in case-</p> <ul style="list-style-type: none"> • he incurs any of the disqualifications specified in Section 164; • he absents himself from all the meetings of the Board of Directors held during a period of 12 months with or without seeking leave of absence of the Board; • he acts in contravention of the provisions of Section 184 • he fails to disclose his interest • he becomes disqualified by an order of a Court or Tribunal; • he is removed in pursuance of the provisions of the Act; • he, having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company, ceases to hold such office or other employment in that company.
Resignation of a director	<p>Section 168 provides the procedure for the resignation of a director as detailed below:</p> <ul style="list-style-type: none"> • A director may resign from his office by giving a notice in writing to the company; • He shall within 30 days from the date of resignation, forward to the Registrar a copy of his resignation along with the reasons for the resignation, in Form No. DIR - 11 along with the fee; • The company shall intimate the Registrar in Form No. DIR-12 within one month from the date of receipt of such notice; • The director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure;
Removal of Directors	<ul style="list-style-type: none"> • A special notice of any resolution, shall be sent for a meeting in which the director is to be removed to the company; • On receipt of notice of a resolution to remove a director, the company shall send a copy of it to the director concerned; • The director, whether he is a member or not, is entitled to be heard on the resolution at the meeting; • The director concerned may make his representation in writing to the company; • The director may request the company to send his representation to the members of the company;
Appointment of Managing Director, whole time director	<p>Section 196(1) provides that a company shall not appoint a managing director and a manager at the same time.</p> <p>A company shall appoint or re-appoint a managing director or whole time director for tenure of five years only at a time.</p> <p>The minimum age limit for appointment of Managing Director and the Whole time director is 21 years.</p> <p>The maximum age limit is 70 years.</p>

	<p>He may not continue after 70 years.</p> <p>The appointment of a person who has attained the age of 70 years may be made by passing a special resolution.</p> <p>The disqualifications for appointment of a Managing Director or Whole Time Director, under Section 196 (3) are as follows-</p> <ul style="list-style-type: none"> • if he is an insolvent or has at any time been adjudged as an insolvent; • has at any time suspended payment to his creditors or makes, or has at any time, a composition with them; or • has at any time been convicted by a court of an offence and sentenced for a period of more than six months. <p>The approval of the Central Government is required in case such appointment is varied to the conditions specified in Part I of Schedule V.</p> <p>Part I of Schedule V imposed the following additional conditions to be fulfilled for the appointment of a Managing Director or a Whole time director without the approval of the Central Government-</p> <p>(a) he had not been sentenced to imprisonment for any period, or to a fine exceeding Rs.1000/- for the conviction of any offence under any of the following Acts-</p> <ul style="list-style-type: none"> • the Indian Stamps Act, 1899; • the Central Excise Act, 1944; • the Industries (Development and Regulation) Act, 1951; • the Prevention of Food Adulteration Act, 1954; • the Essential Commodities Act, 1955; • the Companies Act, 2013; • the Securities Contracts (Regulation) Act, 1956; • the Wealth Tax Act, 1957; • the Income Tax Act, 1961; • the Customs Act, 1962; • the Competition Act, 2002; • the Foreign Exchange Management Act, 1999; • the Sick Industrial Companies (Special Provisions) Act, 1985; • the Securities Exchange Board of India, 1992; • the Foreign Trade (Development and Regulation) Act, 1992; • the Prevention of Money Laundering Act, 2002. <p>(b) He had not been detained for any period under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;</p> <p>(c) Where he is a managerial person in more than one company, he draws remuneration from one or more companies subject to the ceiling provided in Part II of this schedule;</p> <p>(d) He is resident of India.</p>
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	<p>Where an appointment of a Managing Director or Whole time director is not approved by the company at a general meeting any act done by him before such approval shall not be deemed to be invalid.</p> <p>A return in Form No. MR-11 shall be filed indicating the appointment of a Managing Director or Whole time director within 60 days of such appointment along with the fee.</p>
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REMUNERATION OF DIRECTORS

Overall remuneration	<p>Section 197 (1) provides that the total managerial remuneration payable by a public company to its directors, including Managing Director and a Whole time director in respect of any financial year shall not exceed 11% of the net profits of the company.</p> <p>The company, in general meeting may, with the approval of the Central Government, authorize the payment of remuneration exceeding 11% of the net profits of the company.</p>
Remuneration to MD or WTD	<p>The second proviso to Section 197(1) provides that the remuneration payable to any one Managing Director or whole time director or manager shall not exceed 5% of the net profits of the company.</p> <p>If there are more than one whole time director remuneration shall not exceed 10% of the net profits to all such directors and manager taken together.</p>
Remuneration payable to directors	<p>The remuneration payable to directors, who are neither Managing Directors nor Whole Time directors, shall not exceed 1% of the net profits if there is a Managing Director or Whole time director or manager.</p> <p>In other cases it shall not exceed 3% of the net profits.</p>
Remuneration when there is no profit	<p>Remuneration may be payable in such a situation in accordance with the provisions of Schedule V.</p>
Sitting fees	<p>A director may receive fee for attending the meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board. Such fees shall not exceed 1 lakh rupees per meeting of the Board or Committee thereof.</p>
Duties of a Director	<p>Section 166 of the Act prescribes the duties of a director under the provisions of this Act as detailed below:</p> <ul style="list-style-type: none"> • A director of a company shall act in accordance with the articles of the company; • A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the

	<p>shareholders, the community and for the protection of environment;</p> <ul style="list-style-type: none"> • A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment; • A director shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company; • A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company; • A director of a company shall not assign his office and any assignment so made shall be void;
POWERS OF THE BOARD OF DIRECTORS Powers of the Board: Section 179	<p>(1) to make calls on shareholders in respect of money unpaid on their shares;</p> <p>(2) to authorise buy-back of securities under section 68;</p> <p>(3) to issue securities, including debentures, whether in or outside India;</p> <p>(4) to borrow monies;</p> <p>(5) to invest the funds of the company;</p> <p>(6) to grant loans or give guarantee or provide security in respect of loans;</p> <p>(7) to approve financial statement and the Board's report;</p> <p>(8) to diversify the business of the company;</p> <p>(9) to approve amalgamation, merger or reconstruction;</p> <p>(10) to take over a company or acquire a controlling or substantial stake in another company;</p> <p>(11) to make political contributions;</p> <p>(12) to appoint or remove key managerial personnel (KMP);</p> <p>(13) to appoint internal auditors and secretarial auditor;</p> <p>The Board may, by a resolution passed at a meeting, delegate to any committee of directors, the managing director, the manager or any other principal officer of the company or in the case of a branch office of the company, the principal officer of the branch office, the powers specified in (4) to (6) above on such conditions as it may specify.</p>
Section 180: Restrictions on powers of Board	<p>The board can exercise the following powers only with the consent of the company by special resolution, namely -</p> <p>(a) to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings.</p> <p>(b) to invest otherwise in trust securities the amount of compensation received by it as a result of any merger or amalgamation;</p> <p>(c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves, apart from temporary loans obtained from the company's bankers in the ordinary course of business;</p> <p>(d) to remit, or give time for the repayment of, any debt due from a director.</p>

Section 181 : Contributions to Charitable Funds and Political Parties	<p>The power of making contribution to 'bona fide' charitable and other funds is available to the board subject to certain limits.</p> <p>Further, the permission of company in general meeting is required if such contribution exceeds 5% of its average net profits for the three immediately preceding previous years</p>
Section 182 : Prohibitions and Restrictions Regarding Political Contributions	<p>According to Section 182 of the Act, a company, other than a government company which has been in existence for less than three financial years, may contribute any amount directly to any political party.</p> <p>The contribution must be authorised by board in its meeting by resolution and such resolution deemed to be the justification in law for such contribution.</p> <p>The donation may be directly or indirectly. The contribution so made if or likely to affect the public support for a political party deemed to be the contribution for political purpose.</p> <p>If the expenditure incurred on advertisement in any publication souvenir, brochure, tract, pamphlet or the like is deemed as political contribution if such publication is by or on behalf of political party or if not, then for the advantage to such political party for a political purpose.</p>
Section 183: Power of Board and other Persons to make Contributions to National Defence Fund, etc.	<p>The Board is authorised to contribute such amount as it thinks fit to the National Defence Fund or any other fund approved by the Government for the purpose of national defence.</p>

BUSINESS ETHICS

Ethics	Ethics is a set of rules that define right and wrong conduct. The term 'ethics' derived from Latin word 'ethos' which means character. Ethics is a social science which deals with concepts such as right and wrong, moral and immoral, good and bad behavior of dealing with one another.
Type of ethics	<p>Ethics may be divided into three types as follows:</p> <p>Meta ethics deal with the nature of moral judgment. It looks at the origins and meanings of ethical principles.</p> <p>Normative ethics is concerned with the content of moral judgments and the criteria for what is right or wrong.</p> <p>Applied ethics looks at controversial topics like war, animal rights and capital punishment.</p>
VALUES AND ATTITUDES OF PROFESSIONAL ACCOUNTANTS	The role of management accounting is also described as problem solving, score keeping and attention directing.
Value Chain	<p>Value chain is a visualization of complete business as a sequence of activities in which usefulness is added to the products or services produced and sold by an organization. Management accountants provide decision support for managers in each activity of value chain.</p> <p>The design of management accounting system has to take into consideration the decision needs of the managers. Also it has to take into consideration the new themes and challenges that managers face currently.</p> <ul style="list-style-type: none">• Customer focus:• Key Success Factors:• Continuous improvement or Kaizze:• Value Chain and Supply Chain Analysis:
Professional Ethics	Like other professionals, accountants also face ethical dilemmas. They need ethical guidelines. Competence, confidentiality, integrity and objectivity shall be the important themes of the guidance note.
Mission statement of ICAI	<p>The Institute has promulgated the following standards of ethical conduct for practitioners-</p> <ul style="list-style-type: none">• maintain at all times independence of thought and action;• not to express an opinion on cost / financial reports or statements without first assessing her or his relationship• when preparing cost / financial reports or statements or expressing an opinion on

	<p>cost / financial reports or statements, disclose all material facts known</p> <ul style="list-style-type: none"> • not to disclose or use any confidential information • inform his or her employer or client of any business connections or interests • not hold, receive, bargain for or acquire any fee, remuneration or benefit without such employer's or client's knowledge and consent; and • take all reasonable steps to establish a clear understanding of the scope and objectives of the work before it is commenced • conduct himself or herself toward other Members with courtesy and good faith; • not to accept any engagement to review the work of another Member for the same employer except with the knowledge of that Member. • not to attempt to gain an advantage over other Members. • not to act maliciously. • at all times maintain the standards of competence. • undertake only such work as he or she is competent.
SEVEN PRINCIPLES OF PUBLIC LIFE	<p>The Seven Principles of Public Life were set out by Lord Nolan for the first time in the year 1995.</p> <p>The British Government appointed a committee called as Committee on Standards in Public Life to advise the Prime Minister on ethical standards of public life. The Committee was established in October 1994.</p> <p>The seven principles of public life as amended up to and as on 2015 are as follows-</p> <ul style="list-style-type: none"> • Selflessness • Integrity • Objectivity • Accountability • Openness • Honesty • Leadership
Areas in business ethics	<ul style="list-style-type: none"> • Corporate Social Responsibility; • Fiduciary responsibility to stake holders; • Industrial espionage.
General business ethics	<ul style="list-style-type: none"> • Ethics of human resource management; • Ethics of sales and marketing; • Ethics of production; • Ethics of Intellectual property, knowledge and skills;
Need for business ethics	<p>The following points discuss the need and importance of business ethics-</p> <ul style="list-style-type: none"> • to stop business malpractice; • to improve customers' confidence;

		<ul style="list-style-type: none"> • for the survival of business; • to safeguard consumers' rights; • to protect employees and shareholders; • to develop good relations; • to create good image; • for smooth functioning; • consumer movement; • consumer satisfaction; • importance of labor; • healthy competition.
Advantages business ethics	of	<p>The following are the advances for following the principles of business ethics-</p> <ul style="list-style-type: none"> • It offers a company a competitive advantage; • Goodwill of the firm hikes depending on its responds towards its ethical issues; • Productivity through rigid, firm and sincere workers as well as other business chain members; • Through increasing morale and trust business can increase their market share; • Publicity due to well and ethical performance; • Acceptance of products of the company by the public;
Disadvantage business ethics	of	<ul style="list-style-type: none"> • It negativates the object of the business concerns in maximizing the profits; • Diversity in achievements; • The company has to incur extra expenditure.