

FAQs ON LABOUR & EMPLOYMENT LAW IN INDIA



The labour and employment laws in India are framed and implemented by both the Central Government and respective State Governments. The primary focus of labour and employment laws in India are protection of interests of employees and workers and regulation of working conditions.

This part contains basic queries relating to purpose, applicability and scope of some of the important employment laws and regulations. The detailed aspects of some of these laws will be covered in separate parts subsequently.

1. What are the various categories of labour and employment laws in India?

Employment laws in India can be categorised as follows: (i) industrial relations, (ii) industrial safety and health, (iii) child and women labour, (iv) social security, (v) wages, (vi) labour welfare and (vi) employment.

2. What are the important labour and employment laws typically applicable to businesses in India?

Some of the important employment and labour laws which should be considered while setting up and operating a business in India are as follows:

- (i) Factories Act, 1948
- (ii) Industrial Dispute Act, 1947
- (iii) Shops and Establishment Act as framed by respective State Governments
- (iv) Minimum Wages Act, 1948
- (v) Payment of Wages Act, 1936
- (vi) Payment of Bonus Act, 1965
- (vii) Contract Labour (Regulation and Prohibition) Act, 1970
- (viii) Employees Provident Fund and Miscellaneous Provisions Act, 1952
- (ix) Employees' State Insurance Act, 1948
- (x) Payment of Gratuity Act, 1965
- (xi) Equal Remuneration Act, 1976
- (xii) Maternity Benefit Act, 1961
- (xiii) Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Central Government and respective State Governments have framed rules under the above mentioned laws.

3. What is the purpose and objective of the Factories Act, 1948?

The purpose and objective of this law is to regulate working conditions in factories and health, safety

and welfare of workers employed in factories.

4. What is the applicability of the Factories Act, 1948?

This law is applicable to all factories in which: (i) 10 or more workers are employed in the preceding 12 months, where manufacturing process is carried out with the aid of power; and (ii) 20 or more workers are employed in the preceding 12 months, where manufacturing process is carried out without the aid of power.

Further, this law is applicable in respect of workers who are employed in a factory, whether for remuneration or not, in any manufacturing process and any activity incidental to the manufacturing process.

5. Who is responsible to comply with the provisions of the Factories Act, 1948?

An 'occupier' that is, a person who has the ultimate control over the affairs of the factory is responsible for the compliances. In case of a company, all directors and any person authorised by the directors will be considered to be an occupier and will be responsible for compliances under this law.

6. What are the compliances required under the Factories Act, 1948?

Under this law, the occupier is required to obtain a license to establish and operate a factory. The application for license has to be made at least 15 days prior to the occupation or use of a premise as a factory. The occupier or the manager needs to maintain a register of workers employed in the factory. Further, the occupier also needs to display a notice in English and vernacular language on a convenient place in the factory premise containing an abstract of this law.

7. What are the basic duties and?

Some of the basic duties and responsibilities of the occupier include; (i) maintenance of plant and machinery which are safe and without health risks for the workers, (ii) make arrangements in the factory for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances and (iii) provide information, instruction, training and supervision which are necessary to ensure the health and safety of all workers at work.



8. What are the penalties or punishments for non-compliance with the provisions of the Factories Act, 1948?

In the event of non-compliance with the provisions of the Factories Act, 1948, the occupier will be liable to pay a fine and also punishable with imprisonment. The amount of fine payable and the term of imprisonment will depend on the nature of the non-compliances.

9. What is the purpose and objective of Industrial Disputes Act, 1947?

The main purpose of this law is to provide for mechanism for investigation and settlement of industrial disputes. This law also governs the payment of compensation to workers on account of closure of a business, lay off or retrenchment.

10. What is the applicability of the Industrial Disputes Act, 1947?

This law applies to every Industry and its various industrial establishment carrying on any business, trade, manufacture or distribution of goods and services irrespective of the number of workmen employed.

This law is applicable in respect of workers, who are employed to do any manual, skilled or unskilled, technical, operational, clerical or supervisory work for reward, excluding workers who are employed in the supervisory or managerial capacity and who draws more than INR 10,000 per month.

11. What matters are governed by the Industrial Disputes Act, 1947?

The matters which are governed by this law include: (i) settlement of disputes between employer and

workers, (ii) regulation and prohibition of strikes and lockouts by workers, (iii) workers' rights in cases of lay off or retrenchment by employers, and (iv) regulation and prohibition of unfair labour practices by employers.

12. What are the penalties for non-compliance or contravention of the Industrial Disputes Act, 1947?

The penalty for non-compliance or contravention of this law includes fine and imprisonment of the person in charge of the company. The amount of fine and the term of imprisonment will depend on the nature of non-compliance or contravention.

13. What is the purpose and objective of Shops and Establishment Act?

The main objective of this law is to regulate payment of wages, terms of service, leaves, work conditions, and certain other benefits for people employed in shops and commercial establishments. There is no central Shops and Establishment Act and each State in India has framed their own Shops and Establishment Act.

14. What is the applicability of the Shops and Establishment Act?

This law is applicable to all shops and commercial establishments from which any business, trade or profession is carried on.

15. What are the compliance requirements under the Shops and Establishment Act?

Every owner of an establishment needs to obtain registration certificate for establishing and operating a commercial establishment. An owner of a shop or a commercial establishment is also required to comply with the provisions relating to; (i) opening and closing hours of the shops or establishment, (ii) working hours for its employees, (iii) holidays, (iv) employment of women and children and (v) health and safety of employees.



16. What are the penalties for non-compliance or contraventions to Shops and Establishment Acts?

The penalties for non-compliance or contraventions to Shops and Establishment Act involves fines on the employer. The amount of fine depends on the nature of non-compliance or contravention. Further, each State has prescribed varied rate of fines under respective Shops and Establishment Acts.

17. What is the purpose and objective of Minimum Wages Act, 1948?

The purpose and objective of this law is to ensure that the workers and employees get fair wages for their labour. As per this law, all employers who engage employees in the prescribed employments are required to pay the minimum wages, as prescribed by the Government, to its employees.

18. What is the applicability of Minimum Wages Act, 1948?

This law is applicable to all employers who hire employees in respect of any prescribed employments. Further, the law applies to all employees who are employed to do any work, whether skilled or unskilled, manual or clerical for hire or reward.

19. What are the prescribed employments to which the Minimum Wages Act, 1948 is applicable?

The list of employment to which the law is applicable is provided in a 'schedule' to the Act, which includes employments in; tea or coffee plantation, construction or maintenance of roads or building, mining, loading and unloading of goods in ports and agriculture, etc.

20. Who fixes the minimum wages under the Minimum Wages Act, 1948?

The rates of minimum wages are fixed by the Central Government and respective States Governments through notifications, on employments which are under their authority.

21. What are the compliances for employers under the Minimum Wages Act, 1948?

All employers to whom this law applies are required to pay to its employees at least the prescribed minimum wages, maintain registers containing details of the employees and the wages paid and have to display notices in their factory or establishment.

22. What are the penalties for non-compliance with the provisions of Minimum Wages Act, 1948?

In the event a company fails to comply with the provisions of this law, the company will be liable to pay a fine. Further, every person who is in charge of the company (including any director, manager, officer or secretary) will also be liable to pay a fine and will also be liable to be punished with imprisonment of up to 6 months. The amount of the fine will depend on the nature and type of non-compliances.

23. What is the purpose and objective of the Payment of Wages Act, 1936?

The main purpose and objective of this law is to regulate the payment of wages of persons employed in any industry.

24. What is the applicability of Payment of Wages Act, 1936?

This law is applicable to person employed in factories, railways, industrial and other establishment and earning wages up to INR 24,000 per month.

25. Who is responsible for payment of wages under the Payment of Wages Act, 1936?

The manager of a factory or a supervisor of an industry is responsible for payment of wages as an employer for factory, industry or any other establishments. Under this law an employer make is required to make timely payment of wages to the employees.

26. What matters are regulated under the Payment of Wages Act, 1936?

This law contains provisions with respect to the responsibility for payment of wages, fixing of wage-periods, time of payment of wages, permissible deductions, maintenance of records and registers.

27. What are the penalties for non-compliance or contravention of Payment of Wages Act, 1936?

The penalties for non-compliance or contraventions of this law involves fines on the employer. The amount of fine depends on the nature of non-compliance or contravention.

28. What is the purpose and objective of Payment of Bonus Act, 1965?

The objective of this law is to reward the employee of the organization by sharing the profits earned and is linked to productivity.

29. What is the applicability of Payment of Bonus Act, 1965?

This law is applicable to every establishment and factory in which 20 or more persons are employed on any day during a year and with respect to such persons who is drawing a remuneration of less than INR 21,000.

30. What is the maximum and minimum bonus payable under the Payment of Bonus Act, 1965?

Bonus is payable under this law between 8.33% (minimum) to 20% (maximum) of the wages during a financial year.

31. What are the compliance requirements for an employer under the Payment of Bonus Act, 1965?

Every employer has to maintain a register and record containing details of employees and computation of bonus paid.



32. What are the penalties for non-compliance or contravention of, 1965?

The penalties for non-compliance or contraventions to this law involves fines on the employer. The amount of fine depends on the nature of non-compliance or contravention.



33. What is the purpose and objective of the Contract Labour (Regulation and Prohibition) Act, 1970?

The purpose and objective of this law is to regulate employment and working conditions of contract labours.

34. What is the applicability of the Contract Labour (Regulation and Prohibition) Act, 1970?

This law applies to: (i) to every commercial establishment in which 20 or more workers, are employed or were employed on any day of the preceding 12 months as contract labours, or (ii) to every contractor who employs or who employed 20 or more workers, on any day of the preceding 12 months.

The provisions of this law are applicable to all workers who are employed in any establishment to do any skilled, unskilled, supervisor, technical or clerical work for reward but excluding workers who are employed in a supervisory, managerial or administrative capacity or who is drawing a wage of INR 5,000 or more per month.

35. What are the licensing requirements under the Contract Labour (Regulation and Prohibition) Act, 1970?

An establishment and a contractor to which this law applies needs to obtain registrations for employing and engaging workers on a contract basis. No establishment or contractor can employ or engage any worker on a contract basis unless it has obtained the registration.

36. What are the compliances required to be done by an establishment under Contract Labour (Regulation and Prohibition) Act, 1970?

In addition to obtaining registrations, a principal employer (person in charge of the establishment) needs to ensure the welfare and health of the workers employed on a contract basis by providing adequate facilities and also ensure that the wages are paid timely by the contractor. Under this law, if the contractor fails to discharge his duties with respect to payment of wages to the workers, the principal employer will be responsible for payment of all dues.

37. What are penalties for non-compliance or contravention of Contract Labour (Regulation and Prohibition) Act, 1970?

In case of non-compliance or contravention of this law by any person / company, the company and every officer in charge of such company will be liable to pay a fine and punished with imprisonment as prescribed under this law.



38. What is the purpose and objective of Employees Provident Fund and Miscellaneous Provisions Act, 1952?

The object of this law is to provide for security to the employees and their dependents on retirement or death. An 'employee provident fund' is a retirement savings scheme that the Government of India has mandated for all salaried employees. To be eligible to avail the benefits under this law, employees should drawing wages of less than INR 15,000 per month.

39. What is the applicability of Employees Provident Fund and Miscellaneous Provisions Act, 1952?

This law applies to factories or establishments in which 20 or more employees are employed.

40. What is requirement for mandatory registration under Employees Provident Fund and Miscellaneous Provisions Act, 1952?

Registration under this law is mandatory for factories and other establishments employing 20 or more person.

41. Is it possible for establishment employing less than 20 people to be covered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952?

Yes, establishments with less than 20 employees can obtain voluntary registration under the law.

42. Which is the registering authority under the Employees Provident Fund and Miscellaneous Provisions Act, 1952?

Employees' Provident Fund Organisation is the registering authority under this law.

43. What is the rate of contribution of employer and employee under the Employees Provident Fund and Miscellaneous Provisions Act, 1952?

Contributions are to be made at the rate of 12% of the wages by the employers with the employee contributing an equal amount.

44. What is the penalty for non-compliance or contravention of the Employees Provident Fund and Miscellaneous Provisions Act, 1952?

Any employer who contravenes or fails to comply with the provisions of this law is liable to pay a penalty and punished with imprisonment.

45. What is purpose and objective of Employees' State Insurance Act, 1948?

It is social welfare legislation enacted with the objective of providing certain benefits to employees in case of sickness, maternity and employment injury.

46. What is the applicability of the Employees' State Insurance Act, 1948?

This law is applicable to establishments where 10 or more persons are employed. All employees, including casual, temporary or contract employees drawing wages less than INR 21,000 per month, are covered under this law.

47. What is the rate of contribution under the Employees' State Insurance Act, 1948?

An employer is required to contribute at the rate of 4.75% of the wages paid / payable in respect of every wage period. The employees are also required to contribute at the rate of 1.75% of their wages.

48. Which is the registering authority under the Employees' State Insurance Act, 1948?

All establishments coming within the purview of this law are required to obtain registration from Employees' State Insurance Corporation.

49. What is the penalty for non-compliance or contravention of Employees' State Insurance Act, 1948?

Any employer who contravenes or fails to comply with the provisions of this law is liable to pay a penalty and punished with imprisonment.

50. What is the purpose and objective of Payment of Gratuity Act, 1972?

A 'gratuity' is a lump sum that a company pays when an employee leaves an organization. The purpose of this law is to provide for a scheme and regulate the payment of gratuity by applicable establishments.

51. What is the applicability of the Payment of Gratuity Act, 1972?

This law is applicable to all establishments which employs 10 or more employees. Every employee, who has completed continuous service of 5 years or more, irrespective of his wages, is entitled to receive gratuity upon termination of his employment, on account of (i) retirement; or (ii) death or disablement due to accident or disease.

52. How is the amount payable as gratuity to an employee calculated?

The formula at which the amount of gratuity payable is calculated is based on the 15 days of last drawn salary for each completed year of service or part of thereof in excess of six months.

53. What is the penalty for non-compliance or contravention of the Payment of Gratuity Act, 1972?

Any employer who contravenes or fails to comply with the provisions of this law is liable to pay a penalty and punished with imprisonment.

54. What is the purpose of Equal Remuneration Act, 1976?

The purpose and objective of this law is to ensure payment of equal remuneration to men and women workers for the same work and prevention of discrimination on the ground of sex, against women in the matter of employment, recruitment and for matters connected to it.

55. Who all are covered under Equal Remuneration Act, 1976?

All the person employed by employer of any establishment, factory, mine, oilfield, plantation, port, railway company or shop.

workplace, and to provide for prevention and redressal of complaints of sexual harassment.

63. What is the applicability of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?

This law is applicable to every workplace, establishment, company or organization employing 10 or more employees.

64. What are the duties and obligations of an employer under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?

Under this law, every employer is required to; (i) frame and implement an anti-sexual harassment policy as prescribed under law, (ii) set up an internal complaints committee as prescribed under the law for administering any complaints; (iii) provide a safe working environment, which shall include safety from persons coming to the workplace, (iv) display the penal consequences of workplace sexual harassment, and the order constituting the internal complaints committee, at any conspicuous place at the workplace, (v) Conduct training programs to create awareness and sensitization among employees at all levels, (vi) provide necessary facilities for the members of the internal complaints committee and assist in any manner required to enable the aggrieved woman to secure justice and (viii) monitor the timely submission of the reports by the IC and assist in any manner required to enable the aggrieved woman to secure justice.

65. What is the penalty for non-compliance or contravention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?

Any employer who contravenes or fails to comply with the provisions of this law is liable to pay a penalty.



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