USEFUL TIPS ON LABOUR LAWS

Composed By

P.B.S. KUMAR
B.Sc, MA(PM), MA(Ind. Eco.), MBA(HR), BGL, DLL, DPM
Manager-HR
ARANI AGRO OIL INDUSTRIES LIMITED
KAKINADA-533003
East Godavari, (A.P.)
APPRENTICES ACT, 1961

CHECKLIST

**Object of the Act**
Promotion of new manpower at skills. Improvement/refinement of old skills through theoretical and practical training in number of trades and occupation

**Applicability of the Act**
Areas and industries as notified by the Central Government

**Apprenticeship Advisor**
Central Apprenticeship Advisor – when appointed by Central Government.

**Industry**
Industry means any industry, or business or in which any trade, occupation or subject/field in engineering or technology or any vocational course may be specified as a designated trade

**Qualification for being trained as an Apprentice**
A person cannot be an apprentice in any designated trade unless
- He is not more than 14 years of age;
- He satisfies such standard of education and physical fitness as may be prescribed.

**Contract of Apprenticeship**
To contain such terms and conditions as may be agreed to by the apprentice, or his guardian (in case he is a minor) and employers.

**Conditions for Novation of Contract of Apprenticeship**
- There exists an apprenticeship contract.
- The employer is unable to fulfill his obligation.
- The approval of the Apprenticeship Advisor is obtained.
  - Agreement must be registered with the Apprenticeship Advisor.

**Termination of Apprenticeship**
On the expiry of the period of Apprenticeship training.
On the application by either of the parties to the contract to the Apprenticeship Advisor

**Payment to Apprentices**
The employer to pay such stipend at a rate of not less than the prescribed minimum rate as may be specified.

**Conditions of Apprenticeship**
- To learn his trade conscientiously, diligently.
- To attend practical and instructional classes regularly.
- To carry out all lawful orders.
- To carry out contractual obligations.

**Health, safety & Welfare measures for Apprentices**
As per Factories Act or Mines Act as the case may be when undergoing training.

**Hours of work**
- 42 to 48 in a week while on theoretical training.
- 42 in a week while on basic training.
- 42 to 45 in a week in second year of training.
- As per other workers (in the third year).
- Not allowed to work between 10 PM to 4 AM unless approved by Apprenticeship Advisor.

**Leave and Holidays**
- Casual leave for the maximum period of 12 days in a year.
- Medical leave for the maximum period of 15 days and the accumulated leave upto 40 days in a year.
- Extraordinary leave up to a maximum period of 10 days in a year.

**Number of Apprentices in Designated Trade**
To be determined by The Central Government after consulting the Central Apprenticeship Council

**Obligations of employers**
- To provide the apprentice with the training in his trade.
- To ensure that a person duly qualified is placed in charge of the training of the apprentice.
- To carry out contractual obligations.

**Employer's liability to pay compensation for injury**
As per provisions of Workmen's Compensation Act.

**Offences & Punishment**
Imprisonment of a term up to 6 months or with fine when employer (I) engages as an apprentice a person who is not qualified for being so engaged or (ii) fails to carry out the terms and conditions of a contract of apprenticeship, or (iii) contravenes the provisions of the Act relating to the number of apprentices which he is required to engage under those provisions.
**CONTRACT LABOUR (REGULATION & ABOLITION) ACT, 1970**

**CHECKLIST**

**Object of the Act**
To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

**Applicability**
- Every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour.
- Every contractor who employs or who employed on any day of the preceding twelve months 20 or more workmen.

Sec. 1

**Principles of Employment of Contract Labour**
Only by the appropriate Government through issue of notification after consultation with the Board (and not Courts) can order the prohibition of employment of contract labour.

Sec. 10

**Revocation or Suspension & Amendment of Licences**
- When obtained by misrepresentation or suppression of material facts.
- Failure of the contractor to comply with the conditions or contravention of Act or the Rules.

Sec. 9

**Laws, Agreement or standing orders inconsistent with the Act- Not Permissible**
Unless the privileges in the contract between the parties or more favourable than the prescribed in the Act, such contract will be invalid and the workers will continue to get more favourable benefits.

Sec. 20

**Registries of Contractors**
- Principal employer
  - To maintain a register of contractor in respect of every establishment in Form XII.
- Contractor
  - Rule 74
  - To maintain register of workers for each registered establishment in Form XIII.
  - To issue an employment card to each worker in Form XIV.
  - To issue service certificate to every workman on his termination in Form XV.

Rules 75, 76 and 77

**Liability of Principal Employer**
- To ensure provision for canteen, restrooms, sufficient supply of drinking water, latrines and urinals, washing facilities.
- Principal employer entitled to recover from the contractor for providing such amenities or to make deductions from amount payable.

Sec. 20

**Revocation of Registration**
When obtained by misrepresentation or suppression of material facts etc. after opportunity to the principal employer.

Sec. 9

**Revocation of Establishment**
Principal employer employing 20 or more workers through the contractor or the contractor(s) on deposit of required fee in Form 1.

Sec. 7

**Welfare measures to be taken by the Contractor**
- Contract labour either one hundred or more employed by a contractor for one or more canteens shall be provided and maintained.
- First Aid facilities.
- Number of rest-rooms as required under the Act.
- Drinking water, latrines and washing facilities.

Sec. 16 & 17

**Penalties**
<table>
<thead>
<tr>
<th>Sec.</th>
<th>Offence</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 22</td>
<td>Obstructions</td>
<td>For obstructing the inspector or failing to produce registers etc. - 3 months’ imprisonment or fine upto Rs.500, or both.</td>
</tr>
<tr>
<td>Sec. 23</td>
<td>Violation</td>
<td>For violation of the provisions of Act or the Rules, imprisonment of 3 Months or fine upto Rs.1000. On continuing contravention, additional fine upto Rs.100 per day</td>
</tr>
</tbody>
</table>
**CHECKLIST**

### Eligibility

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment.

### Applicability

- Every establishment which is factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed.
- Any other establishment employing 20 or more persons which Central Government may, by notification, specify in this behalf.
- Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

### Payment of Contribution

- The employer shall pay the contribution payable to the EPF, DLI and Employees’ Pension Fund in respect of the member of the Employees’ Pension Fund employed by him directly by or through a contractor.
- It shall be the responsibility of the principal employer to pay the contributions payable to the EPF, DLI and Employees’ Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees employed by the contractor.

### Clarification about Contribution

After revision in wage ceiling from Rs.5000 to Rs.6500 w.e.f. 1.6.2001 per month, the government will continue to contribute 1.16% up to the actual wage of maximum Rs.6500 per month towards Employees’ Pension Scheme. The employer’s share in the Pension Scheme will be Rs.541 w.e.f. 1.6.2001.

Under Employees’ Deposit-Linked Insurance Scheme the contribution @ 0.50% is required to be paid up to a maximum limit of Rs.6500.

The employer also will pay administrative charges @ 0.01% on maximum limit of Rs.6500 whereas an exempted establishment will pay inspection charges @ 0.005% on the total wages paid.

### Rates of Contribution

<table>
<thead>
<tr>
<th>SCHEME</th>
<th>EMPLOYEE’S</th>
<th>EMPLOYER’S</th>
<th>CENTRAL GOVT’S</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provident Fund</td>
<td>12%</td>
<td>Amount &gt; 8.33% (in case where contribution is 12% of 10%)</td>
<td>NIL</td>
</tr>
<tr>
<td>Scheme</td>
<td></td>
<td>10% (in case of certain Establishments as per details given earlier)</td>
<td></td>
</tr>
<tr>
<td>Insurance Scheme</td>
<td>NIL</td>
<td>0.5</td>
<td>NIL</td>
</tr>
<tr>
<td>Pension Scheme</td>
<td>NIL</td>
<td>8.33% (Diverted out of Provident Fund)</td>
<td>1.16%</td>
</tr>
</tbody>
</table>

### Benefits

Employees covered enjoy a benefit of Social Security in the form of an unattachable and unwithdrawable (except in severely restricted circumstances like buying house, marriage/education, etc.) financial nest egg to which employees and employers contribute equally throughout the covered persons’ employment. This sum is payable normally on retirement or death. Other Benefits include Employees’ Pension Scheme and Employees’ Deposit Linked Insurance Scheme.

### Rates of Contribution

<table>
<thead>
<tr>
<th>SCHEME</th>
<th>EMPLOYEE’S</th>
<th>EMPLOYER’S</th>
<th>CENTRAL GOVT’S</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provident Fund</td>
<td>12%</td>
<td>Amount &gt; 8.33% (in case where contribution is 12% of 10%)</td>
<td>NIL</td>
</tr>
<tr>
<td>Scheme</td>
<td></td>
<td>10% (in case of certain Establishments as per details given earlier)</td>
<td></td>
</tr>
<tr>
<td>Insurance Scheme</td>
<td>NIL</td>
<td>0.5</td>
<td>NIL</td>
</tr>
<tr>
<td>Pension Scheme</td>
<td>NIL</td>
<td>8.33% (Diverted out of Provident Fund)</td>
<td>1.16%</td>
</tr>
</tbody>
</table>

### Damages

- Less than 2 months ....@ 17% per annum
- Two months and above but less than upto four months ....@22% per annum
- Four months and above but less than upto six months ....@ 27% per annum
- Six months and above

### Penal Provision

Liable to be arrested without warrant being a cognisable offence.

Defaults by employer in paying contributions or inspection/administrative charges attract imprisonment upto 3 years and fines upto Rs.10,000 (S.14). For any retrospective application, all dues have to be paid by employer with damages upto 100% of arrears.
EMPLOYEES’ STATE INSURANCE
ACT, 1948 & the SCHEME

CHECK LIST

**Applicability of the Act & Scheme**

Is extended in area-wise to factories using power and employing 10 or more persons and to non-power using manufacturing units and establishments employing 20 or more persons upto Rs.7500/- per month w.e.f. 1.4.2004. It has also been extended upon shops, hotels, restaurants, roads motor transport undertakings, equipment maintenance staff in the hospitals.

**Coverage of employees**

- Drawing wages upto Rs.10,000/- per month engaged either directly or thru’ contractor

**Rate of Contribution of the wages**

- Employers’ 4.75%
- Employees’ 1.75%

**Manner and Time Limit for making Payment of contribution**

The total amount of contribution (employee’s share and employer’s share) is to be deposited with the authorised bank through a challan in quadruplicate on or before 21st of month following the calendar month in which the wages fall due.

**THE ESI SCHEME TODAY**

- No. of implemented Centres: 677
- No. of Employers covered: 2.38 lacs
- No. of Insured Persons: 183 lacs
- No. of Beneficiaries: 1453
- No. of Panel Clinics: 2950

**Benefits**

To the employees under the Act

Medical, sickness, extended sickness for certain diseases, enhanced sickness, dependents maternity, besides funeral expenses, rehabilitation allowance, medical benefit to insured person and his or her spouse.

**WAGES FOR ESI CONTRIBUTIONS**

Registers/files to be maintained by the employers

<table>
<thead>
<tr>
<th>To be deemed as wages</th>
<th>NOT to be deemed as wages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic pay</td>
<td>Contribution paid by the employer to any pension/provident fund or under ESI Act.</td>
</tr>
<tr>
<td>Dearness allowance</td>
<td>Sum paid to defray special expenses entailed by the nature of employment – Daily allowance paid for the period spent on tour.</td>
</tr>
<tr>
<td>House rent allowance</td>
<td>Gratuity payable on discharge.</td>
</tr>
<tr>
<td>City compensatory allowance</td>
<td>Pay in lieu of notice of retrenchment compensation</td>
</tr>
<tr>
<td>Overtime wages (but not to be taken into account for determining the coverage of an employee)</td>
<td>Benefits paid under the ESI Scheme.</td>
</tr>
<tr>
<td>Payment for day of rest</td>
<td>Encashment of leave</td>
</tr>
<tr>
<td>Production incentive</td>
<td>Payment of Inam which does not form part of the terms of employment.</td>
</tr>
<tr>
<td>Bonus other than statutory bonus</td>
<td>Washing allowance for livery</td>
</tr>
<tr>
<td>Night shift allowance</td>
<td>Conveyance Amount towards reimbursement for duty related journey</td>
</tr>
<tr>
<td>Heat, Gas &amp; Dust allowance</td>
<td>Children education allowance (not being reimbursement for actual tuition fee)</td>
</tr>
<tr>
<td>Payment for unsubstituted holidays</td>
<td>Washing allowance for livery</td>
</tr>
<tr>
<td>Meal/food allowance</td>
<td>Conveyance Amount towards reimbursement for duty related journey</td>
</tr>
<tr>
<td>Suspension allowance</td>
<td>Night shift allowance</td>
</tr>
<tr>
<td>Lay off compensation</td>
<td>Heat, Gas &amp; Dust allowance</td>
</tr>
<tr>
<td></td>
<td>Payment for unsubstituted holidays</td>
</tr>
</tbody>
</table>

**Contribution period**

- 1st April to 30th September.
- 1st October to 31st March

**Penalties**

Different punishment have been prescribed for different types of offences in terms of Section 85: (I) (six months imprisonment and fine Rs.5000), (ii) (one year imprisonment and fine), and 85-A: (five years imprisonment and not less to 2 years) and 85-C(2) of the ESI Act, which are self explanatory. Besides these provisions, action also can be taken under section 406 of the IPC in cases where an employer deducts contributions from the wages of his employees but does not pay the same to the corporation which amounts to criminal breach of trust.
FACTORIES ACT, 1948

CHECK LIST

Applicability of the Act
Any premises whereon 10 or more persons with the aid of power or 20 or more workers are/were without aid of power working on any day preceding 12 months, wherein Manufacturing process is being carried on.
Sec. 2(ii)

Employer to ensure health of workers pertaining to
- Cleanliness
- Disposal of wastes and effluents
- Ventilation and temperature
- Dust and fume
- Overcrowding
- Artificial humidification
- Lighting
- Drinking water

Secs. 11 to 20

Safety Measures
- Facing of machinery
- Work on near machinery in motion.
- Employment prohibition of young persons on dangerous machines.
- Striking gear and devices for cutting off power.

Welfare Measures
- Washing facilities
- Facilities for storing and drying clothing
- Facilities for sitting
- First-aid appliances – one first aid box not less than one for every 150 workers.
- Canteens when there are 250 or more workers.
- Shelters, rest rooms and lunch rooms when there are 150 or more workers.
- Creches when there are 30 or more women workers.
- Welfare office when there are 500 or more workers.

Working Hours, Spread Over & Overtime of Adults
Weekly hours not more than 48.
Daily hours, not more than 9 hours.
Intervals for rest at least ½ hour on working for 5 hours.
Spreadover not more than 10½ hours.
Overlapping shifts prohibited.
Extra wages for overtime double than normal rate of wages.
Restrictions on employment of women before 6AM and beyond 7 PM.
Secs. 51, 54 to 56, 59 & 60

Employment of Young Persons
- Prohibition of employment of young children e.g. 14 years.
- Non-adult workers to carry tokens e.g. certificate of fitness.
- Working hours for children not more than 4½ hrs. and not permitted to work during night shift.
Secs. 51, 54 to 56, 59 & 60

Annual Leave with Wages
A worker having worked for 240 days @ one day for every 20 days and for a child one day for working of 15 days.
Accumulation of leave for 30 days.
Secs. 79

OFFENCE                              PENALTIES                                      Sec.92 to
- For contravention of the Provisions of the Act or Rules • Imprisonment upto 2 years or fine upto Rs.1,00,000 or both
- On contravention of Chapter IV pertaining to safety or dangerous operations. • Not less than Rs.25000 in case of death.
- On contravention of some provisions • Not less than Rs.5000 in case of seriousness.
- Preventing prohibition of self-acting machines • Imprisonment upto 3 years or fine not less than Rs.10,000 which may extend to Rs.2,00,000.
- Obstructing Inspectors • Imprisonment upto 6 months or fine upto Rs.10,000 or both.
- Wrongful disclosing result pertaining to results of analysis. • Imprisonment upto 6 months or fine upto Rs.10,000 or both.
- For contravention of the provisions of Sec.41B, 41C and 41H pertaining to compulsory disclosure of information by occupier, specific responsibility of occupier or right of workers to work imminent danger. • Imprisonment upto 7 years with fine upto Rs.2,00,000 and on continuation fine @ Rs.5,000 per day.
- Imprisonment of 10 years when contravention continues for one year.
EMPLOYMENT EXCHANGES
(COMPELSORY NOTIFICATION OF VACANCIES)
ACT, 1959 & THE RULES

CHECK LIST

Object of the Act
To provide for the compulsory notification of vacancies to employment exchanges.

Applicability of the Act
By notification in the Official Gazette, appoint in this behalf for such State and different dates may be appointed for different states or for different areas of a State.

When Act is not applicable
- Any employment in agriculture, horticulture etc.
- Any employment in domestic service.
- Any employment, the total duration of which is less than three months.
- Any employment to do unskilled office work.
- Any employment connected with the staff of Parliament.

Sec. 3

Notification of vacancies to Employment Exchanges
Before filling up any vacancy as prescribed. Employer not obliged to recruit the person through employment exchange. To notify the vacancies to such employment exchanges as may be prescribed.

Secs. 4

Time limit for notification of vacancies & selection
- Atleast 15 days before the applicants will be interviewed or tested.
- Employer to furnish the result of selection within 15 days.

Rules 5

Furnishing information and returns
The employer in every establishment in public sector in that State or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment, to such employment exchanges as may be prescribed.

Secs. 5

Submission of Returns
- Quarterly in Form ER-I
- BIENNIAL Return Form ER-II
- Within 30 days by 30th June, 31st March, 30th September & 31st December.

Rule 6

PENALTIES
- An employer contravening the provisions of Sec.4(1) or (2).
- Fine upto Rs.500 for first offence and for every subsequent offence fine Rs.1000.
- If any person –
  - Required to furnish any information or return –
    - Refuses or neglects to furnish such information or return, or
    - Furnishes or causes to be furnished any information or return which he knows to be false, or
    - Refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished under section 5; or
- Impedes the right of access to relevant records or documents or the right of entry conferred by section 6; he shall be punishable for the first offence with fine upto Rs.250 and for every subsequent offence with fine upto Rs.250 and for every subsequent offence with fine upto Rs.500.

Rules 7
INDUSTRIAL DISPUTES ACT, 1947

Object of the Act
Provisions for investigation and settlement of industrial disputes and for certain other purposes.

Important Clarifications
- Industry – has attained wider meaning than defined except for domestic employment, covers from barber shops to big steel companies. Sec.2(I)
- Works Committee–Joint Committee with equal number of employers and employees’ representatives for discussion of certain common problems. Sec.3
- Conciliation–is an attempt by a third party in helping to settle the disputes. Sec.4
- Adjudication – Labour Court, Industrial Tribunal or National Tribunal to hear and decide the dispute. Secs.7,7A & 7B

Power of Labour Court to give Appropriate Relief
Labour Court/Industrial Tribunal can
- Modify the punishment of dismissal or discharge of workmen and give appropriate relief including reinstatement. Sec.11A

Persons Bound by Settlement
- When in the course of conciliation proceedings etc., all persons working or joining subsequently.
- Otherwise than in course of settlement upon the parties to the settlement. Sec.18

Notice of Change
21 days by an employer to workmen about changing the conditions of service as provided in IV th Schedule. Sec.9A

Prohibition of Strikes & Lock Outs
- Without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking.
- Within fourteen days of giving such notice. Sec.4
- Before the expiry of the date of strike specified in any such notice as aforesaid.
- During the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- During the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings.
- Period of Operation of Settlements and Awards
  - A settlement for a period as agreed by the parties, or
  - Period of six months on signing of settlement.
  - An award for one year after its enforcement. Sec.19

Right of a Workman during Pendency of Proceedings in High Court
Employer to pay last drawn wages to reinstated workman when proceedings challenging the award of his reinstatement are pending in the higher Courts. Sec.17B

Lay off & Payment of Compensation – Conditions for Laying off
Failure, refusal or inability of an employer to provide work due to
- Shortage of coal, power or raw material.
- Accumulation of stocks.
- Breakdown of machinery.
- Natural calamity. Sec.25-C

Payment of wages except for intervening weekly holiday compensation 50% of total or basic wages and DA for a period of lay off upto maximum 45 days in a year. Sec.25-C

Prior Permission by the Government for Retrenchment
- When there are more than 100 (in UP 300 or more) workmen during preceding 12 months.
- Three months’ notice or wages thereto.
- Form QA
- Compensation @ 15 days’ wages. Sec. 25-N

Prohibition of unfair labour practice either by employer or workman or a trade union as stipulated in fifth schedule
Both the employer and the Union can be punished. Sec.25-T

Closure of an Undertaking
60 days’ notice to the labour authorities for intended closure in Form QA. Sec.25FFA
Prior permission atleast 90 days before in Form O by the Government when there are 100 ore more workmen during preceding 12 months (in UP 300 or more workmen) Sec.25-O

Lay off Compensation
- Prior to operation, in respect of any of the matters covered by the
- Sub-Section(3A) of section 10A
- Notice of Change
  - Secs.22&23
  - Sec.11A

Prohibition of Strikes & Lock Outs
- During the pendency of proceedings before a Labour Court, Industrial Tribunal or National
- Tribunals and two months, after the conclusion of such proceedings.
- During the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under Sub-Section(3A) of section 10A
- During any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award. Secs.22&23

Conditions of service etc. to remain unchanged under certain circumstances during pendency of proceedings
- Not to alter to the prejudice of workmen concerned the condition of service.
- To seek Express permission of the concerned authority by paying one month’s wages on dismissal, discharge or punishing a protected worker connected with the dispute.
- To seek approval of the authority by paying one month’s wages before altering condition of service, dismissing or discharging or punishing a workman. Sec.33

Retrenchment of Workmen Compensation & Conditions
- Workman must have worked for 240 days.
- Retrenchment compensation @ 15 days’ wages for every completed year to be calculated at last drawn wages.
- One month’s notice or wages in lieu thereof.
- Reasons for retrenchment.
- Complying with principle of ‘last come first go’.
- Sending Form P to Labour Authorities.

Conditions of service etc. to remain unchanged under certain circumstances during pendency of proceedings
- Not to alter to the prejudice of workmen concerned the condition of service.
- To seek Express permission of the concerned authority by paying one month’s wages on dismissal, discharge or punishing a protected workman connected with the dispute.
- To seek approval of the authority by paying one month’s wages before altering condition of service, dismissing or discharging or punishing a workman. Sec.33

Penalties
- Sec.25-U
- 26
- Instigation etc. for illegal strike or lock-outs.
- 27
- Giving financial aid to illegal strikes and lock-outs.
- 28
- Break in settlement or award
- 29
- Disclosing confidential information pertaining to Sec.21
- 30
- Closure without 60 days’ notice under Sec.25 FFA
- 31A
- Contravention of Sec.33 pertaining to change of conditions of Service during pendency of dispute etc.
- When no penal is provided for contravention

Offence
- Committing unfair labour practices
- Illegal strike and lock-outs
- Instigation etc. for illegal strike or lock-outs.
- Giving financial aid to illegal strikes and lock-outs.
- Breach in settlement or award
- Disclosing confidential information pertaining to Sec.21
- Closure without 60 days’ notice under Sec.25 FFA
- Contravention of Sec.33 pertaining to change of conditions of Service during pendency of dispute etc.

Punishment
- Imprisonment of upto 6 months or with fine upto Rs.3,000.
- Imprisonment up to one month or with fine up to Rs.50(Rs.1000 for lock-out) or
- with both.
- Imprisonment up to 6 months or with fine up to Rs.1,000
- Imprisonment for 6 months or with fine up to Rs.1,000
- Imprisonment up to 6 months or with fine.
- On continuity of offence fine
- uptoRs.200 per day
- Imprisonment up to 6 months or with fine up to Rs.1,000
- Imprisonment up to 6 months or with fine up to Rs.5,000
- Imprisonment up to 6 months or fine up to Rs.1,000. Fine upto Rs.100
CHECK-LIST

Applicability of the Act
Every industrial establishment wherein 100 or more (in many States it is 50 or more).

Any industry covered by Bombay Industrial Relations Act, 1946.


Sec. 1

Matters to be provided in Standing orders
- Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.
- Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
- Shift working.
- Attendance and late coming.
- Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.
- Requirement to enter premises by certain gates, and liability to search.
- Closing and re-opening of sections of the industrial establishments, and temporary stoppages of work and the right and liabilities of the employer and workmen arising therefrom.
- Termination of employment, and the notice thereof to be given by employer and workmen.
- Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
- Means of redressal for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.

Additional Matters
Service Record – Matters relating to service card, token tickets, certification of service, change of residential address of workers and record of age Confirmation Age of retirement Transfer Medical aid in case of Accident Medical Examination Secrecy Exclusive service.

Secs.2(g), 3(2) and Rule 2A

Procedure for Certification of Standing Orders
Certifying Officer to forward a copy of draft standing orders to the trade union or in the absence of union, to the workmen of the industry. The trade union or the other representatives, as the case may be, are to be heard.

Sec. 5

Date of Operation of Standing Orders
On the date of expiry of 30 days from certification or on the expiry of 7 days from authentication of Standing Orders.

Sec. 7

Posting of Standing Orders
The text of the standing orders as finally certified shall prominently be posted in English or in the language understood by majority of workmen on special board at or near the entrance for majority of workers.

Sec. 9

Temporary application of Model Standing Orders
Temporary application of mod standing orders shall be deemed to be adopted till the standing orders as submitted are certified.

Sec.12-A

Payment of Subsistence Allowance to the Suspended Workers
At the rate of fifty per cent, of the wages which the workman was entitled to immediately proceeding the date of such suspension, for the first ninety days of suspension.

At the rate of seventy-five percent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct such workman.

Sec.10-A

Penalties
- Failure of employer to submit draft Standing Orders fine of Rs.5000 and Rs.200 for every day on continuation of offence.
- Fine of Rs.100 on contravention and on continuation of offence Rs.25 for every day.
MATERNITY BENEFIT ACT, 1961

CHECK LIST

Object of the Act
To protect the dignity of motherhood and the dignity of a new person’s birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working.

Coverage of the Act
Upon all women employees either employed directly or through contractor except domestic women employees employed in mines, factories, plantations and also in other establishments if the State Government so decides. Therefore, if the State Government decides to apply this Act to women employees in shops and commercial establishments, they also will get the benefit of this Act. Bihar, Punjab Haryana, West Bengal, U.P., Orissa and Andhra have done so.

Conditions for eligibility of benefits
Women indulging temporarily of unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 12 months immediately proceeding the date of her expected delivery.

Cash Benefits
• Leave with average pay for six weeks before the delivery.
• Leave with average pay for six weeks after the delivery.
• A medical bonus of Rs.25 if the employer does not provide free medical care to the woman.
• An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth.
• In case of miscarriage, six weeks leave with average pay from the date of miscarriage.

Non Cash Benefits/Privilege
• Light work for ten weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it.
• Two nursing breaks in the course of her daily work until the child is 15 months old.
• No discharge or dismissal while she is on maternity leave.
• No change to her disadvantage in any of the conditions of her employment while on maternity leave.
• Pregnant women discharged or dismissed may still claim maternity benefit from the employer.

Exception: Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit

Leave for Miscarriage & Tubectomy Operation
• Leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or her medical termination of pregnancy.
• Entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

Leave for illness arising out of pregnancy etc. etc.
A woman suffering from illness arising out of pregnancy, delivery, premature birth of child (Miscarriage, medical termination of pregnancy or tubectomy operation) be entitled, in addition to the period of absence allowed to her leave with wages at the rate of maternity benefit for a maximum period of one month.

Sec. 10

Prohibition of dismissal during absence of pregnancy
• Discharge or dismissal of a woman employed during or on account of such absence or to give notice or discharge or dismissal on such a day that the notice will expire during such absence or to very her disadvantage.
• Discharge or dismissal during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.
• At the time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus, etc.
• Not barred in case of dismissal for cross misconduct.

Sec.

Failure to Display
Extract of Act
Imprisonment may extend to one year or fine.

Forfeiture of maternity benefit
If permitted by her employer to absent herself under the provisions of section 6 for any period during such authorized absence, she shall forfeit her claim to the maternity benefit for such period.
For discharging or dismissing such a woman during or on account of her absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will find, but not exceeding Rs.5,000.

Sec. 18
MINIMUM WAGES ACT, 1948

CHECK LIST

Object of the Act
To provide for fixing minimum rates of wages in certain employments

Minimum Rates of Wages
Such as Basic rates of wages etc. Variable DA and Value of other concessions etc. Sec. 4

Fixation of Minimum Rates of Wages
• The appropriate government to fix minimum rates of wages. The employees employed in para 1 or B of Schedule either at 2 or either part of notification u/s 27.
• To make review at such intervals not exceeding five years the minimum rates or so fixed and revised the minimum rates.

Government can also fix Minimum Wages for
• Time work • Piece work at piece rate • Piece work for the purpose of securing to such employees on a time work basis • Overtime work done by employees for piece work or time rate workers.

Sec. 3

Procedure for fixing and revising Minimum Rates of Wages
Appointing Committee issue of Notification etc. Sec. 5

Composition of Committee
Representation of employer and employee in equal number and independent persons not exceeding 1/3rd or its total number one such person to be appointed by the Chairman.

Sec.9

Payment of Minimum Rates of Wages
Employer to pay to every employee engaged in schedule employment at a rate not less than minimum rates of wages as fixed by Notification by not making deduction other than prescribed.

Sec.12

Wages of workers who works for less than normal working days
Save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day.

Sec.15

Wages for two class of work
Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, wages at not less than the minimum rate in respect of each such class. Sec. 16

Maintenance of registers and records
• Register of Fines – Form I Rule 21(4)
• Annual Returns – Form III Rule 21 (4-A)
• Register for Overtime – Form IV Rule 25
• Register of Wages–Form X, Wages slip–Form XI, Muster Roll–Form V Rule 26
• Representation of register – for three year Rule 26-A

Sec. 17

Minimum time rate wages for piece work
Not less than minimum rates wages as fixed .

Claims by employees
• To be filed by before authority constituted under the Act within 6 months.
• Compensation upto 10 times on under or non-payment of wages Sec. 16

Sec. 18

Penalties

<table>
<thead>
<tr>
<th>Offence</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>For paying less than minimum rates of wages</td>
<td>Imprisonment upto 6 months or with fine upto Rs.500/-</td>
</tr>
<tr>
<td>For contravention of any provisions pertaining to fixing hours for normal working day etc.</td>
<td>Imprisonment upto 6 months or with fine upto Rs.500/-</td>
</tr>
</tbody>
</table>
SALES PROMOTION EMPLOYEES (CONDITIONS OF SERVICE) ACT, 1976 & THE RULES

CHECKLIST

Object of the Act
To regulate certain conditions of service of sales promotion employees in certain establishments.

Applicability of the Act
Whole of India with effect from 6.3.1976

Applicability of other Acts
- Workmen’s Compensation Act, 1923
- Industrial Disputes Act, 1947
- Minimum Wages Act, 1948
- Maternity Benefit Act, 1961
- Payment of Bonus Act, 1965
- Payment of Gratuity Act, 1972

Maintenance of register
- A register of sales promotion employees in Form B.
- Service Books for every employee in Form C
- A register of service books in Form D
- Leave account of each employee in Form E.
  Sec. 7 Rule 23

Wages for weekly day of rest
Entitled to wages on weekly days of rest as if he was on duty.
  Rule 7

Affixing of holidays to leave
Premixing or suffixing of any leave not permissible
  Rule 11

Quarantine leave
Upto 30 days on the recommendations of authorised medical attendant or Public Health Officer.
  Rule 16

Leave
- Earned leave and cash compensation on earned leave not availed of.
- On full wages for not less than 1/11th of the period spent on duty.
- Leave on medical Certificate
  On one-half of the waves for not less than 1/18th of the period of service.
  Cashable on voluntary relinquishment or termination other than by way of punishment.
  Sec. 4

Number of holidays in a year
10 in calendar year
  Rule 4

Compensatory holidays
Within 30 days of the day when he was required to work.
  Rule 5

Application for leave
When other than casual leave, not less than one month before commencement of leave except for urgent or unforeseen circumstances.
  Rule 9

Holidays intervening during the period of leave
Except casual leave granted or day of weekly rest, other holidays shall be part of leave.
  Rule 12

Extraordinary leave
At the discretion of the employer
  Rule 17

Maximum limit up to which earned leave
- Can be accumulated 180 days of which the employee can avail himself 90 days at a time.
- Encashment of leave 120 days.
  Sec. 14

Issue of Appointment Letter in Form A
- Within three months from the commencement of the Act and in other case on appointment.
  Sec. 14 Rule 22

Wages for holidays
To be entitled for wages on all holidays as if he was on duty.
  Rule 6

Recording of reason for refusal or postponement of leave.
  Rule 10

Medical leave
On production of medical certificate.
  Rule 15

Casual leave
15 days in a calendar year.
  Rule 15

PENALTY
On contravention of provisions relating to ‘Leave’ Issue of Appointment Letter or Maintenance of Registers fine up to Rs.1000
  Sec. 9
TRADE UNIONS ACT, 1926

CHECKLIST

Object of the Act
To provide for the registration of Trade Union and in certain respects to define the law relating to registered Trade Unions

Registration of trade Union
- Any 7 or more members of a trade union may, by subscribing their names to the rules of the trade union and its compliance.
- There should be at least 10%, or 100 of the work-men, whichever is less, engaged or employed in the establishment or industry with which it is connected.
- It has on the date of making application not less than 7 persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.

Registration of trade Union
Prescribed form with following details.
- Names, occupations and address of the members' place of work.
- Address of its head office; and
- Names, ages, addresses and occupations of its office bearers.

Sec. 5

Minimum requirements for membership of trade union
Not less than 10%, or 100 of the workmen, whichever is less, subject to a minimum of 7, engaged or employed in an establishments etc.
Sec. 9A

Cancellation of registration
- If the certificate has been obtained by fraud or mistake or it has ceased to exist or has wilfully contravened any provision of this Act.
- If it ceases to have the requisite number of members.
Sec. 10

Criminal conspiracy in trade disputes
No office bearer or member of a registered trade union shall be liable to punishment under sub section (2) of conspiracy u/s 120B of IPC in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union.
Sec. 17

Disqualification of office bearers of Trade Union
If one has not attained the age of 18 years. Conviction for an offence involving moral turpitude. Not applicable when 5 years have elapsed.
Sec. 21-A

Returns
Annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st December.
Sec. 28

Penalties

<table>
<thead>
<tr>
<th>U/s 31</th>
<th>Offence</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>• For making false entry in or any omission in general statement required for sending returns.</td>
<td>• For making false entry in the form.</td>
<td>• Fine upto Rs.500. On continuing default, additional fault, Rs.5 for each week (not exceeding Rs.50).</td>
</tr>
<tr>
<td>• Supplying false information regarding Trade Union.</td>
<td></td>
<td>• Fine upto Rs.500.</td>
</tr>
</tbody>
</table>

| U/s 32 | | • Fine upto Rs.200. |

U/s 32 | Supplying false information regarding Trade Union | Fine upto Rs.200. |
**PAYMENT OF BONUS ACT, 1965 & THE RULES**

**CHECKLIST**

### Applicability of Act
- Every factory where in **10** or more persons are employed with the aid of power or
- An establishment in which **20** or more persons are employed without the aid of power on any day during an accounting year

### Establishment
- Establishment includes departments, undertakings and branches, etc.

### Separate establishment
- If profit and loss accounts are prepared and maintained in respect of any such department or undertaking or branch, then such department or undertaking or branch is treated as a separate establishment.

### Computation of available surplus
- Income tax and direct taxes as payable.
- Depreciation as per section 32 of Income Tax Act.
- Development rebate, investment or development allowance.

### Components of Bonus
- Salary or wages includes dearness allowance but no other allowances e.g. overtime, house rent, incentive or commission.

### Eligibility of Bonus
- An employee will be entitled only when he has worked for **30** working days in that year.

### Payment of Minimum Bonus
- **8.33%** of the salary or Rs.100 (on completion of 5 years after 1st Accounting year even if there is no profit)

### Time Limit for Payment of Bonus
- Within 8 months from the close of accounting year.

### Set-off and Set-on
- As per Schedule IV.

### Maintenance of Registers and Records etc.
- A register showing the computation of the **allocable surplus** referred to in clause (4) of section 2, in form A.
- A register showing the **set-on and set-off** of the allocable surplus, under section 15, in form B
- A register showing the details of the **amount of bonus due** to each of the employees, the deductions under section 17 and 18 and the amount actually disbursed, in form C.

### Act not applicable to certain employees of LIC, General Insurance, Dock Yards, Red Cross, Universities & Educational Institutions, Chambers of Commerce, Social Welfare Institutions, Building Contractors, etc. etc. **Sec.32.**

### PENALTY
- For contravention of any provision of the Act or the Rule
- **Upto 6 months or with fine upto Rs.1000.** **Sec.28**
PAYMENT OF GRATUITY
ACT, 1972 & THE RULES

CHECKLIST

**Applicability**
Every factory, mine, oil field, plantation, port, railways, company, shop, establishment or educational institutions employing 10 or more employees.

**Calculation**
- **Piece-rated employee**
  - @ 15 days wages for every completed year on an average of 3 months' wages
- **Seasonal employee**
  - @ 7 days' wages for every completed year of service.

**Employee**
- All employees irrespective of status or salary

**Entitlement**
- On completion of five years' service except in case of death or disablement.

**Qualifying period**
On rendering of 5 years' service, either termination, resignation or retirement.

**Display of Notice**
On conspicuous place at the main entrance in English language or the language understood by majority of employees of the factory, etc.

**Maximum Ceiling**
Rs.3,50,000

**Mode of payment**
Cash or, if so desired, by Bank Draft or Cheque

**Penalties**
- Imprisonment for 6 months or fine upto Rs.10,000 for avoiding to make payment by making false statement or representation.
- Imprisonment not less than 3 months and upto one year with fine on default in complying with the provisions of Act or Rules.

**Recovery of Gratuity**
To apply within 30 days in Form I when not paid within 30 days

**Forfeiture of Gratuity**
- On termination of an employee for moral turpitude or riotous or disorderly behaviour.
- Wholly or partially for wilfully causing loss, destruction of property etc.
## PAYMENT OF WAGES ACT, 1936

### CHECKLIST

#### Applicability of Act
- Factory industrial Establishment
- Tramway service or motor transport service engaged in carrying passengers or good or both by road for hire or reward.
- Air transport service, Dock, Wharf or Jetty
- Inland vessel, mechanically propelled
- Mine, quarry or oil-field
- Plantation
- Workshop or other establishment

#### Coverage of Employees
- Drawing average wage upto Rs.6500 pm as amended w.e.f. 6.9.05.

#### Fines as prescribed by
- Not to imposed unless the employer is given an opportunity to show cause
- To record in the register

#### Deduction made from wages
- Deductions such as, fine, deduction for amenities and services supplied by the employer, advances paid, over payment of wages, loan, granted for house-building or other purposes, income tax payable, in pursuance of the order of the Court, PF contributions, cooperative societies, premium for Life Insurance, contribution to any fund constituted by employer or a trade union, recovery of losses, ESI contributions etc.

#### Deduction for absence from duties for unauthorised absence
- Absence for whole or any part of the day – If ten or more persons absent without reasonable cause, deduction of wages upto 8 days.

#### Deduction for service rendered
- When accommodation amenity or service has been accepted by the employee.

### Object of the Act
- To regulate the payment of wages of certain classes of employed persons

### Time of payment of wages
- The wages of every person employed shall be paid.
- When less than 1000 persons are employed shall be paid before the expiry of the 7th day of the following month.
- When more than 1000 workers, before the expiry of the 10th day of the following month.

### Deduction for damage or loss
- For default or negligence of an employee resulting into loss. Show cause notice has to be given to the employee.

### Wages to be paid in current coins or currency notes
- All wages shall be paid in current coins or currency notes or in both.
- After obtaining the authorization, either by cheque or by crediting the wages in employee’s bank account.

### Deduction for absence from duties for unauthorised absence
- Absence for whole or any part of the day – If ten or more persons absent without reasonable cause, deduction of wages upto 8 days.

### Deduction for service rendered
- When accommodation amenity or service has been accepted by the employee.

### On contravention of S.5 (except sub-sec.4), S.7, S.8 (except Ss.8), S.9, S.10 (except Ss.2) and Secs.11 to 13.
- Fine not less than Rs.1000 which may extend to Rs.5000.
- On subsequent conviction fine not less than Rs.5000, may extend to Rs.10,000.

### On failing to maintain registers or records; or
- Wilfully refusing or without lawful excuse neglecting to furnish information or return; or
- Wilfully furnishing or causing to be furnished any information or return which he knows to be false or
- Refusing to answer or wilfully giving a false answer to any question necessary for obtaining any information required to be furnished under this Act.

- Fine which shall not be less than Rs.1000 but may extend to Rs.5000.
- On subsequent conviction fine not less than Rs.5000, may extend to Rs.10,000.

### Fine not less than Rs.1000 which may extend to Rs.5000.

### Additional fine upto Rs.100 for each day.
WORKMEN’S COMPENSATION
ACT, 1923

CHECKLIST

Applicability
All over India
Sec. 1

Coverage of Workmen
All workers irrespective of their status or salaries either directly or through contractor or a person recruited to work abroad. Sec. 1(3)

Employer’s liability to pay compensation to a workman
On death or personal injury resulting into total or partial disablement or occupational disease caused to a workman arising out of and during the course of employment. Sec. 3

Amount of compensation
• Where death of a workman results from the injury
  • An amount equal to fifty per cent of the monthly wages of the deceased workman multiplied by the relevant factor on an amount of eighty thousand rupees, whichever is more.
•Where permanent total disablement results from the injury.
  • An amount equal to sixty per cent of the monthly wages of the injured workman multiplied by the relevant factor or an amount of ninety thousand rupees, whichever is more.

Procedure for calculation
Higher the age – Lower the compensation
• Relevant factor specified in second column of Schedule IV giving slabs depending upon the age of the concerned workman.

Example: In case of death.
• Wages Rs.3000 PM • Age 23 years
• Factor as schedule IV Rs.19.95
• Amount of compensation Rs.329935
• In case of total disablement Rs.395910.

Sec. 4

Notice Accident
As soon as Practicable
Sec. 10

Report of accident
Rule 11 Form EE
Report of fatal Accident and Serious Injury within 7 days to the Commissioner (not application when ESI Act applies).
Sec.10B

Bar upon contracting out
Any workman relinquishing his right for personal injury not permissible.
Sec. 14

PENALTY

• In case of default by employer
• Deposit of Compensation

• 50% of the compensation amount + interest to be paid to the workman or his dependents as the case may be.
• Within one month with the Compensation Commissioner
Sec. 4A