

Labour and Employment Laws of India

The labour enactments in India, is divided into 5 broad categories, viz. Working Conditions, Industrial Relations, Wage, Welfare and Social Securities. The enactments are all based upon Constitution of India and the resolutions taken in ILO conventions from time to time.

Indian labour law refers to laws regulating employment. There over fifty national laws and many more state-level laws. Traditionally Indian Governments at federal and state level have sought to ensure a high degree of protection for workers through enforcement of labour laws.

While conforming to the essentials of the laws of contracts, a contract of employment must adhere also to the provisions of applicable labour laws and the rules contained under the Standing Orders of the establishment.

Indian labour laws divide industry into two broad categories:

1. Factory

Factories are regulated by the provisions of the Factories Act, 1948 (the said Act). All Industrial establishments employing 10 or more persons and carrying manufacturing activities with the aid of power come within the definition of Factory. The said Act makes provisions for the health, safety, welfare, working hours and leave of workers in factories. The said Act is enforced by the State Government through their 'Factory' inspectorates. The said Act empowers the State Governments to frame rules, so that the local conditions prevailing in the State are appropriately reflected in the enforcement. The said Act puts special emphasis on welfare, health and safety of workers. The said Act is instrumental in strengthening the provisions relating to safety and health at work, providing for statutory health surveys, requiring appointment of safety officers, establishment of canteen, crèches, and welfare committees etc. in large factories.

The said Act also provides specific safe guards against use and handling of hazardous substance by occupiers of factories and laying down of emergency standards and measures.

2. The Shops & Establishment Act

The Shops and Establishment Act is a state legislation act and each state has framed its own rules for the Act. The object of this Act is to provide statutory obligation and rights to employees and employers in the unauthorized sector of employment, i.e., shops and establishments. This Act is applicable to all persons employed in an establishment with or without wages, except the members of the employers' family.

This Act lays down the following rules:

- Working hours per day and week.
- Guidelines for spread-over, rest interval, opening and closing hours, closed days, national and religious holidays, overtime work.
- Employment of children, young persons and women.
- Rules for annual leave, maternity leave, sickness and casual leave, etc.
- Rules for employment and termination of service.

The main central laws dealing with labor issues are given below: -

1. Minimum Wages Act 1948
2. Industrial Employment (Standing orders) Act 1946
3. Payment of Wages Act 1936
4. Workmen's Compensation Act 1923
5. Industrial Disputes Act 1947
6. Employees Provident Fund and Miscellaneous Provisions Act 1952
7. Payment of Bonus Act 1965
8. Payment of Gratuity Act 1972
9. Maternity Benefit Act 1961

Minimum Wages Act 1948

The Minimum Wages Act prescribes minimum wages for all employees in all establishments or working at home in certain employments specified in the schedule of the Act. Central and State Governments revise minimum wages specified in the schedule. The Minimum Wages Act 1948 has classified workers as unskilled, semi-skilled, skilled; and highly skilled.

Industrial Employment (Standing orders) Act 1946

The Industrial Employment Act requires employers in industrial establishments to clearly define the conditions of employment by issuing standing orders duly certified. Model standing orders issued under the Act deal with classification of workmen, holidays, shifts, payment of wages, leaves, termination etc. Generally, the workers are classified as

- apprentice/trainee;
- casual;
- temporary;
- substitute;
- probationer;
- permanent; and
- fixed period employees

Payment of Wages Act 1936

Under the Payment of Wages Act 1936 the following are the common obligations of the employer:

- Every employer is primarily responsible for payment of wages to employees. The employer should fix the wage period (which may be per day, per week or per month) but in no case it should exceed one month;
- Every employer should make timely payment of wages. If the employment of any person is being terminated, those wages should be paid within two days of the date of termination; and
- The employer should pay the wages in cash, i.e. in current coins or currency notes. However wages may also be paid either by cheque or by crediting in employee's bank account after obtaining written consent.

Workmen's Compensation Act 1923

The employer must pay compensation for an accident suffered by an employee during the course of employment and in accordance with the Act. The employer must submit a statement to the Commissioner (within 30 days of receiving the notice) giving the circumstances attending the death of a worker as result of an accident and indicating whether the employer is liable to deposit any compensation for the same. It should also submit an accident report to the Commissioner within seven days of the accident.

Industrial Disputes Act 1947

The Industrial Disputes act 1947 provides for the investigation and settlement of industrial disputes in an industrial establishment relating to lockouts, layoffs, retrenchment etc. It provides the machinery for the reconciliation and adjudication of disputes or differences between the employees and the employers. Industrial undertaking includes an undertaking carrying any business, trade, manufacture etc.

The Act lays down the conditions that shall be complied before the termination/retrenchment or layoff of a workman who has been in continuous service for not less than one year under an employer. The workman shall be given one month's notice in writing, indicating the reasons for retrenchment and the period of the notice that has expired or the workman has been paid, in lieu of such notice, wages for the period of the notice. The workman shall also be paid compensation equivalent to 15 days' average pay for each completed year of continuous service. A notice shall also be served on the appropriate government.

Employees Provident Funds and Miscellaneous Provisions Act 1952

This Act seeks to ensure the financial security of the employees in an establishment by providing for a system of compulsory savings. The Act provides for establishments of a contributory Provident Fund in which employees' contribution shall be at least equal to the contribution payable by the employer. Minimum contribution by the employees shall be 10-12% of the wages. This amount is payable to the employee after retirement and could also be withdrawn partly for certain specified purposes.

Payment of Bonus Act 1965

The payment of Bonus Act provides for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity. The Act is applicable to establishments employing 20 or more persons. The minimum bonus, which an employer is required to pay even if he suffers losses during the accounting year is 8.33% of the salary.

Payment of Gratuity Act 1972

The Payment of Gratuity Act provides for a scheme for the payment of gratuity to all employees in all establishments employing ten or more employees to all types of workers. Gratuity is payable to an employee on his retirement/resignation at the rate of 15 days salary of the employee for each completed year of service subject to a maximum of Rs. 350,000.

Maternity Benefit Act 1961

The Maternity Benefit Act regulates the employment of the women in certain establishments for a prescribed period before and after child birth and provides certain other benefits. The Act does not apply to any factory or other establishment to which the Employees State Insurance Act 1948 is applicable. Every women employee who has actually worked in an establishment for a period of at least 80 days during the 12 months immediately preceding the date of her expected delivery, is entitled to receive maternity benefits under the Act. The employer is thus required to pay maternity benefits and/or medical bonus and allow maternity leave and nursing breaks.