



LEGAL FRAMEWORK IN WORKSHOPS

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Labour Laws

Labour law or employment law is the body of **laws, administrative rulings, and precedents** that address the **legal rights of, and restrictions on,** working people and their organizations and the **framework** to implement them

Objectives

- To maintain **harmony** in the organization
- To protect workers' **rights**
- To outline **dispute resolution** procedure

Concurrent list

- State Govts have over 44 Labour laws of their own
- Central Govt is also empowered to update them



Classification of Labour Laws

Laws relating to Wages

Minimum Wages Act, 1948

Payment of Wages Act, 1936

Payment of Bonus Act, 1965

Laws relating to Social Security

Employees' Provident Funds and Miscellaneous Provisions Act, 1952

Employees' State Insurance Act, 1948

Labour Welfare Fund Act (of respective States)

Payment of Gratuity Act, 1972

Employee's Compensation Act, 1923

Classification of Labour Laws

Laws relating to Working Hours, Conditions of Services and Employment

Factories Act, 1948

Industrial Employment (Standing Orders) Act, 1946

Shops and Commercial Establishments Act (of respective States)

Contract Labour (Regulation and Abolition) Act, 1970

Inter-State Migrant Workmen (Regulation of Emp. & Conditions of Service) Act, 1979

Weekly Holiday Act, 1942

National and Festival Holidays Act (of respective States) 1963

The Plantation Labour Act, 1951

The Mines Act, 1952

The Dock Workers (Safety, Health & Welfare) Act, 1986

Classification of Labour Laws

Laws relating to Equality and Empowerment of Women

Equal Remuneration Act, 1976

Maternity Benefits Act, 1961

Prohibitive Labour Laws

Bonded Labour System (Abolition), Act, 1976

Child Labour (Prohibition & Regulation) Act, 1986

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

The Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Act, 2013

Laws relating to Employment and Training

Apprentices Act, 1961

Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959

FACTORIES



Factories Act, 1948

Objective: To ensure safety measures, health and welfare of the workers employed in factories.

Applicability: Covers all manufacturing processes and establishments in India falling within the **definition of a “factory”**

Factory: means any premises including the precincts thereof-

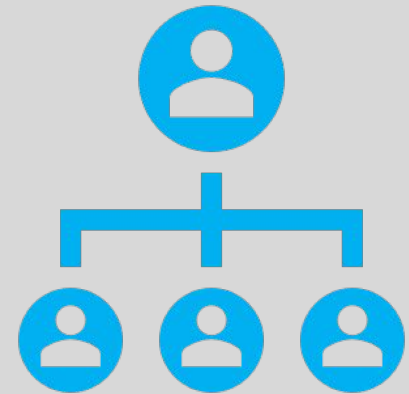
- (i) whereon **ten or more workers are working, or were working on any day of the preceding twelve months**, and in any part of which a **manufacturing process is being carried on with the aid of power**, or is ordinarily so carried on, or
- (ii) whereon **twenty or more workers are working, or were 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, 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.

Occupier of the Factory

Factory Manager: the person who has the ultimate control over the affairs of the factory.

Where such affairs are entrusted to a **managing agent** then such agent shall be deemed to be occupier of factory.

Occupier may be the owner or licensee, but he must have the **right to occupy the property** and dictate how it is to be managed.



- The occupier **obtains the license** to run the factory under Section 6 of the Act.
- A written notice served to the related authorities 15 days prior to occupying the premises.
- Get it **renewed** every year.
- Annual deposition of licence fee.
- If no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied shall be deemed to have been granted.

Form submission
for grant of licence
in the prescribed
format



Scrutiny by
Deputy/Assistant
Director of factories
of the area



Registration/grant
of Licence

Factory Inspector



- Appointed by the State government
- He can inspect the premises which is used as a factory
- Make inquiry about any accident etc and take statements of witnesses &c.
- Take samples of substances used in the manufacturing process
- Seize or take copies of any register, record or other document he may consider necessary in respect of any offence under this Act
- Take measurements, photographs and make such recordings as he considers necessary

Factories Act, 1948

Adult: Age > 18

Adolescent: 15 > Age ≥ 18

Child: Age ≤ 15

Worker: means a person employed, **directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not**, in any **manufacturing process**, or in **cleaning any part of the machinery or premises** used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process.

Safety Officer: Mandatory appointment if 1000 or more workers are ordinarily employed

(Calendar) Day: Begins at midnight

Week: 7 days period beginning midnight on Sat night

Factories Act, 1948

Health measures:

- The factory should be kept clean.
- Disposal of wastes and affluent.
- Dust and fumes within permissible limits.
- Adequate ventilation, temperature, humidification.
- Adequate lighting, drinking water, facilities.

Welfare Measures:

- Facility for rest, washing and storing clothes.
- First aid boxes to be maintained.
- Canteen: 250 employees, Ambulance: 500 employees.
- Crèche if 30 or more women are employed.

Factories Act, 1948

Safety Measures:

- Machinery properly fenced, fire fighting
- Hoists and lifts to be in good condition.
- Hazardous substances: special provisions.
- Floors, stairs free from obstruction.
- PPEs to be provided.



Working hour of Adults:

- Cannot be more than 48 hours in a week.
- Compulsory weekly holiday.
- Not more than 9 hours a day, 30 min rest after 5 hours.
- Total work 10.5 hours including rest.
- Women worker only 6 am to 7 pm, state govt can exempt but not for 10 pm to 6 am.

Factories Act, 1948

Leave:

- Adult entitled for 1 day for every 20 days.
- Child worker 1 day for every 15 days.
- Provided he has worked 240 days in previous year.
- 4 or more days of leave, wages to be paid before leave.

Child employment:

- Child under 14 shouldn't be employed.
- 14-15 years of age: only 4.5 hours per day.
- 15-18 years: requires certificates of witness, cannot work 7 pm to 6 am.

Factories Act, 1948

Notice of accidents:

If an accident occurs which causes death/bodily injury by reason of which the person injured is prevented from working for a period of **48 hours** or more immediately following the accident - the manager of the factory shall send notice authorities.

If death occurs, the authority to whom the notice is sent shall make an **inquiry** into the occurrence within one month of the receipt of the notice.

Notice of certain dangerous occurrences: bodily injury or not, as decided.

Notice of certain diseases: if a worker in the factory contracts any disease specified.

Factories Act, 1948



SAFETY RULES

- 1 You are responsible for your own safety and safety of others.
- 2 Wear personal protective equipment necessary for the job.
- 3 Always use equipment/tools/machinery safely and properly.
- 4 Lift properly using your legs and not your back.
- 5 Keep your work area clean.
- 6 Wear appropriate and safe work clothing and footwear.
- 7 Report any unsafe conditions.
- 8 Clean up spills immediately.
- 9 Report all injuries.
- 10 No alcohol or drugs to be used or allowed on company property.

A silhouette of a worker wearing a yellow hard hat, a yellow safety vest, and yellow safety boots. The worker is standing with arms crossed.

Contract Labour Act, 1970

Objective: to prevent exploitation of contract labour and to introduce better conditions of work. It regulates the welfare, health, payments of the contract labour, and also has detailed provisions for the grant of the license to the contractors.

Applicability: All firms of India which have 20 or more workmen, presently employed or previously employed on any day of the past twelve months.

Not applicable to firms where work of **intermittent nature** is performed:

- If the establishment performed for more than 120 days in the past 12 months, it cannot be considered as an intermittent one.
- If the establishment performs for more than 60 days in a year and is seasonal, it cannot be considered as an intermittent one.

Contract Labour Act, 1970

Registration of Companies Hiring Contract Labour

Every firm which employs contract labours for its work must acquire a certificate of registration from the appropriate government.

- Name and address of the establishment, maximum number of workers to be hired as contract labourers and type of business is to be provided.

License for The Contractor:

Every contractor working for an establishment who hires **twenty or more** workers on any day of the past twelve months has to obtain a permit for engaging contract labour.

- A permit may contain conditions about the hours of work, fixation of wages, and other necessary facilities to the contract labours.

Contract Labour Act, 1970

FORM V

[See Rule 12(2)]

Form of Certificate by Principal Employer

Certified that I have engaged the applicant ----- as a contractor in my establishment. I undertake to be bound by all the provisions of the contract labour(Regulation and Abolition) Act, 1970 and the contract Labour (Regulation and Abolition) Madhy Pradesh Rules 1973, in so far as the provisions are applicable to me respect of the employment of contract labour by the applicant in my establishment

Date
Place

Signature of the principal employer

Name and Address of Establishment

Contract Labour Act, 1970

The employer should ensure that the contractor provides:-

- ✓ **Regular wages** as fixed by the government or as fixed by the commissioner of labour.
- ✓ Fair **payment** to the labourers in their absence
- ✓ **Canteen** to the labours (if the employed workmen are 100 or more, and work is performed for six months or more)
- ✓ Issues **employment card** to the labours
- ✓ **Restrooms** for the workers working at night and where the work is performed for three months or more
- ✓ Required number of **separate washrooms** for men and women
- ✓ Drinking water, washing, first aid, crèche, etc. for the labours
- ✓ Maintains the various **registers and records**, notices, etc.

Payment of Wages Act, 1936

Objective: To ensure regular payment of wages and avoid exploitation.

Applicability: Factory or other industrial establishments Railways.

Wages: all remunerations expressed in terms of money. Includes: award, settlement, overtime wages, holiday wages and sum payable on termination of employment.

Doesn't include: Bonus, value of house accommodation, PF contribution, traveling allowance, gratuity.

Payment of Wages Act, 1936

Payment of wages:

- Daily, weekly, fortnightly or monthly period but cannot be more than a month.
- On a working day.
- Payment within 7th day of the wage period (for 1000 workers, 10th day is permissible)

Permissible deductions:

- Maximum deduction 50%, 75% if partly to cooperative society.
- On account of absence of duty, fines, house accommodation, recovery of damage, relief fund, advance, IT, PF, LIC premium, amenities etc.

Fines:

- Cannot be more than 3% of the total wages.
- Cannot be recovered in installments.

Employee Compensation Act, 1923

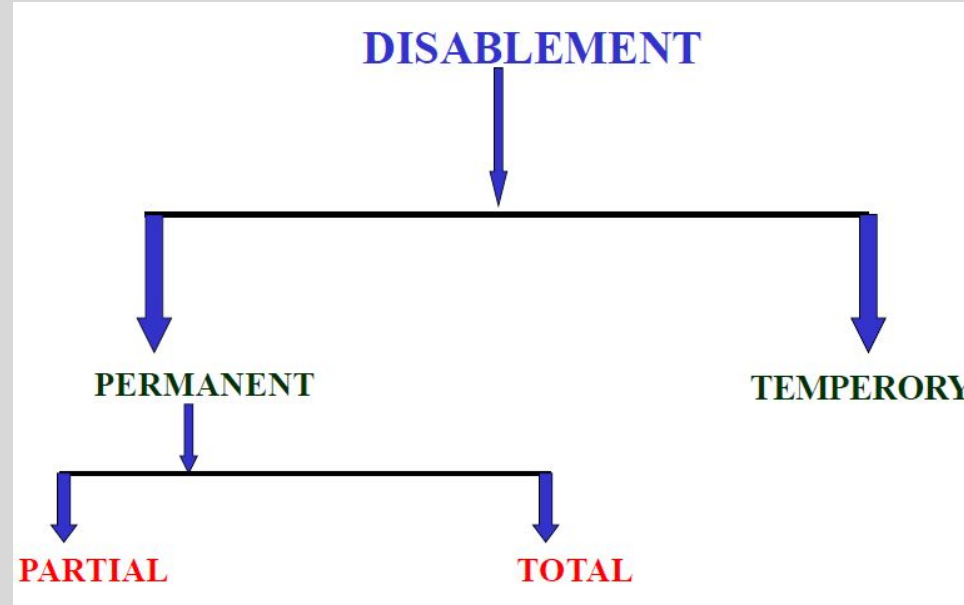
Objective: To pay compensation to an employee or his dependent, for accident arising in course of employment.

Applicability: employees working in mines, factories, plantations, construction establishments, oilfields, etc., establishments under Schedule II of the act.

Worker: Rly servant as defined in Rly. Act. 1989 not permanently employed in any administrative, district or sub-divisional office of a railway, workman governed by factories act.

- ❑ Employment shouldn't be of casual nature.
- ❑ Employment must be for the purpose of employer's trade or business.

Employee Compensation Act, 1923



- Loss of hand or thumb
- Loss of finger or toe
- Loss of eye

- Loss of both hands
- Loss of hand and feet
- Absolute deafness
- Very severe facial disfigurement

Employee Compensation Act, 1923

Cases where employer has to pay:

Personal injury (includes occupational disease), by accident during employment.
Accident arisen out of and in the course of employment.

Cases where employer does not have to pay:

Injury or damage does not lead to disablement of the workers for >3 days, OR

Injury not resulting in death or permanent total disablement under the circumstances:

- the workman present at the time of work is under influence of drink or drugs
- when the worker deliberately disobeys the safety rule(s) to ensure their safety
- non-application of devices especially for the safety of the workers (PPEs)

Employee Compensation Act, 1923

Calculating Compensation Amount

- Total permanent disablement –
50% of wages * RF or Rs. 1,20,000 whichever is more.
- Death –
60% of wages * RF or Rs.1,40,000 whichever is more.
- Partial permanent disablement –
As per % of loss of earning capacity, certified by doctor.
- Temporary Disablement –
A half monthly payment of the sum equivalent to 25% of monthly wages.

**FACTORS FOR WORKING OUT LUMP SUM EQUIVALENT OF
COMPENSATION AMOUNT IN CASE OF PERMANENT DISABLEMENT AND
DEATH**

Completed years of age on the last birthday
of the workman immediately preceding the
date on which the compensation fell due

Factors

(1)	(2)
Not more than 16	228.54
17	227.49
18	226.38
19	225.22
20	224.00
21	222.71
22	221.37
23	219.95
24	218.47
25	216.91
26	215.28
27	213.57
28	211.79
29	209.92
30	207.98
31	205.95
32	203.85
33	201.66
34	199.40
35	197.06
36	194.64
37	192.14
38	189.56
39	186.90

40	184.17
41	181.37
42	178.49
43	175.54
44	172.52
45	169.44
46	166.29
47	163.07
48	159.80
49	156.47
50	153.09
51	149.67
52	146.20
53	142.68
54	139.13
55	135.56
56	131.95
57	128.33
58	124.70
59	121.05
60	117.41
61	113.77
62	110.14
63	106.52
64	102.93
65 or more	99.37.]

Industrial Disputes Act, 1947

Objective: to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.

Applicability: Industries – wider application, except for domestic employment, from barber shops to steel companies for problems that arise, usually one or more of the following:

- **Dispute** – by a group of workmen or trade union.
 - Single in case of dismissal, retrenchment or termination of service.
- **Strike** – refusal to continue working because of an argument with an employer about working conditions, pay levels, or job losses.
- **Lockout** – the temporary closing of a place of employment, or suspension of work, or the refusal by an employer to continue to employ any number of persons
- **Layoff** – Volatile in nature, employees recalled once period is over.
- **Retrenchment** – Full and final termination of services.



Industrial Disputes Act, 1947

Works committee: 100 or more employees, works committee will be constituted with members from employer and employee side.

Board of Conciliation : third party which shall attempt to settle disputes.

Labour court or Tribunals may be constituted by the appropriate government.

National tribunals to be constituted by central government.

Industrial dispute means any dispute or **difference between employers and employers** or **between employers and workmen**, or between **workmen and workmen**, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

Industrial Disputes Act, 1947

Procedure:

- When industrial dispute is apprehended, conciliation officer may hold proceedings
- The memorandum of settlement/ failure report is sent to the government
- Failure report may be referred to Labour court, Tribunal or national tribunal
- If it still fails, the case may be referred to Labour court

Industrial Disputes Act, 1947

Strike: No person employed in a public utility service shall go on strike in breach of contract,

- A. without giving notice of strike to the employer, as provided for, within six weeks before striking; or
- B. within fourteen days of giving such notice; or
- C. before the expiry of the date of strike specified in any such notice as aforesaid; or
- D. during the pendency of any conciliation proceedings before a conciliation officer and seven days after their conclusion.

Case Study: Air India (2012)

THE CHRONOLOGY OF THE AIR INDIA STRIKE MAY 2012

- 1) On May 8, 2012 about 100 pilots went on medical leave as a mark of protest while their talks with the management were still on.
- 2) The reason the pilot members of IPG went on mass sick leave, protesting the move to provide Boeing-787 Dreamliner training to pilots from the erstwhile Indian Airlines
- 3) Later, the same day it sacked ten agitating pilots and de-recognized their union after 160 pilots failed to join duty by the given deadline
- 4) After putting forth an original list of 14 demands, the aviators are now asking for reinstatement of their 101 sacked colleagues
- 5) On the 15th of May, the Union Civil Aviation Minister Ajit Singh stated that the Government was giving Air India one last chance and that it must perform in order to qualify for a bailout.
- 6) On May 26, 2012 Aviation minister Ajit Singh announced that he would go ahead and hire new pilots if the strike did not end soon.
- 7) While, AI management gave an assurance to Delhi High Court that it would look into the hardships of the pilots sympathetically, the striking pilots have decided to end the 58 day old strike immediately.

Trade Union Act 1926

Objective:

- 1) To protect workers against exploitation by employers.
- 2) To represent the grievance of employees on behalf of them to the management
- 3) To protect & safeguard rights of workers given to them under employment clause or labour laws.

Applicability: Industrial employees (including Railway servants).

Trade Union: Any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions.

A registered Trade Union of workmen shall at all times continue to have not less than 10% or 100 of the workmen, whichever is less.

Trade Union Act 1926

Application for registration of a trade union shall be made to the Registrar and shall be accompanied by a **copy of the rules** of the trade union **and**:

1. the names, occupations and addresses of the members making application,
2. the name of the trade union and the address of its head office,
3. the titles, names, ages, addresses and occupations of the of the trade union

If Trade Union **already exists** for a year or more, for its registration the members should submit all the details such as general statement of the assets and liabilities of the Trade Union going to be registered by the Registrar of Trade Union.

Cancellation:

1. When Trade Union registration certificate is obtained illegally by fraud or otherwise,
2. Disobeying the rules and regulation of Trade Union act
3. All provisions contained in section 6 of this Act not followed by Trade Union members,
4. When there are no minimum required numbers of members in the Trade Union

Trade Union Act 1926

As per Indian Railway Establishment Code, recognition will not be granted or continued to any association unless it complies with the following conditions:-

- 1) It must consist of a distinct class of Railway servants, not be formed based on any caste, tribe or religious denomination or other such grouping,
 - 2) All railway servants must be eligible for membership,
 - 3) It must be registered under the Indian Trade Unions Act.
- Government may require the regular submission of copies of the rules of the association, of its annual accounts and of its list of members.
 - No recognized association shall maintain a political fund except with the general or special sanction of the Government.
 - Unions and their Branches should not correspond with the Railway Board direct and such references should be appropriately addressed to the authorities of the Railways concerned.

Thank you