

## **THE PAYMENT OF WAGES ACT' 1936**

(with Amendment No. 41 of 2005 E.S.No.44/2006)

**Object:-**This act aims securing prompt and regular payment of wages without any arbitrary deductions to certain class of persons employed in Industrial establishments including Railways either directly or through a sub-contractor, by a person fulfilling agreement with Railways and employing or having employed twenty or more persons on any day of the preceding 12 months.

**Application [Section.1.(6)]:-** The Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed **Six thousand five hundred rupees per month** or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organization, the Central Government may, after every five years by notification in official Gazette, specify.

**Definition of WAGES [Section 2(vi)]:-** Wages means all remunerations, whether by way of salary, allowances or otherwise expressed in terms of money or capable of being so expressed which would if, the term of employment express or implied, were fulfilled. It does not include Travelling allowance or concession value of house accommodation or any contribution paid to any pension and provident fund or gratuity payable on the termination of employment.

**Responsibility for payment of wages[Section.3.(1)]:-** Every employer shall be responsible for the payment of all wages required to be paid under this act to persons employed by him and in case of persons employed :-

- a) In factories, if a person has been named as the Manager of the factory under the clause (f) of sub-section (1) of Section 7 of the Factories Act'1948;
- b) upon railways (other than in factories), if the employer is the railway administration and the Rly. Administration has nominated a person in this behalf for the local area concerned.

**Note:** Deductions shall not exceed 75% of wages where payment towards co-operative societies is to be made and shall not exceed 50% of wages in other cases.[S.3.(i) & (ii)]

**Wage Period [Section.4.]:-**The employer shall fix wages period which shall not exceed 01 month in any case.

The mode of payment would be as under:-

- a) The wages shall be paid on working day,(S.5.4),
- b) All wages shall be paid in current coin or currency notes but not in kind,
- c) The wages shall be paid :-
  - i) Where less than 1,000 persons are employed within seven days of the expiry of wages period,
  - ii) Where more than 1,000 persons are employed, before expiry of the 10<sup>th</sup> day after wages period.
- d) When the employment is terminated by the employer, wages shall be paid before the expiry of the 2<sup>nd</sup> day after termination.

**Fines [Section-8]:-**

1. Fine can be imposed only in respect of acts and omissions and list of such acts and omissions should be displayed.
2. No fine shall be imposed without giving an opportunity of “show cause” against the fine[S.8.3]
3. The amount of fine shall not exceed 03% of wages in respect of that wage period.(S.8.4)
4. Fine cannot be imposed/recovered after the expiry of 90 (**NINETY**) days from the date of Offence and also cannot be recovered in installments.(S.8.6.) (E.S.No.44/06).
5. Fine cannot be imposed on any employed person who is below 15 yrs of age.
6. All fines recovered should be used for the benefit of staff credited to staff Benefit Fund.
7. A register is required to be maintained to record fines and deductions made for loss and damages.

**Permissible Deductions: (S.7.2.):-**

No unauthorized deductions shall be made other than the following authorized deductions:-

- a. Fines, for acts and omissions as notified after a show cause notice,
- b. Deductions on account of absence from duty,
- c. For damage to or loss of goods expressly entrusted to the employed person for custody or for loss of cash through neglect or default,
- d. Deductions for House accommodation supplied by employer.
- e. Deductions for amenities or services supplied by employer,
- f. Deductions for recovery of advances and adjustment of over payment of wages,
- g. Deductions of income- tax,
- h. Deduction requires by the order of court,
- i. Subscription for PF and repayment of PF advances,
- j. Payment for Co-operative stores and credit societies,
- k. Recovery in respect of theft or loss of cash for which the employee is responsible,
- l. Any other deduction with written authority of employee.

### **List of acts and omissions;**

- a) Disregarded or disobedience of order,
- b) Insubordination and breach of discipline,
- c) Late or irregular attendance,
- d) Improper behavior such as drunkenness, quarrelling or sleeping on duty,
- e) Causing inconvenience to the public,
- f) Making false and misleading statements,
- g) Inefficient, dilatory, careless, wasteful, dangerous obstructing working,
- h) Malingering,
- i) Failure to observe rules and regulation not involving more severe disciplinary action,
- j) Causing loss or damage to Railway property where the full or partial loss is not recoverable under the payment of wages Act.

### **Display of Notices:-**

- a) Abstract of act and the rules made there under, in English, Hindi and the regional language shall be displayed,
- b) Notice of wage period,
- c) Date of payment and
- d) List of acts and omissions.

### **Registers to be maintained:-**

- a. Register of fines,
- b. Register of deductions for loss and damages,
- c. Register of wages at work-spot, i.e. duplicate copy of pay sheet or time-book.

**The appropriate** Authority to hear and decide the claims arising out of deductions or delay of payment of wages:-

- a) any commissioner for Workmen's compensation or
- b) any officer of the Central Government functioning as RLC/ALC with 2 years experience
- c) any officer of SG not below the rank of ALC with at least 2 years experience.
- d) A Presiding officer of any Labour Court/Industrial Tribunal.
- e) Any other officer with experience as a Judge of a Civil/Judicial Court.

### **Punishment for breach of the Act:-**

- a) Delay in payment, non-payment or un-authorized deductions, penalty upto Rs 7500/- (minimum. Rs 1500/-).
- b) In all other cases viz. Non-display of notices, non-maintenance of register of fines, register of deductions for damage or loss and duplicate copy of pay sheet or time book, the employer is liable to be fined up to Rs 7500/-(minimum. Rs 1500/-).

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