

## **INDUSTRIAL LAW – UNIT – III**

**An Overview of Factories Act – Payment of Wages Act – Payment of Bonus Act – Industrial Disputes Act.**

### **Table of Contents**

|   |           |
|---|-----------|
| <b>3.1 AN OVERVIEW OF FACTORIES ACT, 1948 .....</b>   | <b>4</b>  |
| <b>3.1.1 Factory Meaning.....</b>   | <b>4</b>  |
| <b>3.1.2 Worker Meaning.....</b>  | <b>4</b>  |
| <b>3.1.3 Occupier Meaning.....</b>  | <b>4</b>  |
| <b>3.1.3.1 General Duties of the Occupier.....</b>  | <b>4</b>  |
| <b>3.1.4 Objectives of Factories Act.....</b>   | <b>4</b>  |
| <b>3.1.5 Provision of the Factories Act, 1948, relating to Health of Workers.....</b>                 | <b>5</b>  |
| <b>3.1.6 Provisions Regarding the safety of Workers.....</b>  | <b>6</b>  |
| <b>3.1.7 Provisions Regarding the Welfare of Workers.....</b>   | <b>8</b>  |
| <b>3.1.8 Obligations of the occupier regarding Hazardous process under factories act.....</b>         | <b>9</b>  |
| <b>3.1.9 Provisions of the Factories Act regarding the employment of young persons and women.....</b> | <b>10</b> |
| <b>3.1.9.1 Employment of young person.....</b>  | <b>10</b> |
| <b>3.1.9.2 Employment of Women.....</b>   | <b>12</b> |
| <b>3.2 PAYMENT OF WAGES ACT, 1936.....</b>  | <b>13</b> |
| <b>3.2.1 Wages Meaning.....</b>   | <b>13</b> |
| <b>3.2.2 Purpose of payment of wages act.....</b>   | <b>13</b> |
| <b>3.2.3 Objectives of payment of wages act.....</b>  | <b>13</b> |
| <b>3.2.4 The Medium of payment of Wages.....</b>  | <b>13</b> |
| <b>3.2.5 The payment to the employees which are not considered a wages.....</b>                       | <b>14</b> |

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

|   |           |
|---|-----------|
| <b>3.2.6 Time of payment of wages.....</b>  | <b>14</b> |
| <b>3.2.7 Permissible or Authorized Deductions under the Payment of Wages Act.....</b>                           | <b>14</b> |
| <b>3.2.7.1 Limit on Deductions.....</b>   | <b>17</b> |
| <b>3.3 MINIMUM WAGES ACT, 1948.....</b>   | <b>17</b> |
| <b>3.3.1 Concept of minimum wages.....</b>  | <b>17</b> |
| <b>3.3.2 Purpose or objective of Minimum Wages Act.....</b>   | <b>17</b> |
| <b>3.3.3 Fixation of Minimum rates of Wages [Section-3(1) a].....</b>   | <b>17</b> |
| <b>3.3.4 Manner of Fixation/Revision of Minimum Wages.....</b>  | <b>18</b> |
| <b>3.3.5 Procedure for fixing and revising minimum wages (Section – 5).....</b>                                 | <b>19</b> |
| <b>3.4 PAYMENT OF BONUS ACT, 1965.....</b>  | <b>19</b> |
| <b>3.4.1 Bonus Meaning.....</b>   | <b>19</b> |
| <b>3.4.2 Objectives of the Bonus Act.....</b>   | <b>19</b> |
| <b>3.4.3 Minimum Bonus Meaning.....</b>   | <b>20</b> |
| <b>3.4.4 Employee in the Bonus Act.....</b>   | <b>20</b> |
| <b>3.4.5 Conditions that an employee is entitled to bonus.....</b>  | <b>20</b> |
| <b>3.5 INDUSTRIAL DISPUTES ACT, 1947.....</b>   | <b>20</b> |
| <b>3.5.1 Industry Meaning.....</b>  | <b>20</b> |
| <b>3.5.2 Industrial Dispute Meaning.....</b>  | <b>21</b> |
| <b>3.5.3 Unfair Labour Practice.....</b>  | <b>21</b> |
| <b>3.5.4 Objectives of Industrial Disputes.....</b>   | <b>21</b> |
| <b>3.5.5 Procedure for settlement of Industrial Disputes and authorities under Industrial Disputes Act.....</b> | <b>21</b> |
| <b>3.5.6 Modes of settlement of Industrial Disputes.....</b>  | <b>22</b> |
| <b>3.5.7 Strikes and lock-outs.....</b>   | <b>26</b> |
| <b>3.5.7.1 Define Strikes.....</b>  | <b>26</b> |

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

|   |           |
|---|-----------|
| <b>3.5.7.2 Define lock-outs.....</b>  | <b>26</b> |
| <b>3.5.7.3 Essentials of ‘lock-out’.....</b>  | <b>26</b> |
| <b>3.5.7.4 Conditions or Circumstances on which strikes and lock-outs are prohibited.....</b> | <b>26</b> |
| <b>3.5.7.5 Illegal Strikes and Lock-Outs Definition.....</b>                                  | <b>27</b> |
| <b>3.5.8 Lay-Off and Retrenchment.....</b>  | <b>27</b> |
| <b>3.5.8.1 Lay-Off Meaning.....</b>   | <b>27</b> |
| <b>3.5.8.2 Retrenchment Meaning.....</b>  | <b>28</b> |
| <b>3.6 REFERENCE.....</b>   | <b>28</b> |

### **3.1 AN OVERVIEW OF FACTORIES ACT, 1948**

#### **3.1.1 Factory Meaning**

A factory is a premises whereon 10 or more persons are engaged if power is used, or 20 or more persons are engaged if power is not used, in a manufacturing process [Section 2(m)].

#### **3.1.2 Worker Meaning:**

'Worker' means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge or 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.

#### **3.1.3 Occupier Meaning**

'Occupier' of a factory means the person who has ultimate control over the affairs of the factory.

##### **3.1.3.1 General Duties of the Occupier**

- The provision and maintenance of plant and systems of work in the factory that are safe and without risks to health.
- The arrangement 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.
- The provisions of such information, instruction, training and supervision as are necessary to ensure the health and safety of all workers at work.
- The maintenance of all places of work in the factory in a condition that is safe and without risks to health.
- Prepare, revise, a written statement of this general policy with respect to the health and safety of the workers at work.
- Bring the statement and any revision thereof to the notice of all the workers.

#### **3.1.4 Objectives of Factories Act**

- To regulate working conditions in factories.

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

- To ensure that basic minimum requirements for the safety, health and welfare of the factory workers are provided.
- To regulate the working hours, leave, holidays, overtime, employment of children, women and young persons, etc.
- The Act was last amended in 1987 whereby it safeguards against use and handling of hazardous substances and procedures for setting up hazardous industries were laid down.

### 3.1.5 Provision of the Factories Act, 1948, relating to Health of Workers

#### 1. Cleanliness and disposal of wastes and effluents:

The occupier is required to keep the factory premises clean and free from waste and effluvia. He shall make arrangements for sweeping and removing dirt and refuse daily, cleaning with disinfectant, effective treatment and disposal of wastes and effluents and maintaining proper drainage. All inside walls, partitions, staircases and rooms shall be whitewashed once in 14 months, or re-varnished and painted once in three years with washable paint or once in five years with non-washable paint. Besides, all doors, window frames, other wooden or metallic framework and shutters should be painted or varnished at least once in five years. The dates of white-washing, painting or varnishing etc. should be recorded in the prescribed register.

#### 2. Ventilation, Temperature and Humidity:

The factory premises should be adequately ventilated by circulation of fresh air and comfortable temperature should be maintained in every workroom. Besides, artificially increased humidity should be controlled by use of purified water.

#### 3. Prevent Dust and Fumes:

Accumulation and inhalation of dust and fumes or other impurity of such a nature as is likely to be injurious to health of workers should be prevented by use of exhaust fans and other safeguards.

#### 4. Avoid Overcrowding:

The workplace should not be overcrowded by workers and minimum space of 14.2 cubic metres per worker in a new factory and 9.9 cubic metres per worker in an existing factory should be provided.

#### 5. Lighting and Drinking Water:

Sufficient and suitable natural and artificial lights, wholesome drinking water at suitable points and during hot season, cool water in factories employing 250 or more workers, should also be provided.

**6. Latrines, urinals and spittoons:**

Every factory should provide and maintain adequately lighted and ventilated latrines and urinals, in sufficient numbers, for male and female workers separately, and spittoons at suitable locations. Further, the latrines, urinals and spittoons should be washed and cleaned with detergents and disinfectants.

**3.1.6 Provisions Regarding the safety of Workers**

**1. Fencing of machinery:**

All dangerous machinery must be securely fenced e.g., moving parts of prime movers, any flywheels connected to every prime mover, electric generators - Sec. 21.

**2. Work on or near machinery in motion:**

Work on or near machinery in motion must be carried out only by specially trained adult male workers wearing tight fitting clothes - Sec. 22.

**3. Employment of young person's on dangerous machines:**

No young person shall work at any dangerous machine unless he has been specially instructed as to the dangers and the precautions to be observed, has received sufficient training about the work, and is under the supervision of some person having thorough knowledge and experience of the machine – Sec. 23.

**4. Striking gear and devices for cutting off power:**

In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work room – Sec. 24.

**5. Self-acting machines:**

Moving parts of a self-acting machine must not be allowed to come within 45 cms. of any fixed structure which is part of the machine – Sec. 25.

**6. Casing of new machinery:**

In all machinery installed after the commencement of the Act, certain parts must be sunk, encased or otherwise effectively guarded e.g., set screw, bolt, toothed gearing etc. – Sec. 26.

**7. Women and children near cotton openers:**

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

Women and children must not be allowed to work near cotton openers, except in certain cases – Sec. 27.

**8. Hoists, lifts, chains etc.:**

Every hoist and lift must be so constructed as to be safe. There are detailed rules as to how such safety is to be secured. There are similar provisions regarding lifting machines, chains, ropes and lifting tackle – Secs. 28, 29.

**9. Revolving machinery:**

Where grinding is carried on, the maximum safe working speed of every revolving machinery connected therewith must be notified. Steps must be taken to see that the safe speed is not exceeded – Sec. 30.

**10. Pressure plant:**

Where any operation is carried on at a pressure higher than the atmospheric pressure, steps must be taken to ensure that the safe working pressure is not exceeded – Sec. 31.

**11. Floors, stairs and means of access:**

All floors, steps, stairs, passage and gangways shall be of sound construction and properly maintained. Handrails shall be provided wherever necessary. Safe means of access shall be provided to the place where the workers will carry on any work – Sec. 32.

**12. Pits, sumps, opening in floors etc.:**

Pits, sumps, openings in floors etc. must be securely covered or fenced – Sec. 33.

**13. Excessive weights:**

No worker shall be made to carry a load so heavy as to cause him injury – Sec. 34.

**14. Protection of eyes:**

Effective screen or suitable goggles shall be provided to protect the eyes of the worker from fragments thrown off in course of any manufacturing process and from excessive light if any – Sec. 35.

**15. Precautions against dangerous fumes:**

No person shall be allowed to enter any chamber, tank, etc. where dangerous fumes are likely to be present, unless it is equipped with a manhole or other means of going out. In such space no portable electric light of more than 24 volts shall be used. Only a lamp or light of flame proof construction can be used in such space. For people entering such space suitable

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

breathing apparatus, reviving apparatus etc. shall be provided. Such places shall be cooled by ventilation before any person is allowed to enter – Secs. 36, 36A.

**16. Explosive or inflammable Gas etc.:**

Where a manufacturing process produces inflammable gas, dust, fume, etc. steps must be taken to enclose the machine concerned, prevent the accumulations of substances and exclude all possible sources of ignition. Extra precautionary measure is to be taken where such substances are worked at greater than the atmospheric pressure – Sec. 37.

**17. Precaution in case of fire:**

Fire escapes shall be provided. Windows and doors shall be constructed to open outwards. The means of exit in case of the fire shall be clearly marked in red letters. Arrangements must be made to give warning in case of fire – Sec. 38.

**18. Specifications of defectives etc.:**

If any buildings or machine is in a defective or dangerous condition, the inspector of factories can ask for the holding of tests to determine how they can be made safe. He can also direct the adoption of the measures necessary to make them safe. In case of immediate danger, the use of the building or machine can be prohibited – Secs. 39, 40.

**19. Maintenance of buildings:**

If the Inspector of Factories thinks that any building in a factory, or any part of it, is in such a state of disrepair that it is likely to affect the health and welfare of the workers, he may serve on the occupier or manager or both in writing specifying the measures to be done before the specified date – Sec. 40A.

**20. Safety officers:**

The State Government may notify to the occupier to employ a number of Safety Officers in a factory (i) wherein one thousand or more workers are ordinarily employed, or (ii) wherein any manufacturing process or operation which involves the risk of bodily injury, poisoning, disease or any other hazard to health of the persons employed in the factory – Sec. 40B.

**3.1.7 Provisions Regarding the Welfare of Workers**

**1. Washing:**

In every factory, adequate and suitable facilities for washing shall be provided and maintained. They shall be conveniently accessible and shall be kept clean. There must be separate provisions for male and female workers – Sec. 42.

**2. Storing and Drying:**

# KV Institute of Management and Information Studies

## BA5104 – Legal Aspects of Business

---

The State Government may make rules requiring the provision of suitable facilities for storing and drying clothing – Sec. 43.

### 3. **Sitting:**

Sitting facilities must be provided for workers who have to work in a standing position, so that they may take rest when possible. When work can be done in a sitting position efficiently, the Chief Inspector may direct the provision of sitting arrangements – Sec. 44.

### 4. **First Aid:**

Every factory must provide first aid boxes or cupboards. They must contain the prescribed materials and they must be in charge of persons trained in first aid treatment. Factories employing more than 500 persons must maintain an ambulance room containing the prescribed equipment and in charge of the prescribed medical and nursing staff – Sec. 45.

### 5. **Canteens:**

Where more than 250 workers are employed, the State Government may require the opening of canteen or canteens for workers. Rules may be framed regarding the food served, its management etc. – Sec. 46.

### 6. **Shelters:**

In every factory where more than 150 workers are employed there must be provided adequate and suitable shelters or rest rooms and a lunch room (with drinking water supply) where workers may eat meals brought by them. Such rooms must be sufficiently lighted and ventilated and must be maintained in a cool and clean condition. The standards may be fixed by the State Government – Sec. 47.

### 7. **Creches:**

In every factory where more than 30 women are employed, a room shall be provided for the use of the children (below 6 years) of such women. The room shall be adequate size, well lighted and ventilated, maintained in a clean and sanitary condition and shall be in charge of a woman trained in the care of children and infants. The standards shall be laid by the State Government – Sec. 48.

### 8. **Welfare Officers:**

Welfare officers must be appointed in every factory where 500 or more workers are employed. The State Government may prescribe the duties, qualifications etc. of such officers – Sec. 49.

### 3.1.8 Obligations of the occupier regarding Hazardous process under factories act

**KV Institute of Management and Information Studies**  
**BA5104 – Legal Aspects of Business**

---

1. At the time of registration of the factory, the occupier should submit a detailed policy with respect to the health and safety of the workers and any subsequent change therein should be informed to the registration authority.
2. The occupier should also inform the Chief Inspector about the nature and details of the hazardous process, in the prescribed form, within 3 days before the commencement of such process. Failure to do so entails cancellation of the factory licence.
3. The occupier should inform the workers, the Chief Inspector, the local authority and the general public in the vicinity of the factory, about dangers and health hazards caused by the hazardous process and the measures taken to overcome these, the quantity, specifications, etc. of the wastes and the manner of their disposal.
4. The occupier should, with the approval of the Chief Inspector, draw-up:
  - a. an on-site emergency plan,
  - b. Measures for the handling, usage and storage of hazardous substances inside the factory and their disposal outside the factory.
5. The workers and the public in the vicinity of the factory shall be informed of the safety measures to be taken in case of an accident and measures of handling and disposal of hazardous substances.
6. The occupier shall ensure that qualified persons having experience in handling hazardous substances are appointed for any job involving handling of or working with a hazardous substance. The occupier shall also make arrangements for medical examination of workers before assigning them any such job and thereafter every year.
7. The occupier shall also maintain accurate and up-to-date health/medical records of the workers who are exposed to any chemical, toxic or any other harmful substance.
8. The occupier of the factory shall set up a Safety Committee consisting of equal number of representatives of workers and management, whose main job will be to promote co-operation between the workers and management in maintaining proper safety and health measures and to review them periodically.
9. In case any imminent danger to the lives or health of the workers is apprehended due to a hazardous process being carried on in the factory, the workers may bring the same to the notice of the occupier, agent, manager or the person in charge of the factory, or such person, who shall thereupon, take immediate necessary remedial action and report the matter to the Inspector.

### **3.1.9 Provisions of the Factories Act regarding the employment of young persons and women**

#### **3.1.9.1 Employment of young person**

---

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

**1. Prohibition of employment of young children:**

No child who has not completed his 14th year shall be required or allowed to work in a factory.

**2. Non-adult workers to carry tokens:**

A child who has completed his 14th year or an adolescent may be allowed to work in a factory provided a certificate of fitness is in the custody of the occupier and such child carries a token giving a reference to such certificate.

**3. Certificate of fitness:**

It is a certificate granted to a young person by a certifying surgeon after examining him and ascertaining his fitness for work in a factory. The certificate is valid for 12 months from the date of issue and can be renewed.

**4. Time of work:**

No female adolescent or a male adolescent who has not attained the age of 17 years but who has been granted a certificate of fitness to work as an adult shall be required or allowed to work except between 6 a.m. and 7.p.m.

**5. Working hours and notice of periods of work for children:**

- No child shall be employed or permitted to work in any factory for more than 4 ½ hours in any day and during the night.
- The period of work of all children employed in a factory shall be limited to 2 shifts, which shall not overlap or spread over more than 5 hours each.
- The provisions of weekly holidays as in Section.52 shall apply to child workers also.
- No child shall be required or allowed to work in any factory on any day on which he has already been working in another factory.
- No female child shall be required or allowed to work in any factory except between 8.00 A.M. and 7.00 P.M.
- A notice shall be displayed and maintained in every factory showing clearly for every day the periods during which children may be required or allowed to work.

**6. Register of Child Workers:**

# KV Institute of Management and Information Studies

## BA5104 – Legal Aspects of Business

---

The occupier or manager of every factory in which children are employed shall maintain a register of child workers showing:

- a. the name of each child worker,
- b. the nature of his work,
- c. the group in which he is included,
- d. the location where his group works on shifts, the relay to which he is allotted, and,
- e. the number of his certificate of fitness.

### 7. **Power to require medical examination:**

An inspector may direct the manager of a factory to have a person or young person medically examined by a certifying surgeon if he is working without a certificate of fitness or if he is no longer fit to work even though he is having a certificate of fitness.

### 8. **Safety provisions for young persons:**

No young person shall work or near machinery in motion, on dangerous machines and near cotton-openers. No young person shall be employed on any operation carried on in a factory which exposes the young person to a serious risk of bodily injury, poisoning or disease.

#### 3.1.9.2 Employment of Women

- No women or young person shall be allowed to clean, lubricate or adjust any part of a machinery in motion as it would expose the person to risk of any injury from any moving part.
- No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work. However, they may be employed if the cotton-opener is separated and the feed-end is partitioned.
- In every factory wherein more than 30 women workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for use of children under the age of 6 years of such women.
- **Working hours:** A woman shall not be required or allowed to work in a factory for more than 48 hours in any week or 9 hours in any day.
- **Restriction on employment of women:** A woman shall be required or allowed to work in a factory only between the hours of 6.00 A.M. and 7.00 P.M. and no woman is allowed to work between the hours of 10.00 P.M. and 8.00 A.M.

- **Certificate of fitness:** No female adolescent who has not attained the age of 17 years but who has been granted a certificate of fitness to work in a factory as an adult shall be required or allowed to work in any factory except between 6.00 A.M. and 7.00 P.M.
- **Dangerous Operations:** When the State Government is of the opinion that any operation carried out in a factory exposes any person employed in it to a serious risk of bodily injury, poisoning or disease; it may make rules prohibiting or re-striking the employment of women in that operation.

## 3.2 PAYMENT OF WAGES ACT, 1936

### 3.2.1 Wages Meaning

"Wages" means all remuneration (whether by way of salary, allowance or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or work done in such employment.

### 3.2.2 Purpose of payment of wages act

The main purpose of the Payment of Wages Act, 1936 is to ensure regular and timely payment of wages to the employed persons and to prevent unauthorised deductions being made from wages and arbitrary fines being imposed on the employed persons.

### 3.2.3 Objectives of payment of wages act

- To ensure regular and timely payment of wages to the employed persons.
- To prevent the evils of withholding wages.
- To avoid delays in paying wages.
- To prevent unauthorised deductions from wages.
- To prevent arbitrary fines being imposed on the employed persons.
- To regulate the payment of wages to certain classes of persons employed in industry.
- To safeguard the interest of industrial employees who are not getting very high salaries.
- To ensure payment wages in a particular form and at regular intervals.
- To ensure every employer responsible for the payment of wages to persons employed by him.

#### **3.2.4 The Medium of payment of Wages**

- All wages shall be paid in current coin or currency notes or both.
- Payment of wages in kind is not permitted.
- The employer may after obtaining the written authorisation of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.

#### **3.2.5 The payment to the employees which are not considered as wages**

- Any bonus.
- The value of any house accommodation.
- Contribution to any pension or provident fund.
- Any travelling allowance.
- Any gratuity payable on the termination of employment.
- Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment.

#### **3.2.6 Time of payment of wages:**

- Wages to be paid before 7th day of the following month if less than 1000 persons are employed.
- Wages to be paid before 10th day of the following month if more than 1000 persons are employed.
- If any person is terminated from his employment, his wages to be paid before the expiry of the 2nd working day from the day on which his employment is terminated.
- All wages shall be paid on a working day.

#### **3.2.7 Permissible or Authorized Deductions under the Payment of Wages Act**

##### **a. Fines [Sections 7(2)(a) and 8]**

- No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise then in accordance with such procedures as may be prescribed for the imposition of fines.
- No fine shall be imposed on any employed person who is under the age of fifteen years.

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

- No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.
  
- All fines and all realisation thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under Section 3 in such forms as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as approved by the prescribed authority.

**b. Deduction for absence from duty [Sections 7(2)(b) and 9]**

When an employed person is present at work place during his working hours but refuses to carry out his work due to stay-in-strike or for any other cause which is not reasonable in the circumstances, he shall be deemed to be absent from his place of work.

**c. Deduction for damage to or loss of goods or for loss of money [Sections 7 (2)(c) and 10]**

The person responsible for payment of wages under Section 3 should record all such deductions and realisation thereof, in a register, in such form and containing such particulars as may be prescribed [Section 10(2)].

**d. Deductions for house-accommodation [Section 7(2)(d) & 11]**

According to Section 7(2) (d), deduction is allowed in respect of house-accommodation provided by any of the following:

- i. Employer
- ii. Government

**e. Deduction for other amenities and services [Section 7(2)(e) and 12]**

The employed person may be provided with various amenities and services like transport, supply of electricity, water etc. The deductions can be made for such facilities subject to the provisions of Sections 7(2) (e).

**f. Deductions for recovery of advances [Sections 7(2)(f) and 12]**

It is very often that money may be advanced to the employed person to meet his/her various types of expenses in respect of marriage, death, religious functions, travelling or conveyance, etc.

**g. Deductions for the recovery of loans**

**Loans granted from welfare fund [Section 7(2) (ff)]**

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

If a loan is made from any fund constituted for the welfare of the labour, the deductions from wages can be made for the recovery of such loan together with the interest due in respect thereof.

**Loans for house building or other purposes [Section 7(2) (ff) and 12A]**

When the loans have been granted:

- i. for house/building or
- ii. other purposes approved by the State Government,

Deductions can be made for the recovery of such loans together with interest due thereof.

**h. Deductions for income-tax [Sections 7(2)(g)]**

According to Income-tax Act, income-tax payable, if any, by any salary earner, should be deducted at source i.e., at the time of wages.

**i. Deductions in respect of Provident Fund [Sections 7(2)(j)]**

An employed person may contribute to a scheme of Provident Fund. He may also be granted advances from such provident fund.

**j. Deductions for payment to Co-operative Societies [Sections 7(2)(j) and 13]**

The Co-operative Society is approved by the State Government or any Official specified by it in this behalf.

**k. Deductions for payment to a Scheme of Insurance of a Post Office [Section 7(2)(j)]**

Deductions for payments to a scheme of insurance maintained by the Indian Post Office, is allowed under Section 7(2)(j), provided deductions are made subject to such conditions as the State Government may impose under Section 13.

**l. Deductions for payment of Life Insurance premium [Section 7(2)(k)]**

Deductions can be made for payment of any premium to the Life Insurance Corporation of India, on the life insurance policy of the employed person. But the deduction is subject to following conditions: Deductions should be made with written authorization of the employed person.

**m. Deductions, for the purchase of government securities [Section 7(2)(k)]**

Deductions are allowed for the purchase of securities of:

- i. The Government of India, or

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

- ii. Any State Government.

### **3.2.7.1 Limit on Deductions**

The total amount of all categories of deductions from the wages of any employed person, in any wage-period, should not exceed the following limits prescribed by Section 7(3).

1. 75% of wages payable. In case when such deductions are wholly or partly made for payments to Co-operative Societies under [Section 7(2) (j)] of the Act.
2. 50% of the wages payable in any other case Provided that where the total deductions authorised exceed seventy five percent or, as the case may be fifty percent of wages, the excess may be recovered in such manner as may be prescribed.

## **3.3 MINIMUM WAGES ACT, 1948**

### **3.3.1 Concept of minimum wages**

The minimum Wages Act does not define the minimum wage concept. According to the Committee on Fair Wages, a minimum wage must provide not merely for the bare sustenance of life but the preservation of the efficiency of the worker. For this purpose; the minimum wage must also provide some measure of education, medical requirements and amenities.

### **3.3.2 Purpose or objective of Minimum Wages Act**

- To secure the welfare of the workers in a competitive market by fixing the minimum rates of wages in certain employment.
- To prevent exploitation of labour.
- To authorise the appropriate Government to take steps to prescribe minimum rates of wages in the scheduled industries [Sec. 2(g) and 27].

### **3.3.3 Fixation of Minimum rates of Wages [Section-3(1) a]**

Section 3 lays down that the “appropriate Government” shall fix the minimum rates of wages, payable to employees in an employment specified in Part I and Part II of the Schedule, and in an employment added to their part by notification under Section 27. In the case of the employment specified in Part II of the Schedule, the minimum rates of wages may not be fixed for the entire State. Parts of the State may be left out altogether. In the case of an employment specified in Part I, the minimum rates of wages must be fixed for the entire State, with no part of the State being omitted. The rates to be fixed need not be uniform. Different rates can be fixed for different zones or localities.

# KV Institute of Management and Information Studies

## BA5104 – Legal Aspects of Business

---

Notwithstanding the provisions of section 3(D)a, the “appropriate Government” may not fix minimum rates of wages in respect of any scheduled employment in which less than 1,000 employees in the whole State are engaged. But when it comes to its knowledge after a finding that this number has increased to 1,000 or more in such employment, it shall fix minimum wage rate.

### 3.3.4 Manner of Fixation/Revision of Minimum Wages

According to Section 3(2), the "appropriate Government" may fix minimum rate of wages for:

- Time work, known as a Minimum Time Rate;
- Piece work, known as Minimum Piece rate;
- A "Guaranteed Time Rate" for those employed in piece work for the purpose of securing such employees a minimum rate of wages on a time work basis; (This is intended to meet a situation where operation of minimum piece rates fixed by the appropriate Government may result in a worker earning less than the minimum wage);
- An "Over Time Rate", i.e., minimum rate whether a time rate or a piece rate to apply in substitution for the minimum rate which would otherwise be applicable in respect of overtime works done by employee.

Section 3(3) provides that different minimum rates of wages may be fixed for:

- Different scheduled employments;
- Different classes of work in the same scheduled employments;
- Adults, adolescents, children and apprentices;
- Different localities.

Further, minimum rates of wages may be fixed by anyone or more of the following wage periods, namely:

- By the hour,
- By the day,
- By the month, or
- By such other large wage periods as may be prescribed, and where such rates are fixed by the day or by the month, the manner of calculating wages for month or for a days as the case may be, may be indicated.

### **3.3.5 Procedure for fixing and revising minimum wages (Section – 5)**

In fixing minimum rates of wages in respect of any scheduled employment for the first time or in revising minimum rates of wage the appropriate Government can follow either of the two methods described below.

#### **First Method [Section-5(1) a]**

This method is known as the 'Committee Method'. The appropriate Government may appoint as many committees and sub- committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision as the case may be. After considering the advice of the committee or committees, the appropriate Government shall, by notification in the Official Gazette fix or revise the minimum rates of wages. The wage rate shall come into force from such date as may be specified in the notification. If no date is specified, wage rates shall come into force on the expiry of three months from the date of the issue of the notification.

#### **Second Method [Section-5(1) b]**

This method is known as the 'Notification Method'. When fixing minimum wages under Section 5(I) b, 'the appropriate Government shall by notification, in the Official Gazette publish its proposals for the information of persons likely to be affected thereby and specify a date not less than 2 months from the date of the notification, on which the proposals will be taken into consideration. The representations received will be considered by the appropriate Government. It will also consult the Advisory Board Constituted under Section 7 and thereafter fix or reverse the minimum rates of wages by notification in the Official Gazette. The new wage rates shall come into force from such date as may be specified in the notification. However, if no. date is specified, the notification shall come into force on expiry of three months from the date of its issue.

## **3.4 PAYMENT OF BONUS ACT, 1965**

### **3.4.1 Bonus Meaning**

It means an annual payment obligatory on the employers to employees on the basis of profits or on the basis of production or productivity.

### **3.4.2 Objectives of the Bonus Act**

The objective of the Payment of Bonus Act is to maintain peace and harmony between labour and capital by allowing the employees, in recognition of their right, to share in the prosperity-of the establishment reflected by the contributions made by capital, management and labour. The object of the Act is to provide for the payment of bonus to persons employed in certain establishments and for matters connected therewith.

# KV Institute of Management and Information Studies

## BA5104 – Legal Aspects of Business

---

### 3.4.3 Minimum Bonus Meaning

A minimum bonus of 8.33 percent of the wage or salary (up to Rs.1600) of an employee (Rs.60 in case of employees below the age of 15 years) is payable irrespective of the fact whether the establishment has made a profit or loss. Bonus is no longer linked with production and profitability. Liability for bonus is a statutory liability and not a contingent liability.

### 3.4.4 Employee in the Bonus Act

An 'employee' means any person (other than an apprentice) employed on a salary or wage not exceeding 3500 rupees per mensem in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.

### 3.4.5 Conditions that an employee is entitled to bonus:

- Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year and receiving salary or wages up to Rs. 3500 per month.
- An employee shall be disqualified from receiving bonus under this Act if he is dismissed from service for fraud or riotous or violent behaviour or theft, misappropriation or sabotage of any property of the establishment.
- Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be lawful for the employer to deduct amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.
- In case of a new establishment, its employees shall be entitled to be paid bonus only in respect of the accounting year in which the employer derives profits from such establishment during the first 5 accounting years.
- Where the employees have entered into an agreement with their employer for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits under the Payment of Bonus Act; 1965, then such employees shall be entitled to receive bonus due to them under such agreement.

## 3.5 INDUSTRIAL DISPUTES ACT, 1947

### 3.5.1 Industry Meaning

'Industry' means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

**KV Institute of Management and Information Studies**  
**BA5104 – Legal Aspects of Business**

---

**3.5.2 Industrial Dispute Meaning:**

An "industrial dispute" means any dispute or difference, between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms and conditions of employment of any person.

**3.5.3 Unfair Labour Practice**

Unfair labour practice means any of the practices specified in the Fifth Schedule which declares certain labour practices as unfair on the part of employers and their trade unions and on the part of workmen and their trade unions. The person committing any unfair labour practice is punishable with imprisonment up to 6 months and fine up to Rs.1000 or both.

**3.5.4 Objectives of Industrial Disputes:**

- To prevent and settle industrial disputes between the employers and workmen.
- To secure and preserve amity and good relations between the employers and workmen through internal machinery called Works Committee.
- To promote good relations through an external machinery of Conciliation, Courts of Inquiry, Labour Courts, Industrial Tribunals and National Tribunals.
- To redress the grievances of workmen through a statutory machinery.
- To provide job security.

**3.5.5 Procedure for settlement of Industrial Disputes and authorities under Industrial Disputes Act**

The Act provides elaborate and effective machinery for bringing about industrial peace by setting up various authorities for the investigation and settlement of industrial disputes. These authorities are:

- Works Committee (Sec.3)
- Conciliation Officers (Sec. A)
- Boards of Conciliation (Sec. S)
- Courts of Inquiry (Sec.6)
- Labour Courts (Sec. 7)
- Industrial Tribunals (Sec.7-A)
- National Tribunals (Sec.7-B)

The Act provides for the following modes of settlement of disputes:

- Voluntary settlement and conciliation
- Adjudication, and
- Arbitration.

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

**Conciliation** - The authorities that make use of conciliation as a method of settlement of industrial disputes are:

1. **Works Committees:** The Act encourages voluntary settlement of disputes through the Works Committees whose object is to remove causes of friction between the employers and workmen in the day-to-day working of establishments and to promote measures for securing amity and good relations between them. Industrial peace will be most enduring where it is founded on voluntary settlement.
2. **Conciliation Officers.**
3. **Boards of Conciliation,** and
4. **Courts of Inquiry** which may be constituted for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

**Adjudication** - The aforesaid authorities endeavour to compose any industrial difference of opinion or settle the industrial dispute before it may be adjudicated upon by:

1. Labour Courts,
2. Industrial Tribunals, and
3. National Tribunal

### **3.5.6 Modes of settlement of Industrial Disputes**

1. Voluntary settlement and conciliation:

- a. Works Committee
- b. Conciliation Officers
- c. Boards of Conciliation
- d. Courts of Inquiry

2. Adjudication Machinery:

- a. Labour Courts
- b. Industrial Tribunals
- c. National Tribunals

3. Arbitration

1. **Voluntary settlement and conciliation:**

- a. **Works Committee:**

# KV Institute of Management and Information Studies

## BA5104 – Legal Aspects of Business

---

The appropriate Government by general or special order require the employer of any industrial establishment in which 100 or more workmen are employed to constitute a works committee consist of representatives of employers and workmen of the establishment.

### **Power and Duties of the Works Committee:**

- Good relations between the employers and workmen.
- Comment upon matters of their common interest a concern, and
- All kind of facilities like hospitals, training, wages, hours of work etc.

### **b. Conciliation Officers:**

The appropriate Government may, by notification in the official Gazette, appoint such number of persons as it thinks fit to be conciliation officers to mediate in and promote the settlement of industrial disputes.

### **Duties of Conciliation Officers:**

- To hold conciliation proceedings in the prescribed manner.
- To investigate the dispute and all matters affecting the merits and the right settlement thereof.
- To send a report and memorandum of settlement to appropriate Government.
- To send a full report to the appropriate Government setting forth the steps taken by him in case no settlement is arrived at.

### **c. Boards of Conciliation:**

The appropriate Government by notification in the official Gazette constitute, a Board of Conciliation for promoting the settlement of an industrial dispute. The Board shall consist of a Chairman as an independent person and 2 or 4 other members appointed in equal number to represent the parties to the dispute.

### **Duties of Board of Conciliation:**

- To bring about a settlement of the dispute.
- To send a report and memorandum of settlement to the appropriate Government.

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

- To send a full report to the appropriate Government setting forth the steps taken by the Board in case no settlement is arrived at.
- To communicate reasons to the parties if no further reference made.
- To submit report within 2 months or the date on which the dispute was referred to it.

**d. Courts of Inquiry:**

The appropriate Government may, by notification in the official Gazette, constitute a court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute. A Court' may consist of one independent person and if it consists of 2 or more persons, one of them shall be appointed as the chairman. All members of the Court shall be deemed to be public servants.

**Duties of Courts of Inquiry:**

- To inquire into the matters referred to it.
- To send the report of inquiry to the appropriate Government ordinarily within a period of 6 months from the commencement of its inquiry.
- To abide by the principle of fair play and justice.

**2. Adjudication Machinery:**

**a. Labour Courts:**

The appropriate Government may, by notification in the official Gazette, constitute one or more Labour Courts for adjudication of industrial disputes relating to any matters specified in the Second Schedule. A judge of a High Court may be appointed as presiding officer of a Labour Court.

**Duties of Labour Courts:**

- To adjudicate upon industrial disputes relating to matters specified in the Second Schedule.
- To give award within the specified period.
- The award should be signed by its presiding officer and be published in such manner as the appropriate Government thinks fit.

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

**b. Industrial Tribunals:**

The appropriate Government may by notification, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter specified in the Second and Third Schedule and for performing such other functions as may be assigned to them under this Act. A person of the rank of a Judge of a High Court may be appointed as a presiding officer of the Tribunal.

**Duties:**

- The Tribunal shall hold its proceedings expeditiously of the referred dispute and submit its award to the appropriate Government within the specified period.
- The award shall be in writing and signed by its presiding officer and be published.

**Powers:**

- The presiding officer may after giving reasonable notice enter the premises occupied by any establishment to which the dispute relates.
- A Tribunal shall have the same powers as are rested in a Civil Court under the code of Civil Procedure, 1908; when trying a suit in respect of the matters specified in the Act.
- The Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessors to advise it in the proceeding before it.
- The cost of any proceedings before a Tribunal shall be determined at the discretion of the Tribunal.

**c. National Tribunal:**

A judge of a High Court shall be appointed as one person only to a National Tribunal by the Central Government. The duties and powers of a National Tribunal shall be the same as specified under Industrial Tribunals.

**3. Arbitration:**

Before an industrial dispute is referred to a Labour Court or Tribunal or National Tribunal the employer and workmen may refer the dispute to arbitration of any person or persons of their choice, by means of a written arbitration agreement, A copy of the arbitration agreement, signed by representatives of both the parties representing majority of each party, should be forwarded to the Government and the conciliation officer. The arbitrators shall investigate

# KV Institute of Management and Information Studies

## BA5104 – Legal Aspects of Business

---

into the dispute and submit the arbitration award to the government, who shall within one month of the receipt of thereof, publish the same in the Official Gazette.

### 3.5.7 Strikes and lock-outs

#### 3.5.7.1 Define Strikes

Strike means suspension or cessation of work by a group of employees employed in any industry, acting in combination. Partial stoppage of work, hunger strike accompanied with cessation of work and sitting in strike are also held to be strike. A pen-down strike also falls within the definition of 'strike'.

#### 3.5.7.2 Define lock-outs

Lock-out means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.

#### 3.5.7.3 Essentials of 'lock-out'

- There is a temporary closing of the place of employment, or suspension or withholding of the work by the employer in some form.
- There is an element of demands for which the place of employment is locked-out or closed.
- There is an intention to re-employ the workers if they accept the demands.

#### 3.5.7.4 Conditions or Circumstances on which strikes and lock-outs are prohibited

1. No person employed in a public utility service shall go on strike in breach of contract.
  - Without giving to the employer notice of strike, within 6 weeks before striking (or)
  - Within 14 days of giving such notice (or)
  - Before the expiry of the date of strike specified in any such notice as aforesaid (or)
  - During the pendency of any conciliation proceedings and 7 days after the conclusion of such proceedings.
2. A strike notice is valid only for 6 weeks.
3. Clause (b) ensures that there is enough prior warning before the workmen actually go on strike.
4. No employer carrying on any public utility service shall lock-out any of his workmen.

**KV Institute of Management and Information Studies**  
**BA5104 – Legal Aspects of Business**

---

- Without giving them notice of lock-out, within 6 weeks before locking-out (or)
  - Within 14 days of giving such notice (or)
  - Before the expiry of the date of lock-out specified in any such notice as aforesaid (or)
  - During the pendency of any conciliation proceedings and 7 days after the conclusion of such proceedings.
5. A lock-out notice is valid only for 6 weeks.
  6. Clause (b) ensures that there is enough prior warning.
  7. The notice of lock-out shall be given in such manner as may be prescribed.
  8. The notice of lock-out or strike shall not be necessary where there is already in existence a strike or as the case may be, lock-out in the public utility service.
  9. Intimation of notices of strike or lock-out by any persons employed by the employer shall be given within 5 days to the appropriate Government or to such authority as that Government may prescribe.
  10. No workman who is employed in any industrial establishment shall go on strike and no employer of any such workman shall declare a lock-out.

### **3.5.7.5 Illegal Strikes and Lock-Outs Definition**

Any strike or lock-out commenced or declared or continued, in contravention of any of the above restrictions or any prohibitory order of the government under section 10 or 10-A, shall be illegal. No person should knowingly finance any illegal strike or lock-out. A strike is also said to be illegal if it is commenced or declared in contravention of Sec.22 or Sec.23.

### **3.5.8 Lay-Off and Retrenchment**

#### **3.5.8.1 Lay-Off Meaning**

'Lay-off' means the failure, refusal or inability of an employer to give employment to a workman –

- a. whose name is borne on the muster rolls of his industrial establishment and
- b. who has not been retrenched.

The failure, refusal, or inability to give employment may be due to:

- Shortage of coal, power or raw materials, or

KV Institute of Management and Information Studies  
BA5104 – Legal Aspects of Business

---

- The accumulation of stocks, or
- The breakdown of Machinery, or
- Natural Calamity or for any other connected reasons.

### 3.5.8.2 Retrenchment Meaning

Retrenchment means termination by the employer, of the service of a workman for any reason whatsoever, but excludes:

- Dismissal inflicted by way of disciplinary action,
- Voluntary retirement of the workmen,
- Termination as a result of non-renewal of contract of employment, and
- Termination due to continued ill-health of the workman.

### 3.6 REFERENCE

1. Elements of Mercantile Law – N.D. Kapoor
2. Business Law for Managers – P.K. Goel
3. Legal Aspects of Business – Akhileshwar Pathack
4. Legal Aspects of Business – Balachandran V.