

USEFUL TIPS ON LABOUR LAWS

Composed by

P.B.S. KUMAR

B.Sc, M.A.(PM),M.A.(Ind.Eco.),MBA(HR),BGL,LLD,PGDIRPM

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

Sec. 1

Apprenticeship Advisor

Central Apprenticeship
Advisor – when appointed
by Central Government.

Sec. 2(b)

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

Sec. 2(k)

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.

Sec. 3

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.

Sec. 4

Conditions for Novation of Contract of Apprenticeship

- There exists an apprenticeship
contract.
- The employer is unable to fulfil his
obligation.
- The approval of the Apprenticeship
Advisor is obtained.

- Agreement must be
registered with the
Apprenticeship Advisor.

Sec. 5

Period of Apprenticeship

Training to be
Determined by the
National Council

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

Sec. 6

Payment to Apprentices

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

Sec. 6

Number of Apprentices in Designated Trade

To be determined by The Central
Government after consulting the
Central Apprenticeship Council

Sec.8

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.

Sec. 11

Obligations of Apprentice

- To learn his trade conscientiously, diligently.
- To attend practical and instructional classes regularly.
- To carry out all lawful orders.
- To carry out his 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 upto a maximum period of 10 days in a year.

Sec. 15

Employer's liability to pay compensation for injury

As per provisions of Workmen's
Compensation Act.

Sec. 16

Offences & Punishment

Imprisonment of a term upto 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

Secs. 30 & 31

CONTRACT LABOUR (REGULATION & ABOLITION) ACT, 1970 & THE RULES

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

Registration 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

Prohibition 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 of Registration

When obtained by Misrepresentation or suppression Of material facts etc. after opportunity to the principal employer

Sec. 9

Licensing of Contractor

- Engaging 20 or more than 20 workers and on deposit of required fee in Form IV.
- Valid for specified period.

Sec. 12, Rule 21

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. 14

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

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

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

Muster Roll, Wages Register, Deduction Register and Overtime Register by Contractor

- Every contractor shall
- Maintain Muster Roll and a Register of Wages in Form XVI and Form XVII respectively when combined.
- Register or wage-cum-Muster Roll in Form XVII where the wage period is a fortnight or less.
- Maintain a Register of Deductions for damage or loss, Register of Fines and Register of Advances in Form XX, from XXI and Form XXII respectively.
- Maintain a Register of Overtime in Form XXIII.
- To issue wage slips in Form XIX, to the workmen at least a day prior to the disbursement of wages.
- Obtain the signature or thumb impression of the worker concerned against the entries relating to him on the Register of wages or Muster Roll-Cum-Wages Register.
- When covered by Payment of Wages Act, register and records to be maintained under the rules
- Muster Roll, Register of wages, Register of Deductions, Register of Overtime, Register of Fines, Register of Advances, Wage slip.
- To display an abstract of the act and Rules in English and Hindi and in the language spoken by the Majority of workers in such forms as may be approved by appropriate authority
- To display notices showing rates of wages, hours of work, wage period, dates of payment, names and addresses of the inspector and to send copy to the inspector and any change forthwith

Rule 79

Rule 80

Rule 81

PENALTIES

Sec.

Sec. 22

Offence

Obstructions

Sec.23

Violation

Punishment

For obstructing the inspector or failing to produce registers etc.

- 3 months' imprisonment or fine upto Rs.500, or both.

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

EMPLOYEES' PROVIDENT FUNDS & MISC. PROVISIONS ACT, 1952 & THE SCHEMES

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.

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 directly employed by him and also in respect of the employees employed by or through a 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%** upto 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 upto 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.

Notes:

The above clarification is given by taking wages upto a maximum of Rs.6500 towards wage (basic+DA).

Since an excluded employee i.e. drawing wages more than Rs.6500 can also become member of the Fund and the Schemes on joint request and if, for instance, such an employee is getting Rs.10,000 per month, his share towards provident fund contribution will be Rs.1200 e.g. 12% and employer's share towards provident fund contribution will be Rs.659 and Rs.541 towards Employees' Pension Fund.

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.

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

SCHEME	EMPLOYEE'S	EMPLOYER'S	CENTRAL GOVT'S
Provident Fund Scheme	12%	Amount > 8.33% (in case where contribution is 12% of 10%) 10% (in case of certain Establishments as per details given earlier)	NIL
Insurance Scheme	NIL	0.5	NIL
Pension Scheme	NIL	8.33% (Diverted out of Provident Fund)	1.16%

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 person 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.7500/-** per month engaged either directly or thru' contractor

Rate of Contribution of the wages

Employers' **4.75%**
Employees' **1.75%**

THE ESI SCHEME TODAY

No. of implemented Centres	677
No. of Employers covered	2.38 lacs
No. of Insured Persons	85 lacs
No. of Beneficiaries	330 lacs
No. of Regional Offices/SRO's	26
No. of ESI Hospitals/Annexes	183
No. of ESI Dispensaries	1453
No. of Panel Clinics	2950

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 the prescribed form in quadruplicate on ore before 21st of month following the calendar month in which the wages fall due.

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

To be deemed as wages

- Basic pay
- Dearness allowance
- House rent allowance
- City compensatory allowance
- Overtime wages (but not to be taken into account for determining the coverage of an employee)
- Payment for day of rest
- Production incentive
- Bonus other than statutory bonus
- Night shift allowance
- Heat, Gas & Dust allowance
- Payment for unsubstituted holidays
- Meal/food allowance
- Suspension allowance
- Lay off compensation
- Children education allowance (not being reimbursement for actual tuition fee)

NOT to be deemed as wages

- Contribution paid by kthe employer to any pension/provident fund or under ESI Act.
- Sum paid to defray special expenses entailed by the nature of employment – Daily allowance paid for the period spent on tour.
- Gratuity payable on discharge.
- Pay in lieu of notice of retrenchment compensation
- Benefits paid under the ESI Scheme.
- Encashment of leave
- Payment of Inam which does not form part of the terms of employment.
- Washing allowance for livery
- Conveyance Amount towards reimbursement for duty related journey

Contribution period

1st April to 30th September.

1st October to 31st March

Contribution period

If the person joined insurance employment for the first time, say on 5th January, his first contribution period will be from 5th January to 31st March and his corresponding first benefit will be from 5th October to 31st December.

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 dayd 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 Spittons.

Secs. 11 to 20

Registration & Renewal of Factories

To be granted by Chief Inspector of Factories on submission of prescribed form, fee and plan.

Secs. 6

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.

- Self-acting machines.
- Casing of new machinery.
- Prohibition of employment of women and children near cotton-openers.
- Hoists and lifts.

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 fitnekkss.
- Working hours for children not more than 4 ½ 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 Continuation of contravention	• Rs.1000 per day	
• On contravention of Chapter IV pertaining to safety or dangerous operations.	• Not less than Rs.25000 in case of death.	
	• Not less than Rs.5000 in case of serious injuries.	
• Subsequent contravention of some provisions	• 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 (COMPULSORY 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

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

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

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.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**

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**

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**

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**

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**

Notice of Change

21 days by an employer to workmen about changing the conditions of service as provided in IVth Schedule. **Sec.9A**

Prior Permission for Lay off

When there are more than 100 workmen during proceeding 12 months. **Sec.25-M**

Lay off Compensation

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**

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.
- 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.
- During the pendency of proceedings before a Labour Court, Tribunal or National
- Tribunal 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**

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**

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 punish 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**

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**

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.

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 or more workmen during preceding 12 months (in UP 300 or more workmen) **Sec.25-O**

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 punish 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

Offence

<Punishment

Sec.25-U

Committing unfair labour practices

Imprisonment of upto 6 months or with fine upto Rs.3,000.

26

Illegal strike and lock-outs

Imprisonment upto one month or with fine upto Rs.50(Rs.1000 for lock-out) or with both.

27

Instigation etc. for illegal strike or lock-outs.

Imprisonment upto 6 months or with fine upto Rs.1,000

28

Giving financial aid to illegal strikes and lock-outs.

Imprisonment for 6 months or with fine upto Rs.1,000

29

Breach of settlement or award

Imprisonment upto 6 months or with fine. On continuity of offence fine

30

Disclosing confidential information pertaining to Sec.21

uptoRs.200 per day

31A

Closure without 60 days' notice under Sec.25 FFA

Imprisonment upto 6 months or with fine upto Rs.1,000

Contravention of Sec.33 pertaining to change of conditions of

Imprisonment upto 6 months or with fine upto Rs.5,000

Service during pendency of dispute etc.

Imprisonment upto 6 months or fine upto Rs.1,000. Fine upto Rs.100

31

When no penalty is provided for contravention

(STANDING ORDERS) ACT, 1946 & THE RULES

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. Industrial establishment covered by M.P. Industrial Employment (Standing Orders) Act, 1961.

Sec. 1

Conditions for Certification of Standing Orders

- Every matter to be set out as per Schedule and Rule 2A.
- The standing orders to be in conformity with the provisions of the Act.

Submissions of Draft Standing Orders

Within six months from the date when the Act becomes applicable to an industrial establishment. Five copies of the draft Standing Orders are to be submitted to the Certifying Officer under the Act.

Sec.3

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 model 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 preceding 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 temporary 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 preceding 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

Conditions for eligibility of benefits

- Ten weeks before the date of her expected delivery, she may ask the employer to give her light work for a month. At that time she should produce a certificate that she is pregnant.
- She should give written notice to the employer about seven weeks before the date of her delivery that she will be absent for six weeks before and after her delivery. She should also name the person to whom payment will be made in case she can not take it herself.
- She should take the payment for the first six weeks before she goes on leave.
- She will get payment for the six weeks after child-birth within 48 hours of giving proof that she has had a child.
- She will be entitled to two nursing breaks of fifteen minutes each in the course of her daily work till her child is fifteen months old.
- Her employer cannot discharge her or change her conditions of service while she is on maternity leave.

Sec. 5.

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 vary 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 gross 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 fine, 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	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	
Minimum Rates of Wages Such as Basic rates of wages etc. Variable DA and Value of other concessions etc. Sec. 4	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 schedule employer in equal number and independent persons not exceeding 1/3 rd or its total number one such person to be appointed by the Chairman. Sec. 9
Fixing Hours for Normal Working - Shall constitute a normal working day inclusive of one or more specified intervals. - To provide for a day of rest in every period of seven days with remuneration. - To provide for payment for work on a day of rest at a rate not less than the overtime rate.. Sec. 13	Overtime To be fixed by the hour, by the day or by such a longer wage-period works on any day in excess of the number of hours constituting normal working day. Payment for every hour or for part of an hour so worked in excess at the overtime rate double of the ordinary rate of (1½ times or for agriculture labour) Sec. 5	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. 18	
Minimum time rate wages for piece work Not less than minimum rates wages as fixed . Sec. 17	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	
PENALTIES	Offence	Punishment
Sec. 20	For paying less than minimum rates of wages	Imprisonment upto 6 months or with fine upto Rs.500/-
	For contravention of any provisions pertaining to fixing hours for normal working day etc.	Imprisonment upto 6 months or with fine upto Rs.500/-

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 wages 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 upto 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.5 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 upto 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	Offence	Punishment
U/s 31	- For making false entry in or any omission in general statement required for sending returns. - For making false entry in the form.	- Fine upto Rs.500. On continuing default, additional fault, Rs.5 for each week (not exceeding Rs.50). - Fine upto Rs.500.
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.
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. Sec.5	Components of Bonus Salary or wages includes dearness allowance but no other allowances e.g. over-time, house rent, incentive or commission. Sec.2(21)	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. Sec.3
Disqualification & Deduction of Bonus On dismissal of an employee for • Fraud; or • riotous or violent behaviour while on the premises of the establishment; or • theft, misappropriation or sabotage of any property of the establishment or • Misconduct of causing financial loss to the Employer to the extent that bonus can be deducted for that year. Secs. 9 & 18.		Computation of gross profit For banking company, as per First Schedule. Others, as per Second Schedule Sec.4
Eligibility of Bonus An employee will be entitled only when he has worked for 30 working days in that year. Sec. 8	Payment of Minimum Bonus 8.33% of the salary or Rs.100 (on completion of 5 years after 1 st Accounting year even if there is no profit) Sec.10	Eligible Employees Employees drawing wages upto Rs.3500 per month or less. For calculation purposes Rs.2500 per month maximum will be taken even if an employee is drawing upto Rs.3500 per month. Sec.12 Note: The proposal to enhance the existing ceiling of Rs.3500 is under active consideration by the Govt.
Time Limit for Payment of Bonus Within 8 months from the close of accounting y ear. Sec. 19	Set-off and Set-on As per Schedule IV. Sec. 15	
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. Sec.26, Rule 4		
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

Sec. 1

Applicability

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

Sec. 2(s)

Wages for Calculation

@ 15 days' wages for every completed year as if the month comprises of 26 days at the last drawn wages.

Sec. 2(e)

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.

Sec. 1

Calculation Piece-rated employee

@ 15 days wages for every completed year on an average of 3 months' wages

Calculation Seasonal employee

@ 7 days' wages for every completed year of service.

Rule 4

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.

Sec. 4(3)

Maximum Ceiling

Rs.3,50,000

Rule 9

Mode of payment

Cash or, if so desired, by Bank Draft or Cheque

Rule 9

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.

Sec.6 Rule 6

Nomination

To be obtained by employer after expiry of one year's service, in Form 'F'

Sec.8 Rule 8

Recovery of Gratuity

To apply within 30 days in Form I when not paid within 30 days

Sec. 4(6)

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.

Sec. 13

Protection of Gratuity

Can't be attached in execution of any decree

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 etc.	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 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. Sec. 5	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 Sec. 6
Coverage of Employees Drawing average wage upto Rs.6500 pm as amended w.e.f. 6.9.05.	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.etc. Sec. 7	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. Sec. 9
Fines as prescribed by •Not to imposed unless the employer is given an opportunity to show cause •To record in the register Sec.8	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. Sec.10	
Deductions for service rendered When accommodation amenity or service has been accepted by the employee. Sec.11		

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 contravention S.4, S.5(4), S6, S.8(8), S.10(2) or S.25 fine not less than Rs.1000. – may extend to Rs.5000. On subsequent On conviction fine not less.
• For 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 record conviction fine not less than Rs.5000, may extend to Rs.10,000. • For second or subsequent conviction, fine not less than Rs.5000 but may extend to Rs.10,000
• Wilfully obstructing an Inspector in the discharge of his duties under this Act; or • Refusing or wilfully neglecting to afford an Inspector any reasonable facility for making any entry, inspection etc. • Wilfully refusing to produce on the demand of an inspector any register or other document kept in pursuance of this Act; or preventing any person for appearance etc.	Fine not less than Rs.1000 extendable Upto Rs.5000 – On subsequent conviction fine not less than Rs.5000 – may extent to Rs.10,000
• On conviction for any offence and again guilty of Contravention of same provision. • Failing or neglecting to pay wages to any employee	• Imprisonment not less than one month extendable upto six months and fine not less than Rs.2000 extendable upto Rs.15000. • 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

Wages

When the monthly wages are more than Rs.4000 per month it will be deemed Rs.4000.

Sec.4 Exh.b

Notice Accident

As soon as
Practicable

Sec. 10

When an employee is not liable for compensation

- In respect of any injury which does result in the total or partial disablement of the workman for a period exceeding three days.
- In respect of any injury, not resulting in death or permanent total disablement caused by an accident which is directly attributable to-
- The workman having been at the time thereof under the influence of drink or drugs, or
- Willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
- Willful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workman.

Sec.3(a) & (b)

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