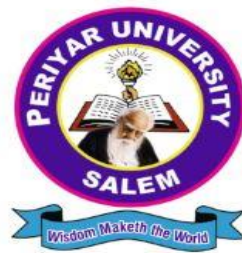


PERIYAR UNIVERSITY

**(Reaccredited by NAAC 'A++' Grade - State University - NIRF Rank 59
- NIRF Innovation Band of 11-50)
SALEM - 636 011, Tamil Nadu, India.**

**CENTRE FOR DISTANCE AND ONLINE EDUCATION
(CDOE)**

**MASTER OF COMMERCE
SEMESTER - I**



**ELECTIVE COURSE II A: LABOUR LAWS
(Candidates admitted from 2024 onwards)**

PERIYAR UNIVERSITY

CENTRE FOR DISTANCE AND ONLINE EDUCATION (CDOE)

M.COM 2024 admission onwards

ELECTIVE – II A

Labour Laws

Prepared by:

**Centre for Distance and Online Education (CDOE),
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SYLLABUS

LABOUR LAWS

UNIT I Introduction and The Trade Unions Act, 1926

Labour legislations: Origin – Nature – Scope – Need – Objectives – Principles – Labour policy audits special features – Constitution as the basis for labour legislation – The Trade Unions Act, 1926: Definition – Objectives – Deficiencies – Registration of trade union – Cancellation of registration and appeal – Duties and obligations – Rights and privileges – Dissolution.

UNIT II The Factories Act, 1948 and Equal Remuneration Act, 1976

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LABOUR LAW

UNIT I Introduction and The Trade Unions Act, 1926

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Learning Objectives

This unit aims to provide a comprehensive understanding of labour legislation, covering its origin, nature, scope, and the pressing need for such laws. Students will explore the key objectives and guiding principles of labour legislation, as well as examine labour policy audits and their special features. The unit emphasizes the Constitution's role as the foundation for labour laws in India. A significant focus is placed on the Trade Unions Act of 1926, where students will learn its definition, objectives, and inherent deficiencies. The unit delves into the processes of trade union registration, potential cancellation of registration, and the subsequent appeal procedures. It also outlines the duties, obligations, rights, and privileges afforded to trade unions under this Act. Finally, the unit covers the dissolution process for trade unions, providing a well-rounded understanding of their lifecycle and legal framework.

Introduction and the Trade Unions Act, 1926

SECTION 1.1: LABOUR LEGISLATIONS

Hello, students! Welcome to the fascinating course of “Labour Law”. In this journey, we’ll delve into the core of labour law, The term labour legislation is used to cover all the laws which have been enacted to deal with employment and non- employment, wages, working conditions, industrial relations, social security and welfare of persons employed in industries.



Thus ‘labour legislation’ refers to all laws of the government to provide social and economic security to the workers. These acts are aimed at reduction of production losses due to industrial disputes and to ensure timely payment wages and other minimum amenities to workers.

As we move forward, the purpose of labour law is to create a fair working environment for all parties involved and to promote the welfare of workers and the stability and prosperity of society as a whole. It is crucial for businesses to ensure that their employees feel safe, valued and supported.

We’ll learn the legal framework that endeavours to rectify the asymmetry of power between employers and employees. It seeks to establish a fair and just system that prevents arbitrary dismissal of employees and safeguards their rights during negotiations concerning working conditions. It is a critical subject to study as it governs the rights and responsibilities of both employers and employees in workplace and plays a vital role in promoting fairness

and equality. Understanding labour law is essential for both employees and employers as it helps in creating a healthy and conducive work environment that fosters mutual respect and cooperation.

Get ready for an engaging and enlightening exploration of labour law. Let's embark on this path together, gaining insights that will shape our understanding about the law.

1.1.1- Introduction, Meaning and Definition of Labour law

Labour law also known as employment law is the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, working people and their organizations. As such, it mediates many aspects of the relationship between trade unions, employers and employees. In other words, Labour law defines the rights and obligations as workers, union members and employers in the workplace. Generally, labour law covers:

- Industrial relations – certification of unions, labour-management relations, collective bargaining and unfair labour practices;
- Workplace health and safety;
- Employment standards, including general holidays, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay.

There are two broad categories of labour law. First, collective labour law relates to the tripartite relationship between employee, employer and union. Second, individual labour law concerns employees' rights at work and through the contract for work.

The labour movement has been instrumental in the enacting of laws protecting labour rights in the 19th and 20th centuries. Labour rights have been integral to the social and economic development since the industrial revolution.

Meaning

'Labour legislation' is a body of law formed for the working class of people to provide them with legal rights, and also restrict them with rules and regulations. It defines the rights and obligations of the working class. Labour law covers several areas-

- **Certification of Labour Unions** – The Labour Union is issued with a formal document which ensures them the right to represent on behalf of all the labourers. This Union acts as an exclusive bargaining agent.
- **Collective Bargaining** – The workers through their unions put demands before their employers, like the terms of their employment, payment, leave, health and safety policies and the number of working hours.
- **Labour-Management Relations** – The head of any working organisation has to resolve conflict among his labourers because any misunderstanding between his employees will create a downfall in his work progress.
- **Workplace health and safety** – It ensures that the employees are getting a safe environment to work in and are not physically or mentally abused by the work culture because a better environment will only make them work with all their might.
- **Employment standards** – These include annual holidays, working hours, unfair means of dismissal of labourers, and compensation provided to the labourers who got terminated or have left the job.

Definition

According to Mr. V.V. Giri industrial legislation is “a provision for equitable distribution of profits and benefits emerging from industry, between industrialists and workers and affording protection to the workers against harmful effects to their health, safety and morality”.

The committee on Labour Welfare, 1969, noted that “labour welfare includes such services, as facilities and amenities as adequate canteen, rest and recreational facilities, sanitary and medical facilities, arrangement for travel to and from work and for the accommodation of the workers employed at a distance from their homes and such other services amenities and facilities as contribute to improve the condition under which workers are employed”.

1.1.2- Origin and Development of Labour Law in India

Emergence of labour legislations

The emergence of labour laws has its roots in the 18th and 19th centuries. The labour law emerged as a result of the industrial revolution that took place in those centuries. The Industrial Revolution changed the rural culture to industrial culture which led to various developments. It was due to the increasing capitalisation of the market. At that time, a lot of problems took place between the labour class and the employers. To safeguard the interests and the demands of the labour class, labour laws were enacted in various countries which gave certain rights to the workers working in an establishment. It protected the workers from being exploited by the rich people of industrial society.

The labour laws were first enacted by the Western Countries. England was the first country where workers were exploited by rich upper-class employers. This was due to uncontrolled and unregulated capitalisation. The laissez-faire system was also one of the reasons that took place due to industrialisation. The labour laws were enacted in 1802 to prevent child labour, to limit working hours, and to abolish night shifts in England when the UK Parliament passed bills relating to labour legislation. After England, many other countries also started enacting laws regarding labour classes. Various laws regarding health, safety, welfare, and working hours were passed by those countries. France was one of the countries where labour laws were enacted after the French Revolution, which took place in 1841. Germany, Japan, and the United States of America also introduced labour laws after World War I in 1935.

Evolution of labour legislation

The evolution of labour laws started with the establishment of the International Labour Organization (ILO) in 1919. It was due to the implementation of the Treaty of Versailles whose objective is to make various policies, and programmes relating to their works and its standards. 187 countries of the World are members of this organisation whose

Constitution was drafted by the Labour Commission. It led to the formation of an executive body which was known as a tripartite organization that included representatives from three bodies, i.e., the employers, the workers, and the government. Certain issues relating to the labourers were looked into by ILO. Laws regarding working hours, night shifts, minimum age, unemployment, and maternity protection were being laid down by it to safeguard the rights of labourers. It became a specialized agency of the UN which was supervised by a committee of experts.



International Labour Organization

India, also, had labour laws before independence. Some of the laws regarding labour classes were The Indian Slavery Act, 1843, The India Trade Unions Act 1926, and The Societies Registration Act, 1860. These laws were repealed after India became independent. The Industrial Disputes Act, 1947, was enacted in 1947 which replaced all the previous Acts. Various rights of the workers were introduced to the Indian Constitution for protection from any kind of exploitation. Some rights relating to the labourers that were incorporated in the Constitution are equal work equal pay, abolition of child labour, abolition of bonded labour, decent living wages, maternity benefits, and right to work, just and human working conditions. These are the rights of the workers that are being safeguarded by the Indian Constitution working in an establishment. In the 20th century, these laws were codified and implemented by the Indian Parliament. With the changing times, labour laws started evolving over some time.

Development of labour legislation

The development of labour legislation is a historical and ongoing process influenced by social, economic, and political changes. It has evolved to address the needs and rights of workers while balancing the interests of employers and the broader economy. Here's an overview of the development of labour legislation through different periods:

Early Development

1. Pre-Industrial Revolution:

- **Guilds and Apprenticeships:** In medieval times, labour relations were governed by guilds, which set standards for work and training through apprenticeships. These guilds protected workers' rights within a specific trade.
- **Feudal System:** Labor relations were also defined by the feudal system, where serfs and peasants worked under the authority of landowners.

2. Industrial Revolution (Late 18th to Early 19th Century):

- **Emergence of Factories:** The Industrial Revolution brought significant changes, with workers moving from agrarian work to factory-based employment. This period saw the exploitation of labour, with long hours, low wages, and unsafe working conditions.
- **Initial Reforms:** The first labour laws emerged in response to these harsh conditions. For example, the Factory Acts in the UK (starting with the Health and Morals of Apprentices Act 1802) aimed to improve working conditions for children in factories.

19th Century Reforms

1. Expansion of Labor Laws:

- **Further Factory Acts:** Throughout the 19th century, additional Factory Acts were introduced in the UK and other industrializing countries, gradually reducing working hours, setting minimum age limits for child labor, and improving safety standards.

- **Trade Unions:** The legalization and growth of trade unions during this period were crucial. In the UK, the Trade Union Act of 1871 legalized trade unions, allowing workers to collectively bargain and strike.

2. International Influence:

- **International Labor Movement:** The late 19th century saw the beginnings of an international labour movement, with workers' organizations collaborating across borders to push for better working conditions.

Early 20th Century

1. Comprehensive Labor Legislation:

- **Progressive Era Reforms:** In the early 20th century, labour laws became more comprehensive. In the US, the Progressive Era brought regulations like the Fair Labor Standards Act (1938), establishing minimum wage, overtime pay, and child labour standards.
- **Health and Safety:** Laws to improve occupational health and safety were enacted, such as the UK's Workmen's Compensation Act (1906), providing compensation for workplace injuries.

2. International Labor Organization (ILO):

- **Formation of the ILO:** Founded in 1919, the ILO aimed to promote social justice and set international labour standards. It has played a significant role in shaping global labour laws through conventions and recommendations.

Post-World War II

1. Expansion of Social Welfare:

- **Social Security Systems:** Post-WWII saw the expansion of social security systems, providing unemployment insurance, health care, and pensions. In the UK, the Beveridge Report led to the establishment of the modern welfare state.

- **Labor Rights:** The Universal Declaration of Human Rights (1948) recognized labor rights as human rights, including the right to work, fair wages, and safe working conditions.

2. Rise of Labor Standards:

- **Regulatory Agencies:** Many countries established regulatory agencies to enforce labor laws, such as the Occupational Safety and Health Administration (OSHA) in the US (1970).

Late 20th and Early 21st Century

1. Globalization and Labor Law:

- **Global Supply Chains:** Globalization brought challenges such as the exploitation of workers in developing countries. International pressure has led to improvements in labor standards in many of these regions.
- **Corporate Social Responsibility:** Increasingly, multinational corporations are held accountable for labor practices across their supply chains.

2. Modern Labor Issues:

- **Gig Economy:** The rise of the gig economy has led to new labor challenges, including job security, benefits, and workers' rights for gig workers. Countries are beginning to address these issues with new legislation.
- **Work-Life Balance:** There is a growing focus on work-life balance, with some countries implementing laws on flexible working hours, remote work, and parental leave.

Key Milestones in Labor Legislation Development

1. **Health and Morals of Apprentices Act (1802, UK):** First significant law addressing child labor.
2. **Trade Union Act (1871, UK):** Legalized trade unions.

3. **Fair Labor Standards Act (1938, US):** Established minimum wage, overtime pay, and child labor standards.
4. **Beveridge Report (1942, UK):** Led to the establishment of the modern welfare state.
5. **Occupational Safety and Health Act (1970, US):** Established OSHA to ensure safe working conditions.

Conclusion

The development of labor legislation reflects the ongoing struggle to balance the interests of workers, employers, and society. It has evolved from basic protections against exploitation to comprehensive systems that ensure fair wages, safe working conditions, social security, and equality. As the nature of work continues to change, labor laws will continue to adapt to new challenges and opportunities.

1.1.3 Nature and Need of Labour Legislation

Labor legislation encompasses a wide array of laws and regulations aimed at governing the relationship between employers and employees. These laws are designed to ensure fair treatment, safe working conditions, and equitable compensation for workers, while also providing a framework for resolving disputes and promoting industrial harmony. The nature of labor legislation can be understood through its various characteristics, objectives, and the scope of its application.

1. **Protective:** Labor laws are fundamentally protective in nature, aimed at safeguarding workers' rights and interests. This includes protection against unfair dismissal, discrimination, and unsafe working conditions.
2. **Regulatory:** These laws regulate various aspects of employment, including wages, working hours, conditions of employment, and occupational safety. They set minimum standards that must be adhered to by employers.
3. **Social Justice:** Labor legislation seeks to promote social justice by ensuring fair treatment for all workers, reducing income inequality, and providing social security benefits like pensions, health insurance, and unemployment benefits.
4. **Dynamic and Evolving:** Labor laws are not static; they evolve in response to changing economic conditions, technological advancements, and societal values.

Legislators periodically update labor laws to address new challenges in the labor market.

5. **Tripartite Nature:** Labor legislation often involves tripartite consultations among the government, employers, and workers' representatives (typically trade unions) to create a balanced and inclusive framework.

Need of Labour Legislation

Need for labour legislations may be summarized as under:

- It is necessary for the health, safety and welfare of workers.
- It is necessary to protect workers against oppressive terms as individual worker is economically weak and has little bargaining power.
- It encourages and facilitates the workers in the organization.
- It provides a mechanism to settle industrial disputes of various nature.
- It helps in enforcing social insurance and labour welfare schemes.
- It is instrumental in improving industrial relation i.e. employee-employer relations and minimized industrial disputes. □ It helps workers in getting fair wages □ It helps in minimizing labour unrest.
- It ensures job security for workers
- It promotes welcome environment conditions in the industrial system □ It helps in fixing rest pauses and work hours etc.
- It helps in providing appropriate compensation to workers, who are victims of accidents.

1.1.4 Objectives and Principles of Labour Legislation

The main objective of labour legislation is to establish a cordial and peaceful relationship between employers and employees. It aims to maintain harmony between the labour organizations and the public, which would help in improving the working conditions and its environment. Some of the important objectives of labour laws are as follows-

- Establishment of all kinds of justice for the working people – social, economic, and political.

- The availability of equal opportunities to all workers, irrespective of caste, creed, religion and beliefs for their overall personality development.
- Protection of weaker sections of workers who are not financially well off to protect themselves.
- Maintenance of industrial peace.
- Protection and improvement of living standards of the labourers.
- Protection of workers from all sorts of exploitation – mentally or physically and creating a better working environment.
- Grant rights to workmen to unite and form their unions so that they could bargain collectively with their owners for the betterment of their livelihood.
- Keep checks on the government about their active participation in the working areas for social well-being.
- Ensures human rights and human dignity.

Principles of Labour Legislation

There are various principles of labour legislation-

- **Principle of Social Justice** – It ensures social equality for people and ensures that opportunities aren't denied to them based on religion, caste or any other prejudicial grounds. No matter whichever place they come from they must be provided with equal opportunities to work. Their social status should not be considered a ground for anything and they should be treated in a wellmannered way. The profits earned by a company must be distributed on fairgrounds between the workers and the owner.
- **Social Equity** – It mentions that the maintenance of labour is based on the social equity of labour. As the time and circumstances keep changing it demands new laws and rules to suit workers' needs accordingly. This intervention of the government in bringing new Acts and amendments according to the situation prevailing is based upon social equity. 'Equity' means to be fair and impartial. Social equity means to form equal working standards

for the people with the help of provisions and obligations to do so. Laws should be flexible enough to meet the demands of the industrial society.

- **International Uniformity** – The International Labour Organisation (ILO) plays an important role by creating agreements with different countries and providing its recommendations on general conditions of employment, wages, hours of work, the health of the labourers and women etc.
- **National Economy** – While forming any labour law it is crucial to assess the general economic condition of the country under consideration because the national economy directly affects labour legislation.
- **Social Security** – It mentions that the state must protect every citizen who contributes their efforts towards the promotion of the country and for the welfare of the state. This would make the workers more hard-working and efficient and increase our industrial power and potential.

Let's Sum Up

Labor legislation comprises a set of laws and regulations designed to protect the rights of workers, promote fair treatment, and ensure safe and equitable working conditions.

Objectives:

1. **Protection of Workers:** Labor laws aim to safeguard employees from exploitation, discrimination, and unfair practices by employers.
2. **Fair Wages:** Legislation ensures that workers receive fair compensation for their labour through minimum wage standards and overtime pay regulations.
3. **Safe Working Conditions:** Occupational health and safety regulations are implemented to prevent workplace hazards and ensure a safe working environment.
4. **Social Security:** Labor laws provide social security benefits such as health insurance, pensions, and maternity benefits to support workers' well-being.
5. **Industrial Relations:** Establish a legal framework for employer-employee negotiations, dispute resolution, and collective bargaining to maintain industrial harmony.

6. **Work-Life Balance:** Regulations on working hours, leave entitlements, and rest periods aim to promote a healthy work-life balance for employees.
7. **Equality and Non-Discrimination:** Legislation enforces equal treatment and opportunities for all workers regardless of race, gender, religion, or other characteristics.

Major Components:

1. **Minimum Wage Laws:** Ensure that workers are paid at least a minimum amount set by the government, preventing exploitation and poverty.
2. **Employment Contracts:** Define the terms and conditions of employment, including duties, wages, working hours, and termination procedures.
3. **Occupational Health and Safety:** Establish standards for workplace safety, including the provision of protective equipment, training, and measures to prevent accidents and illnesses.
4. **Social Security Benefits:** Include provisions for retirement benefits, unemployment insurance, medical benefits, and other forms of social protection.
5. **Collective Bargaining:** Allow workers to form and join unions, negotiate with employers, and engage in collective bargaining to improve their working conditions and wages.
6. **Dispute Resolution:** Provide mechanisms for resolving industrial disputes through mediation, arbitration, and labour courts.



Check Your Progress



- QUIZ - 1

1. **One of the primary objectives of labour legislation is to ensure which of the following?**
 - A) Higher corporate profits
 - B) Better working conditions for employees
 - C) Increased government revenue
 - D) Lower production costs
2. **Labor legislation aims to protect workers from which of the following?**
 - A) Market competition

- B) Economic downturns
- C) Unfair treatment and exploitation
- D) High taxes

3. **Which objective of labor legislation focuses on providing workers with social security benefits?**

- A) Enhancing industrial efficiency
- B) Promoting labor mobility
- C) Ensuring social justice
- D) Reducing labor costs

4. **An objective of labor legislation is to establish a legal framework for which of the following?**

- A) Employer and employee negotiations
- B) Government and business partnerships
- C) Import and export regulations
- D) Market share control

5. **Labor legislation seeks to improve the welfare of workers by addressing which of the following aspects?**

- A) Financial investments
- B) Work-life balance and job satisfaction
- C) Marketing strategies
- D) Technological advancements.

Section 1.2 Labour Policy Law Audit

1.2.1 Meaning and Definition

A labour policy audit is a comprehensive review and assessment process undertaken by an organization to evaluate its labour-related policies, procedures, and practices. The purpose of this audit is to ensure that the organization complies with relevant labour laws and regulations, adheres to industry standards, and follows best practices in managing its workforce.

Definition

A labour policy audit is a systematic evaluation of an organization's labour-related policies, procedures, and practices to ensure compliance with legal requirements, adherence to industry standards, and alignment with best practices. This audit aims to identify gaps, risks, and areas for improvement in the management of employment relations, workplace safety, employee rights, and overall organizational conduct related to labour issues. The ultimate goal is to promote a fair, safe, and productive work environment while minimizing legal and operational risks.

1.2.2. Purpose and Benefits of a Labour Policy Audit

1. **Compliance:** Ensure that the organization is following all applicable labour laws, regulations, and contractual obligations.
2. **Risk Management:** Identify potential legal and operational risks associated with non-compliance or inadequate policies.
3. **Improvement:** Identify areas where labour policies can be improved to enhance employee relations, productivity, and workplace safety.
4. **Transparency:** Promote clarity and consistency in the implementation of labour policies across the organization.

Benefits of a Labour Policy Audit

- **Enhanced Compliance:** Helps avoid legal penalties and litigation by ensuring adherence to laws and regulations.
- **Improved Workplace Environment:** Promotes a fair, respectful, and safe working environment, leading to higher employee morale and retention.
- **Operational Efficiency:** Streamlines HR processes and ensures consistent application of policies, improving overall organizational efficiency.
- **Risk Mitigation:** Identifies and addresses potential risks before they escalate into major issues.
- **Reputation Management:** Demonstrates the organization's commitment to ethical practices and compliance, enhancing its reputation with employees, stakeholders, and the public.

1.2.3 Special Features of Labor Law Audit

1. Comprehensive Scope:

- **Employment Practices:** Review of hiring, firing, promotion, and compensation practices to ensure non-discriminatory and legally compliant procedures.
- **Workplace Policies:** Examination of workplace policies such as harassment, discrimination, and equal opportunity to ensure they are up-to-date and legally compliant.

2. Regulatory Compliance:

- **Statutory Requirements:** Verification of compliance with local, state, and federal labor laws, including minimum wage, overtime, working hours, and health and safety regulations.

- **Documentation and Record-Keeping:** Assessment of the accuracy and completeness of employee records, contracts, and payroll documentation.

3. Health and Safety:

- **Safety Standards:** Evaluation of workplace safety protocols, emergency procedures, and compliance with occupational health and safety regulations.
- **Training Programs:** Review of employee training programs related to safety, harassment, and other regulatory requirements.

4. Employee Relations:

- **Union Relations:** Analysis of the company's dealings with trade unions, including compliance with collective bargaining agreements and handling of union activities.
- **Grievance Mechanisms:** Examination of procedures for handling employee complaints and disputes.

5. Benefits and Compensation:

- **Wages and Salaries:** Verification that all employees are paid according to applicable laws and that there is equity in pay scales.
- **Benefits:** Review of employee benefits, such as health insurance, pensions, and leave entitlements, to ensure compliance with legal standards.

6. Equal Employment Opportunity:

- **Non-Discrimination:** Assessment of hiring and employment practices to ensure they are free from discrimination based on race, gender, age, disability, or other protected characteristics.
- **Affirmative Action:** Evaluation of the implementation of affirmative action policies where applicable.

7. Employment Contracts and Agreements:

- **Contractual Compliance:** Review of employment contracts to ensure they are in line with labor laws and contain all necessary legal provisions.
- **Non-Compete and Confidentiality Agreements:** Assessment of the legality and enforceability of non-compete and confidentiality clauses.

1.2.4 Process of Conducting a Labor Law Audit

1. Planning and Preparation:

- **Define Objectives:** Clearly outline the goals and scope of the audit.
- **Gather Documentation:** Collect all relevant documents, including employment contracts, policies, payroll records, and compliance reports.

2. Review and Assessment:

- **Policy Review:** Examine company policies and procedures to ensure they comply with current labor laws.
- **Document Analysis:** Assess employee records, contracts, and payroll data for accuracy and compliance.

3. Interviews and Surveys:

- **Management Interviews:** Conduct interviews with management to understand current practices and identify potential issues.
- **Employee Feedback:** Gather input from employees through surveys or interviews to gauge the effectiveness of policies and identify any concerns.

4. Compliance Check:

- **Regulatory Checklists:** Use checklists to verify compliance with specific labor laws and regulations.
- **Gap Analysis:** Identify areas where the company is not in compliance and the potential risks associated with these gaps.

5. Reporting and Recommendations:

- **Audit Report:** Prepare a detailed report outlining findings, areas of non-compliance, and potential risks.
- **Action Plan:** Provide recommendations for addressing identified issues and improving compliance.

6. Follow-Up and Monitoring:

- **Implementation:** Assist the company in implementing recommended changes and improvements.

- **Ongoing Monitoring:** Establish procedures for regular monitoring and periodic re-audits to ensure continued compliance.

A labour policy audit is a comprehensive review of an organization's labour-related policies, procedures, and practices. It ensures compliance with legal requirements, adherence to industry standards, and alignment with best practices. The audit focuses on several key areas:

1. **Legal and Regulatory Compliance:** Ensures adherence to labour laws and contractual obligations.
2. **Policy Effectiveness and Relevance:** Evaluates and updates policies to reflect current laws and best practices.
3. **Implementation and Consistency:** Assesses how well policies are communicated and uniformly applied.
4. **Risk Management:** Identifies potential risks and develops strategies to mitigate them.
5. **Employee Feedback and Participation:** Involves employees in the policy review process through surveys and interviews.
6. **Workplace Health and Safety:** Reviews safety policies and incident handling procedures.
7. **Diversity, Equity, and Inclusion (DEI):** Evaluates policies promoting DEI and anti-discrimination measures.
8. **Documentation and Record-Keeping:** Ensures proper maintenance and accessibility of employment records.
9. **Training and Development:** Assesses and improves training programs related to labour policies.
10. **Benchmarking and Best Practices:** Compares policies with industry standards and identifies improvement opportunities.

Sum up

labor audit, also known as labor compliance audit or labor standards audit, is an evaluation process that ensures an organization's adherence to labor laws and regulations. It involves a comprehensive review of an organization's policies, practices, and procedures related to employment and labor standards. A labour policy audit helps organizations

maintain legal compliance, improve workplace practices, and ensure a fair, safe, and productive work environment.



Check Your Progress



- QUIZ - 1

1. What is the primary purpose of a labour audit?

- A) To increase company profits
- B) To ensure compliance with labour laws and regulations
- C) To evaluate market competition
- D) To implement new technology

2. Which of the following is typically reviewed during a labor audit?

- A) Marketing strategies
- B) Employee records and payroll
- C) Product design
- D) Corporate investments

3. Labor audits help identify and correct which of the following issues?

- A) Non-compliance with safety standards
- B) Overproduction
- C) Poor customer service
- D) High advertising costs

4. Who is usually responsible for conducting a labor audit within an organization?

- A) Sales team
- B) Human Resources department
- C) Marketing department
- D) IT department

5. Which aspect of employment is NOT typically covered in a labor audit?

- A) Wage and hour compliance
- B) Employee training programs
- C) Product pricing strategies
- D) Workplace safety

Section 1.3. Constitution Background for labour legislation

1.3.1 Meaning

The term "constitution for labour legislation" refers to the fundamental principles and legal framework that form the basis for creating, implementing, and enforcing labour laws within a specific jurisdiction. This framework is typically influenced by a country's constitution, which outlines the fundamental rights and freedoms of individuals, including workers, and sets the standards for fair and equitable treatment in the workplace.

1.3.2 Impact of Constitutional Provisions on Labour Laws

The Indian Constitution plays an important role in the formation of labour laws. Some of the Constitutional provisions have a huge impact on legislating labour laws. The provisions that play a significant role in safeguarding the interests of the people are as follows-

- The fundamental rights of the Constitution, such as Article 14, Article 16, Article 19, Article 21, and many others, protect the rights and interests of the labour classes. It also states various ways of safeguarding them.
- The directive principles of the Constitution also help in keeping a harmonious relationship between employers and employees. It tries to maintain the socio-economic situation of the people.
- The provision of Article 39 clearly states that the labour power of men, women, or children must not be overused by employers.
- The provisions of Article 41 state that all citizens have the right to work.
- The provisions of Article 42 state that women must be granted maternity leave. It deals with the upliftment of the working conditions and states that a suitable environment should be provided to the employees.
- Article 43 of the Indian Constitution states that proper working conditions and living wages must be provided to the labourers.

The Government of India with the help of the Supreme Court makes various labour friendly laws and also safeguards them.

1.3.3 Constitutional Background Concerning Labour Laws

India is a quasi-federal nation which is a Union of States. The Indian Constitution guarantees certain powers to the Centre as well as States and Union Territories. So Article 246 of the Constitution gives power to both the Central Government and State Government to make laws and implement them accordingly. Three lists are present in the Seventh Schedule of the Constitution, which are as follows-

- List I – Union List – It contains items regarding which only the Centre can make laws.
- List II – State List – It contains items regarding which only the State can make laws.
- List III – Concurrent List – It contains items regarding which both the Centre and the State can make laws and exercise power.

The laws relating to labour legislation are present in the Concurrent List. The Entries provided in List III of the Seventh Schedule of the Constitution are as follows-

- Entry No. 22 – Subjects relating to industrial and labour disputes, and trade unions are mentioned in this Entry.
- Entry No. 23 – Subjects regarding employment and unemployment of the employees, and social security and social insurance are mentioned in this Entry.
- Entry No. 24 – Subjects relating to the welfare of labour including workmen's compensation, employers' liability, provident funds, conditions of work, invalidity and old age pensions and maternity benefits are mentioned in this Entry.
- Entry No. 36 – It deals with the laws in connection with the factories.

All of these laws are stated in the Concurrent List except the one related to the Union Employees of the Industrial Disputes Act, 1947, which is given in List I – Union List.

Therefore, it can be seen that both the Central Government and the State Government is empowered to make laws in connection with labour matters. The Indian Parliament has enacted and passed the labour laws throughout the Indian Territories. So it is uniform for all the States. Some of the States have modified a few laws according to their convenience to suit their needs. Several Acts such as the Apprentices Act, Factories Act, Employees' State Insurance Act of 1948, and those relating to bonuses, gratuities, provident funds, and others are uniform all over the country.

SUM UP

Labour legislation encompasses a broad array of laws, regulations, and statutes designed to protect workers' rights, ensure fair treatment, and regulate the relationships between employers and employees. Here's a summary of key aspects of labour legislation:

1. Employment Standards

- **Minimum Wage:** Legislation that sets the lowest wage that can be paid to workers.
- **Working Hours:** Regulations on maximum working hours, overtime, breaks, and rest periods.
- **Leave Entitlements:** Provisions for various types of leave, including annual leave, sick leave, maternity/paternity leave, and other special leave.

2. Health and Safety

- **Workplace Safety:** Standards and regulations to ensure a safe working environment, including the use of safety equipment and adherence to safety protocols.
- **Occupational Health:** Measures to prevent work-related illnesses and injuries, including health monitoring and workplace ergonomics.

3. Employment Contracts

- **Contract Terms:** Requirements for the terms and conditions of employment contracts, including job duties, pay, and duration.
- **Termination and Dismissal:** Rules governing the termination of employment, including notice periods, severance pay, and unfair dismissal protections.

4. Equality and Non-Discrimination

- **Equal Pay:** Laws ensuring equal pay for equal work, regardless of gender, race, or other protected characteristics.
- **Non-Discrimination:** Legislation prohibiting discrimination in hiring, promotion, and other employment practices based on race, gender, age, disability, religion, or sexual orientation.
- **Harassment and Bullying:** Protections against workplace harassment and bullying, with mechanisms for reporting and addressing such issues.

5. Labour Relations

- **Collective Bargaining:** Rights and regulations surrounding the formation and operation of trade unions and the collective bargaining process.
- **Strikes and Lockouts:** Legal frameworks governing the right to strike and employer lockouts, including procedures and restrictions.
- **Dispute Resolution:** Mechanisms for resolving industrial disputes, such as mediation, arbitration, and labour courts.

6. Social Security and Benefits

- **Social Security:** Provisions for social security benefits, including unemployment insurance, old-age pensions, and disability benefits.
- **Employee Benefits:** Regulations concerning health insurance, retirement plans, and other employee benefits.

7. Special Categories of Workers

- **Child Labour:** Restrictions and protections regarding the employment of minors.
- **Temporary and Part-Time Workers:** Rights and protections specific to temporary, part-time, and seasonal workers.
- **Migrant Workers:** Protections for migrant workers, including work permits, fair treatment, and protection from exploitation.

8. Compliance and Enforcement

- **Labour Inspections:** Systems for the inspection and enforcement of labour laws, including penalties for non-compliance.
- **Worker's Compensation:** Regulations requiring employers to compensate workers for work-related injuries or illnesses.

International Instruments

- **International Labour Organization (ILO) Conventions:** Global standards set by the ILO, which member countries can ratify and incorporate into their national legislation.
- **United Nations (UN) Conventions:** Various UN treaties and conventions that influence labour laws, such as the Universal Declaration of Human Rights.

Labour legislation aims to create a balanced and fair work environment, promoting the well-being and rights of workers while ensuring that employers can manage their operations effectively. The specific laws and regulations can vary significantly from one country to another, reflecting different economic, social, and cultural contexts.



Check Your Progress



- QUIZ – 1

1. **Which article of the Indian Constitution deals with the "Right to Work"?**
 - A) Article 19
 - B) Article 21
 - C) Article 41
 - D) Article 23
2. **Under the Indian Constitution, which List includes subjects related to labor legislation?**
 - A) Union List
 - B) State List
 - C) Concurrent List
 - D) Residual List
3. **The Directive Principles of State Policy related to labor are found in which part of the Indian Constitution?**
 - A) Part III

- B) Part IV
- C) Part V
- D) Part VI

4. Which article of the Indian Constitution provides for the prohibition of traffic in human beings and forced labor?

- A) Article 14
- B) Article 19
- C) Article 23
- D) Article 32

5. Article 24 of the Indian Constitution prohibits the employment of children in which type of work?

- A) Government jobs
- B) Factories, mines, and hazardous employment
- C) Agricultural work
- D) Domestic work

Section 1.4 TRADE UNION ACT 1926

1.4.1 Introduction, Meaning, objective

The origin of the passing of Trade Union Act in India was the historic Buckingham Mills Case of 1920 in which the Madras High Court granted an interim injunction against the Strike Committee of Madras Labour Union forbidding them to induce certain workers to break their contract of employment by refusing to return to work.

Trade Union leaders found that they were liable to prosecution and imprisonment for bonafide union activities and it was felt that some legislation for the protection of trade unionism was necessary.

In March, 1921, Mr.N.M.Joshi, the then General Secretary of the all India Trade Union Congress successfully moved a resolution in the Central Legislative Assembly that Government should introduce legislation for registration and protection of trade unions. But

opposition from employers to adoption of such measure was so great that it was only in 1926 that Trade Union Act was passed.

Meaning

A trade union, also known as a labor union, is an organized association of workers formed to protect and advance their rights and interests. These organizations aim to negotiate with employers on behalf of their members concerning wages, working conditions, benefits, and other aspects of employment.

Definition

A trade union is an organized group of workers who come together to collectively bargain with their employers to improve their working conditions, wages, benefits, and other employment terms. Trade unions represent the interests of their members through negotiations, advocacy, and various forms of industrial action such as strikes or work stoppages.

According to the **Trade Unions Act, 1926**, 'trade union' means "any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions"

1.4.2 Objective, Features and Types of Trade Unions Act

- The object of passing the Act was to make necessary provisions in regard to the registration of Trade Unions and to define the law relating to registered Trade Unions.
- The Royal Commission on Labour in India observed that the object is to give trade unions the necessary protection from civil suits and criminal laws relating to conspiracy in order to enable them to carry on their legitimate activities.
- The Act extends to the whole of India including the state of Jammu and Kashmir. It came into force on the first day of June, 1927.

Features of Trade Unions

1. Collective Bargaining:

- Negotiates contracts with employers on behalf of members.
- Focuses on securing better wages, benefits, working conditions, and other employment terms.

2. Representation and Advocacy:

- Represents members in disputes with management, including grievances and disciplinary actions.
- Advocates for policies and legislation that benefit workers at local, national, and international levels.

3. Industrial Action:

- Organizes strikes, work stoppages, and other forms of protest to enforce demands and protect workers' rights.
- Uses industrial action as a tool to pressure employers during negotiations.

4. Mutual Support and Solidarity:

- Provides a support network for members, including legal assistance, financial aid, and other resources.
- Fosters a sense of solidarity among workers, promoting collective action and unity.

5. Health and Safety:

- Works to improve workplace health and safety standards.
- Engages in activities and initiatives aimed at reducing workplace hazards and ensuring a safe working environment.

6. Training and Development:

- Offers training programs, workshops, and educational opportunities to enhance members' skills and career development.
- Provides resources for continuous learning and professional growth.

7. Political and Social Influence:

- Influences public policy and labor laws through lobbying and political action.
- Engages in broader social and economic issues that affect workers and their communities.

Types of Trade Unions

1. Craft Unions:

- o Represent workers with specific skills or trades, such as electricians, carpenters, or plumbers.

2. Industrial Unions:

- o Represent workers in a particular industry, regardless of their specific job role, such as the automotive or steel industry.

3. General Unions:

- o Represent workers from a wide range of industries and occupations.

4. White-Collar Unions:

- o Represent non-manual or professional workers, such as teachers, nurses, or office employees.

Importance of Trade Unions

- **Improves Working Conditions:** By negotiating better terms of employment, unions help to enhance the quality of life for workers.
- **Promotes Fair Treatment:** Ensures that workers are treated fairly and equitably by their employers.
- **Strengthens Worker Voice:** Provides a collective voice for workers, enabling them to advocate for their rights and interests more effectively.
- **Contributes to Social Justice:** Supports broader social and economic reforms that benefit not just union members, but the wider community.

1.4.3 Duties and Obligations of Trade Union

The term trade union can be expressed both in an ordinary sense and in broad sense. In ordinary sense it is a combination of workmen and in a broader sense it includes combination of employers and federation of two or more such combinations. The trade union means:

Any combination whether temporary or permanent formed for the purpose of regarding relations between

- workmen and employers
- workmen and workmen (c) employers and employers
- The above combinations put restrictions on the conduct of any trade or business but certain agreements given below have been excluded from the scope of the term trade union.
- Agreement between partners in a business
- Agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

Trade unions play a crucial role in representing the interests of workers. They have a variety of duties and obligations, both to their members and to the broader community. Here is an overview of the key duties and obligations for trade unions:

Duties to Members

1. Representation and Advocacy:

- **Collective Bargaining:** Negotiate wages, working conditions, benefits, and other employment terms with employers on behalf of their members.
- **Grievance Handling:** Support members in resolving workplace disputes and grievances.

2. Protection and Support:

- **Legal Assistance:** Provide legal support and representation in employment-related legal matters.
- **Health and Safety:** Advocate for safe working conditions and enforce health and safety regulations.

3. Information and Communication:

- **Transparency:** Keep members informed about union activities, negotiations, and financial matters.
- **Education and Training:** Offer training programs to improve members' skills and knowledge about their rights and responsibilities.

4. Member Welfare:

- **Benefits and Services:** Provide various benefits such as insurance, pensions, and welfare programs.
- **Solidarity and Community:** Foster a sense of solidarity among members and promote a supportive community.

Obligations to Employers

1. Good Faith Bargaining:

- **Fair Negotiations:** Engage in collective bargaining in good faith, aiming for fair and equitable agreements.
- **Compliance with Agreements:** Honor the terms of collective agreements and encourage members to do the same.

2. Conflict Resolution:

- **Mediation:** Work with employers to resolve conflicts and disputes through mediation and arbitration rather than strikes or litigation whenever possible.

Legal and Regulatory Compliance

1. Adherence to Laws:

- **Labor Laws:** Comply with national and regional labor laws, including registration, reporting, and other regulatory requirements.
- **Anti-Discrimination:** Ensure non-discriminatory practices within the union and in dealings with employers.

2. Financial Management:

- **Accountability:** Maintain transparent and accurate financial records, and undergo regular audits.
- **Dues Management:** Properly manage the collection and use of membership dues.

Obligations to Society

1. Social Responsibility:

- **Community Engagement:** Participate in social and community activities, promoting social justice and workers' rights.
- **Public Policy:** Advocate for policies that benefit the workforce and the broader community, such as fair labor standards, social security, and anti-poverty measures.

2. Economic Stability:

- **Industry Collaboration:** Work with industry and government bodies to promote economic stability and growth.
- **Workforce Development:** Support initiatives that enhance workforce skills and adaptability.

Internal Governance

1. Democratic Processes:

- **Elections:** Hold regular and fair elections for union leadership positions.
- **Member Participation:** Encourage active participation from members in union decision-making processes.

2. Ethical Conduct:

- **Code of Conduct:** Establish and enforce a code of conduct for union leaders and members.
- **Conflict of Interest:** Avoid conflicts of interest and ensure that union activities are conducted ethically and transparently.

By fulfilling these duties and obligations, trade unions can effectively represent their members, contribute to a fair and just workplace, and play a constructive role in society.

1.4.4 Rights and Privileges of Trade Union

Trade unions possess a range of rights and privileges designed to enable them to effectively represent and protect the interests of their members. These rights and privileges are often enshrined in labor laws and collective agreements. Here is a detailed overview:

Rights and Privileges of Trade Unions

1. Right to Organize:

- **Formation and Registration:** Trade unions have the right to form and register with relevant governmental authorities to gain legal recognition.
- **Membership:** They can recruit members from among the workforce in a given industry or sector.

2. Right to Representation:

- **Collective Bargaining:** Unions have the right to negotiate with employers on behalf of their members regarding wages, benefits, working conditions, and other employment terms.
- **Grievance Handling:** They can represent members in grievances and disputes with employers, including disciplinary actions.

3. Right to Engage in Industrial Action:

- **Strikes:** Unions have the right to call for and organize strikes, provided they follow legal requirements such as notification periods and voting procedures.
- **Other Actions:** They can also engage in other forms of industrial action, like work-to-rule or go-slow, to press for demands.

4. Right to Participate in Policy Making:

- **Consultation:** Unions have the right to be consulted on policies and laws affecting labor and employment.
- **Advisory Roles:** They can participate in government and industry advisory boards, committees, and commissions.

5. Right to Information:

- **Access to Information:** Unions have the right to access necessary information from employers, such as financial data, that is relevant for collective bargaining and representation.

6. Right to Safety and Health:

- **Workplace Safety:** Unions have the right to participate in the implementation and monitoring of health and safety regulations in the workplace.

7. Right to Legal Action:

- **Legal Standing:** Unions can initiate legal proceedings on behalf of their members or the union itself in matters concerning labor laws and collective agreements.

Privileges of Trade Unions

1. Recognition and Access:

- **Official Recognition:** Recognized unions are granted official status and privileges by employers and government bodies.
- **Access to Workplace:** Unions may be granted access to workplaces to meet with members and recruit new ones.

2. Financial Privileges:

- **Dues Check-Off:** Employers may facilitate the automatic deduction of union dues from members' wages and remit them to the union.
- **Tax Benefits:** In some jurisdictions, unions might enjoy tax exemptions or benefits on their income and properties.

3. Legal Protections:

- **Immunity from Certain Legal Actions:** Unions and their members may have immunity from certain legal actions related to strikes and industrial actions, provided these are conducted lawfully.
- **Protection from Discrimination:** Union members and representatives are protected from discrimination or retaliation by employers due to their union activities.

4. Facilities and Resources:

- **Use of Facilities:** Employers may provide unions with office space, meeting rooms, and other facilities for union activities.

- **Communication:** Unions might be allowed to use company communication systems (like bulletin boards and email) to communicate with their members.

5. Training and Education:

- **Educational Programs:** Unions can organize and run educational and training programs for their members, often with support or funding from employers or government bodies.

6. Participation in Governance:

- **Work Councils:** Unions may have the privilege to participate in work councils or similar bodies that discuss and make decisions on workplace issues.
- **Board Representation:** In some cases, unions may have representation on the board of directors of companies, especially in certain industries or public enterprises.

7. Public Funding and Grants:

- **Subsidies and Grants:** Unions may be eligible for public subsidies and grants aimed at promoting worker education, training, and welfare.

1.4.5 Deficiencies of Trade Union

Poor Financial Position

- The primary source of income to the unions is membership subscription. The other sources of union finances are donations, sale of periodicals, etc. Apart from it is felt that the income and expenditure of trade unions in India over the years except in a few cases reflects their poor financial position which adversely affects their functioning. Hence it is imperative on the part of a trade union to strengthen its financial solvency.

Outside Political Leadership

- The main problem faced by Indian trade unions is outside leadership which is mainly drawn from political parties. As such the labour movement in India is deeply involved in the policies and politicians, hence most of the political leaders are drawn from trade unions. For example, Lok Nayak Jayprakash Narain, former president of India V.V. Giri, former governor of A.P. Khandubhau Desai, they worked as trade union leaders.

- In fact, political parties invented Trade unions in India. Outside, political leadership has been playing a crucial role in Indian Trade Union Movement party due to the inability of insiders to lead their movement.

Small Size of Union Membership

- Strength and financial soundness are determined by the size of union membership. Their strength and financial soundness in turn determines the activities that they undertake and their ability to protect employee's interest.
- The trade unions' size of membership and successful functioning are interrelated and interdependent. This size of membership of trade unions in India over the years has been declining and consequently the unions face the problems of small size.

Union Rivalry

- Rivalry between unions can be either of two types as under:

(i) Inter-Union Rivalry:

- Inter-union rivalry means a rivalry between the groups inside the same union. The multiplicity of unions emerging from political affiliations and led by external political leaders are brought to fore the politics of many and the dynamics associated with it. Unions became competitive and the survival of the fittest led to inter-union conflicts and mutual accusations being traded freely.

(ii) Intra-Union Rivalry:

- Intra-union rivalry denotes rivalry between two unions. Indian trade unionism has intra-union rivalry which hampers the production and industrial relations. The National Commission on Labour (NCL) recommended that intra-union rivalries should best be left to the central workers of the organisations concerned to settle disputes the labour courts should step in at the request of either group or on a motion

by the appropriate government in cases where a central organisation is found unable to resolve the dispute.

Multiple Unions

- The situation of multiple unionisms means the situation wherein two or more unions in the same plant or industry try to assert rival claims over each other and function with overlapping jurisdiction.
- The multiple unions exist due to the existence of craft unions' formations of two or more unions in the industry. Multiple unionisms affect the employee relations system both positively and negatively. However the negative impacts of multiple unions dominate the positive impacts.

Victimisation:

- Victimisation means dealing some person unjustly such as, pressurising an employee to leave the union or union activities, treating an employee unequally or in an obviously discriminatory manner for the sole reason of his connection with union or his particular union activity; inflicting a grossly monstrous punishment which no rational person would impose upon an employee and the like.
- **Other Problems:**
- The other factors responsible for the unsound functioning of trade unions in India are- Illiteracy, lack of integrity, uneven growth, heterogeneous nature of labour, lack of interest, category wise unions and trade union recognition.

1.4.6 - Registration, Cancellation of Trade Union

Registration of Trade Union

- Appointment of Registrars (Section 3)
- Mode of registration of trade union
- Application for Registration (Section 5)

- Rules for Registration of Trade Union (Section 6)
- Registration
- Certificate of Registration (Section 9)
- Advantages of Registration
- Cancellation of Registration (Section 10)
- Appeal (Section 11)
- Body Corporate (Section 13)
- The Objects on which General Funds may be spent (Section 15)
- Penalties and Procedure

Appointment of Registrars

As regards registration of a trade union, the Act empowers the appropriate Government to appoint a person to be the Registrar of Trade Union for each state. The appropriate Government may appoint as many additional and deputy registrar's trade unions as it think fit.

They shall work under the superintendence and direction of the Registrar. The appropriate Government shall specify and define the local limits within which any additional and Deputy Registrar shall exercise and discharge his powers and functions.

Mode of registration of trade union

The registration of a trade union can be made under this Section 4 of the Indian Trade Unions Act, 1926 Act which says that any seven or more members of a trade union may by subscribing by their names to the rules of trade union and by otherwise complying with the provision of this Act with respect to registration, apply for registration of the trade union Trade Union Legislation under this Act.

The section also provides that in case members applying for registration disassociate themselves from the application, or cease to be members of the union, after the date of application, but before the registration of the union and their

number does not exceed half of the total number of the persons applying, the application shall not be deemed to be invalid.

Application for Registration

For registration of a trade union, seven or more members of the union can submit their application in the prescribed form to the Registrar of trade unions.

The application shall be accompanied by a copy of the 'rules of the trade union' and a statement giving the following particulars:

- Names, occupations and addresses of the members making the application;
- The name of the trade union and the address of its head office;
- The titles, names, ages, addresses and occupations of the office bearers of the trade union as per the format given in the Trade Unions Act 1926.
- Every application for registration of a Trade Union shall be made to Registrar. It shall be accompanied by a copy of the rules containing matters as given in Section 6. It also contains a statement of the following particulars.
- The names, occupations and addresses of members making the application
- The name of the Trade Union and the address of its head office; and
- The titles, names, ages, addresses and occupations of the office bearers of the Trade Union

Where a Trade Union has been in existence for more than one year before its registration, a general statement of the assets and liabilities of the Trade Union in the prescribed form must be submitted along with the application.

Registration

The Section 8 of the Indian Trade Unions Act, 1926 prescribes a duty on the Registrar to register the trade union if all the requirements of the Act with regard to registration have been complied with. The Registrar will, in such a case enter the particulars relating to the trade union in a register maintained in the prescribed form.

The Registrar has the powers to examine whether the Union is to be registered or not and after fulfilling the conditions prescribed in the Act and the Registrar will have to make the registration of the trade union.

Where that is a dispute as to who are elected office bearers of trade union, it is not within the jurisdiction of the Trade Union, to determine which of the rival group of office bearers the real one is. In the absence of any provision in the Act such dispute has to be resolved in a Civil Court.

Certificate of Registration

The Registrar, on registering a Trade Union, shall issue a certificate of registration which shall be conclusive evidence that the Trade Union has been duly registered under the Act.

It is obligatory on the part of the Registrar to register a Trade Union provided the provisions of the Act are complied with. He is not entitled to question whether the Union is lawful or unlawful.

Cancellation of Registration

The cancellation of a trade union refers to the formal termination of its registration, which effectively ends its legal recognition and its ability to function as a union. This process can be initiated voluntarily by the union itself or involuntarily by regulatory authorities under certain circumstances. Here's a detailed overview of the process and considerations involved in the cancellation of a trade union:

Voluntary Cancellation

1. Decision to Cancel:

- **Member Vote:** The decision to cancel the union's registration typically requires a vote by the membership. The union's constitution or bylaws usually outline the specific voting procedure, often necessitating a two-thirds majority or another specified threshold.

- **Executive Committee:** The executive committee or board may first propose the cancellation, which is then put to a vote among the members.

2. Notification and Application:

- **Internal Notification:** Members must be informed about the decision to cancel and the reasons behind it. This can be done through meetings, newsletters, or other communication channels.
- **Regulatory Authorities:** The union must formally notify the relevant government body or trade union registrar of its decision to cancel. This usually involves submitting an application for cancellation.

3. Settlement of Obligations:

- **Debts and Liabilities:** The union must settle all outstanding debts and liabilities, including payments to creditors and legal claims. Employee salaries and benefits must also be settled.
- **Member Claims:** Any financial obligations to members, such as refunds of membership dues or disbursement of union funds, must be addressed.

4. Distribution of Assets:

- **Asset Liquidation:** The union's assets, including property and funds, are typically liquidated. The process for handling these assets should be outlined in the union's bylaws.
- **Distribution:** After settling debts, any remaining assets are distributed according to the union's rules. This might involve returning funds to members, donating to other unions, or contributing to charitable organizations.

5. Formal Cancellation:

- **De-registration:** The union must formally apply for de-registration with the appropriate government body. This involves submitting documentation such as financial statements, minutes of the cancellation meeting, and a final report on the union's activities.

- **Certificate of Cancellation:** Upon approval, the regulatory authority issues a certificate of cancellation, officially terminating the union's registration.

Involuntary Cancellation

1. Grounds for Cancellation:

- **Legal Violations:** A trade union can be cancelled involuntarily if it engages in illegal activities, financial mismanagement, or fails to comply with legal requirements.
- **Non-Functionality:** If a union becomes inactive or fails to meet operational criteria outlined in its constitution or by the regulatory body, it may be subject to cancellation.

2. Investigation and Notice:

- **Investigation:** Regulatory authorities may conduct an investigation to ascertain the grounds for cancellation.
- **Notice to Union:** The union must be formally notified of the proposed cancellation and the reasons behind it. The union is usually given an opportunity to respond to the allegations and rectify the issues.

3. Hearing and Decision:

- **Right to Hearing:** The union typically has the right to a hearing to present its case and defend against the cancellation.
- **Regulatory Decision:** Based on the investigation and hearing, the regulatory authority decides whether to proceed with the cancellation.

4. Enforcement of Cancellation:

- **Compliance:** If the decision to cancel is upheld, the union must comply with the regulatory directives, including settling debts, liquidating assets, and de-registering.

Monitoring: Authorities may monitor the cancellation process to ensure compliance with legal and financial requirements.

Post-Cancellation Considerations

1. Record Keeping:

- **Documentation:** All records related to the cancellation process, including financial statements, meeting minutes, and correspondence with regulatory authorities, should be retained for a specified period as required by law.

2. Member Support:

- **Transition Assistance:** Members may need support in transitioning to new unions or handling any issues arising from the cancellation. The dissolving union may provide guidance or resources to assist in this process.

3. Legal and Financial Review:

- **Final Audit:** Conduct a final audit to ensure all financial matters are in order and that the cancellation process has been conducted properly.
- **Legal Compliance:** Ensure all legal obligations have been met and that there are no pending legal issues.

Conclusion

The cancellation of a trade union is a complex and structured process that requires careful planning, legal compliance, and transparent communication with members and stakeholders. Whether initiated voluntarily or involuntarily, the process must be managed to respect the rights of members, fulfill legal obligations, and appropriately handle the union's assets and liabilities. Properly executed, cancellation ensures a fair and orderly winding up of the union's affairs.

1.4.7 Appeal

Section 11 of the Act gives a limited right of appeal from the decisions of the Registrar. Any person who is aggrieved by the refusal of the Registrar to register a Trade Union or the withdrawal or cancellation of certificate of registration is given

the right of appeal. The appeal must be within 60 days of the date of which Registrar passed the order against which appeal is made.

1.4.8 Trade Union Dissolution and Procedure of Dissolution in Trade Union

Trade union dissolution refers to the formal ending of a trade union's operations, leading to the cessation of the union's existence as an organization. The process of trade union dissolution can be initiated for various reasons, including internal conflicts, financial difficulties, the accomplishment of union goals, or changes in the economic or political environment. Trade unions play a vital role in advocating for the rights and interests of workers, and their dissolution can significantly impact workers, employers, and the wider community.

The procedure of trade union dissolution: –

- The procedure of trade union dissolution generally commences with a vote of union members to dissolve the organization. This resolution is passed through a two-thirds majority vote in a general meeting of members. The decision to dissolve a trade union is often a challenging one and could lead to extensive deliberations and discussions among members.
- After the resolution for dissolution has been passed, the union must inform the relevant authorities, such as the registrar of trade unions, of its intention to dissolve. This notification must be given within a specified period, usually 14 days (about 2 weeks), of the decision to dissolve. The notice should contain details of the reasons for dissolution, the date of the decision, and the planned date for the dissolution.
- The next step is to account for all the union's assets and liabilities. This includes any property, money, or other assets owned by the union, as well as any debts or obligations that the union may have to employees, creditors, or other parties. It is critical to ensure that all assets and liabilities are appropriately accounted for since failure to do so can result in legal complications and financial losses.

- After accounting for all assets and liabilities, the trade union must develop a plan for the distribution or transfer of its assets. The union may transfer assets to another organization, such as another trade union or a charity, or distribute assets to members or employees. It is essential to ensure that the distribution of assets is carried out equitably and fairly and meets all legal requirements.
- The next step in the trade union dissolution process is to settle all debts and liabilities. This may include paying off outstanding debts to creditors, fulfilling any financial obligations owed to employees, or settling any other obligations the union may have. It is essential to settle all debts and liabilities before completing the dissolution process to avoid legal complications and financial losses.
- Once all legal requirements have been met, the registrar of trade unions will cancel the registration of the trade union, marking the formal end of the union's operations and its dissolution as an organization. Any property that remains after settling debts must be disposed of according to the union's rules.
- It is essential to prepare a report on the trade union dissolution process, which must be submitted to the relevant authorities within a specified period, usually three months, of the dissolution. This report should provide details about the reasons for dissolution, the process that was followed, and the outcome of asset distribution and debt settlement.
- If the trade union had employees, terminating their employment is an important consideration in the trade union dissolution process. The union must comply with all relevant labor laws and regulations in terminating employees, including providing notice, settling outstanding entitlements, and adhering to any relevant redundancy or severance pay requirements.

Trade union dissolution is a complex process that requires careful planning and execution. It is critical to ensure that all legal requirements are met and that the interests of members and employees are protected during the dissolution process. The dissolution of a trade union can significantly impact workers, employers, and the wider community, and it is essential to approach the process with transparency, sensitivity, and fairness.

Let's Sum up

Trade unions are organizations formed to represent and protect the interests of workers. They play a crucial role in advocating for fair wages, safe working conditions, and other employment benefits. Here's a summary of the key aspects of trade unions:

1. Definition and Purpose

- **Definition:** A trade union is an organized group of workers who unite to make collective decisions regarding their employment conditions.
- **Purpose:** The primary goal is to protect and advance the interests of its members through collective bargaining, advocacy, and political influence.

2. Functions of Trade Unions

- **Collective Bargaining:** Negotiating with employers on behalf of union members to secure better wages, working conditions, benefits, and other employment terms.
- **Representation:** Representing members in disputes with management, including grievance procedures, arbitration, and legal actions.
- **Advocacy and Lobbying:** Engaging in political activities to influence legislation and policies that affect workers' rights and labour conditions.
- **Support and Services:** Providing various forms of support to members, such as legal advice, training programs, unemployment benefits, and welfare services.

3. Structure and Organization

Local Unions: Basic units representing workers in a specific workplace or company.

- **National and International Unions:** Larger organizations that encompass multiple local unions across regions or countries, often coordinating national and global strategies.
- **Union Leadership:** Elected officials who manage the union's activities, represent the members, and lead negotiations.

4. Types of Trade Union

- **Craft Unions:** Represent workers in a specific trade or craft, such as electricians or plumbers.
- **Industrial Unions:** Represent all workers within an industry, regardless of their specific job functions.
- **General Unions:** Open to workers from various trades, industries, and professions.
- **Professional Unions:** Represent professionals such as teachers, doctors, and engineers.

5. Membership

- **Voluntary Membership:** Workers choose to join and pay dues to support the union's activities.
- **Closed Shop:** A workplace where only union members are hired, often agreed upon in union contracts (less common today due to legal changes).
- **Union Shop:** Requires employees to join the union within a certain period after being hired.

6. Collective Bargaining

- **Negotiation Process:** Unions negotiate with employers to agree on contracts covering wages, hours, benefits, and working conditions.
- **Contracts:** Legally binding agreements resulting from collective bargaining, outlining the terms of employment for a set period.

7. Strikes and Industrial Action

- **Strikes:** A work stoppage initiated by union members to pressure employers during negotiations or disputes.
- **Other Actions:** Includes work-to-rule, slowdowns, and picketing as tactics to achieve union objectives.

Challenges and Criticisms

- **Declining Membership:** Many unions face declining membership due to changes in the economy, labour market, and legislation.
- **Globalization:** Increased competition from global markets can limit the bargaining power of unions.
- **Criticism:** Unions are sometimes criticized for causing disruptions, being resistant to change, or prioritizing the interests of members over broader economic considerations.

9. Impact and Importance

- **Economic Impact:** Unions have historically played a key role in securing higher wages, better working conditions, and improved benefits for workers.
- **Social Impact:** Unions contribute to reducing income inequality, enhancing job security, and promoting social justice.
- **Political Influence:** Unions often engage in political activities to advocate for laws and policies that benefit workers.

Key International Organizations

- **International Labour Organization (ILO):** Provides global standards and guidelines for the protection of workers' rights, including the right to organize and bargain collectively.
- **Global Union Federations (GUFs):** International coalitions of national trade unions that represent workers in specific industries on a global scale.

Trade unions remain a vital part of the labour landscape, advocating for workers' rights and seeking to balance the power dynamics between employees and employers. Despite facing numerous challenges, their role in promoting fair labour practices and social justice continues to be significant.



Check Your Progress



- QUIZ - 1

1. What is the primary purpose of a trade union?

- A) To increase company profits
- B) To protect and promote the interests of workers

- C) To reduce government taxes
- D) To manage company finances

2. Which of the following rights is typically sought by trade unions for their members?

- A) Right to personal investments
- B) Right to collective bargaining
- C) Right to vote in political elections
- D) Right to company shares

3. In which year was the Trade Unions Act passed in India?

- A) 1920
- B) 1926
- C) 1930
- D) 1947

4. Under the Trade Unions Act, 1926, what is the minimum number of members required to form and register a trade union in India?

- A) 5 members
- B) 7 members
- C) 10 members
- D) 15 members

5. Which authority has the power to cancel the registration of a trade union in India?

- A) Labour Court
- B) Registrar of Trade Unions
- C) Ministry of Labour and Employment
- D) Supreme Court of India.

1.5 UNIT SUMMARY

The first section content on labour legislation covers several key areas. It starts with exploring the meaning, definition and objectives of labour legislation, then the syllabus devils into the labour policy audit and the constitutional background of labour legislation. The concept of trade union Act was introduced it gives meaning,

objective and nature of trade union. It also explains the registration, cancelation and dissolution of trade union and its procedure. The first unit aims to equip learners with a comprehensive understanding and practical skills to enhance their strategies, ensuring efficient and effective management within organizations.

1.6 Glossary

Legislations	Preparing and enacting of laws by local, state, or national legislatures
Disputes	A disagreement or argument between two people, groups or countries.
Dynamic	Continuously changing or developing
Grievance	Something that you think unfair and that you want to complain or protest about
Harassment	If someone is abusing, insulting or otherwise harming you on a regular basis.
Advocacy	The work of lawyer who speak bout cases in courts of law
Adherence	The obeying of the rule

1.7 Self-Assessment Questions

Short Answers: (5 Marks) K3/K4 Level Questions

Sl.no	Questions	Level
1	Explain the objective of Labour Legislation.	K3
2	What are the principles of labour legislation? Explain it briefly	K3
3	Describe the special features of labour law audit.	K3
4	Write a short note on impact of constitutional provision for labour legislation	K3
5	Explain the features of Trade Union	K3
6	Describe the duties and obligations of trade union	K4
7	Explain the different types of trade union	K4
8	Discuss the procedure of dissolution of Trade union.	K4
9	Explain the purpose of labour law Audit	K4
10	Describe the process of labour law audit. K4	K4

Essay Type Answers: (8 Marks) K5/KS Level Questions

Sl.no	Questions	Level
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1.	Discuss briefly the various labour standards adopted by international Labour Organisation (ILO) for the protection of industrial workers. How far has India ratified such standards in its Labour law	K5
2.	Define Trade Union. and explain the immunities available to registered Trade union.	K5
3.	Elucidate the labour policy of India.	K5
4.	Trace out the evolution growth of Trade Union and its activities in India.	K5
5.	Critically examine and identify the main weakness of Trade Union in India.	K5
6.	Define collective bargaining and evaluate the essential ingredients for the success of collective agreements in India.	K6
7.	The workers of registered union declared illegal strike. Due to illegal strike employer sustained loss. Employers field a suit against the trade union for recovery of compensation will be succeed.	K6
8.	Write a short note on a) workman. b) General fund to Trade Union.	K6
9.	Explain the rights and principles of Trade Union.	K6
10.	Describe the constitutional background for labour legislation.	K6

UNIT – 1 – LABOUR LEGISLATION – ASSIGNMENTS – Quadrant 3**1.7 Activities - Assignment**

1. Create a timeline of key labour legislation milestones (e.g., introduction of minimum wage laws, establishment of occupational health and safety regulations).

2. Create informative posters about different labour rights (e.g., right to fair wages, right to safe working conditions). Include key points from relevant labour laws and illustrations to depict these rights.

3. Draft a simplified version of a new labour law aimed at addressing a current workplace issue (e.g., flexible work arrangements, discrimination prevention).

Include sections on objectives, definitions, rights and responsibilities, and enforcement mechanisms

1.8 References

"Industrial Relations and Labour Laws" by S.C. Srivastava.

1. "Labour Law in India" by S.N. Misra
2. "Industrial Relations and Trade Unions in India: Theory and Practice" by R.C. Srivastava.
3. "Trade Union Movement in India: Social Change and Unionism" by H.R. Chakraborty

UNIT II Factories Act 1948 and Equal Remuneration Act 1976		
The Factories Act, 1948: Objects – Definition – Licensing and Registration of factories – Inspecting staff – Health, safety and welfare measures – Provisions relating to hazardous processes – Working hours – Holidays – Annual leave - Employment of women and young persons. Equal Remuneration Act – Payment of remuneration at equal rates to men and women workers – Advisory committee – Offences and penalties.		
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Learning Objectives:

- The Factory Act is critical legislation aimed at ensuring the safety, health, and welfare of workers in industrial establishments. Understanding this Act is essential for employers, employees, and policymakers. Here are the primary learning objectives for studying the Factory Act: Comprehend Legal Framework, Promote Worker Health and Safety, Regulate Working

Conditions, Ensure Welfare of Workers, Understand Compliance and Enforcement, Foster Industrial Relations, Improve Operational Efficiency, Enhance Social and Ethical Responsibility

- By achieving these learning objectives, individuals and organizations will be well-equipped to ensure compliance with the Factory Act, thereby promoting a safer, healthier, and more equitable working environment. These objectives not only focus on legal compliance but also emphasize the importance of worker welfare, operational efficiency, and ethical responsibility in industrial settings.

FACTORIES ACT 1948 AND EQUAL REMUNERATION ACT 1976

2.1 THE FACTORIES ACT 1948

2.1.1. Introduction, Definition of Factories Act 1948

Introduction

The Factories Act is a pivotal piece of labor legislation aimed at regulating working conditions in factories to ensure the safety, health, and welfare of workers. Originating in the United Kingdom during the industrial revolution, similar acts have been adopted worldwide, including the Factories Act, 1948 in India, which serves as a comprehensive framework for managing various aspects of factory operations. The Act covers several key areas, including working hours, conditions of employment, health and safety measures, and provisions for the welfare of workers.

A factory is a building or group of buildings where people work with machinery to make goods. The primary goal of the Factories Act is to safeguard employees in a factory from industrial and occupational risks. This Act gives the owner or occupier of a factory a particular responsibility to secure and protect employees from employment in conditions harmful to their health and safety in order to safeguard workers. It is stated in the Act

that the purpose of the Factories Act is to amend and consolidate the legal framework governing factory labour. The Bhopal gas tragedy case (1984) raised public awareness of factory pollution and risks, necessitating government action to allow legislation amendments.

Definitions under the Factories Act, 1948

The important definitions under the 1948 Act are as follows:

- **Adult and child:** An adult is defined as someone who has attained the age of eighteen, as defined in Section 2(a) of the Act.
- A child is someone who has not attained the age of fifteen, as defined in Section 2(c) of the Act.
- **Adolescent:** Adolescent is defined in Section 2(b) of the Act. An adolescent is defined as someone who has attained the age of fifteen but has not yet attained the age of eighteen.
- **Calendar year:** The calendar year is defined in Section 2(bb) of the Act. A calendar year is a period of twelve months commencing on January 1st of any year.
- **Competent person:** A competent person is defined in Section 2(ca) of the Act. A competent person is someone or a group of individuals who have been approved by the Chief Inspector to conduct tests, examinations, and inspections that must be conducted in a plant. He/she is someone who has the necessary knowledge and experience to handle the complexity of the issue.
- **Hazardous process:** Hazardous process is defined in Section 2(cb) of the Act. A hazardous process is defined as any process or activity related to the industry that requires special care of raw materials that are used in it, intermediate or finished products, by-products, wastes, or effluents that would cause material impairment to the health of those engaged in or connected with it or that result in polluting the environment.
- **Machinery:** Machinery is defined in Section 2(j) of the Act. The term covers prime movers, transmission machinery, and any other equipment and appliances that produce, transform, transmit, or apply power.

- **Power:** Power is defined in Section 2(g) of the Act. Power is defined as any type of mechanically transmitted energy that is not created by a human or animal agency.
- **Week:** Week is defined in Section 2(f) of the Act. A week is defined as a seven-day period beginning at midnight on Saturday night or other nights that have been approved in writing for a specific area by the Chief Inspector of Factories.
- **Day:** Day is defined in Section 2(e) of the Act. A day is defined as a 24-hour period beginning at midnight.
- **Young person:** Young person is defined in Section 2(d) of the Act. A young person is defined as a child or an adolescent.
- **Factory:** The definition of a factory is specified in Section 2(m) of the Factories Act 1948. A factory is any premises, where it has certain limits and boundaries-
- If a manufacturing process is regularly carried out in any portion of the premises with the use of power and with ten or more workers now engaged in such activity or were engaged in such work on any day during the previous twelve months; or
- If any element of a manufacturing process is performed inside the premises without the use of power and is regularly performed with twenty or more employees working or having worked there on any given day within the previous twelve months.
- **Manufacturing process:** The manufacturing process definition is specified under Section 2(k). The term “manufacturing process” refers to any process for:
 - Generating, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, demolishing, or otherwise treating or adapting any article or;
 - A substance in preparation for use, sale, transportation, delivery, or disposal or;
 - Producing, transforming, or transmitting energy or;

- Creating type for printing, letterpress printing, lithography, bookbinding, or any other similar process or;
- Constructing, reconstructing, repairing, refitting, finishing, or breaking up ships or vessels, etc. (as defined by the 1976 Amendment Act);
- Preserving or storing any item in cold storage.
- **Worker:** The worker definition is specified under Section 2(l). A worker is someone who performs any job associated with a manufacturing process, whether they are employed directly or indirectly through an agency, a contractor, or any other means. This helps to maintain any equipment or facilities utilised in the manufacturing process. The worker may be hired with or without the principal employer's knowledge and with or without compensation.

2.1.2 Salient features of Factories Act, 1948

The important features of the 1948 Act are as follows:

The word "factory" has been expanded by the Factories (Amendment) Act of 1976 to include contract labour when determining whether a factory has a maximum of 10 or 20 employees.

- The Act increased the minimum age for children to work in workplaces from 12 to 14 and reduced their daily working hours from 5 to 4 and a half.
- The Act forbids women and children from working in factories from 7 p.m. to 6 a.m.
- The difference between a seasonal and non-seasonal factory has been abolished by the Act.
- The Act, which has provisions for factory registration and licencing.
- The state government is required to make sure that all factories are registered and also have valid licences that are renewed from time to time.
- The Act gives state governments the authority to enact rules and regulations that ask for management and employee association for the benefit of employees.
- The state government has the authority to apply the Act's requirements to any establishment, regardless of the number of employees inside and

regardless of whether the establishment engages in manufacturing operations.

2.1.3 Objectives of Factories Act, 1948

The important objectives of the 1948 Act are as follows:

- The major goal of the Factories Act of 1948 is to establish adequate safety measures and to enhance the health and welfare of workers employed in a factory. The Act also protects workers from various industrial and occupational hazards.
 - **Health:** According to the Act, all factories must be kept clean, and all essential safeguards must be taken to safeguard the health of workers. The factory must have a sufficient drainage system, adequate lighting, ventilation, temperature, etc. There must be clean water supplies. Separate restrooms and urinals must be built in convenient locations for males and females. These must be freely accessible to employees and kept clean.
 - **Safety:** The Act requires that machines be properly fenced; that no young adults work on any dangerous machines in enclosed places, and also that appropriate manholes be provided so that employees may escape in an emergency.
 - **Welfare:** The Act specifies that appropriate and suitable washing facilities for workers must be provided and maintained in every factory. There must be storage and drying facilities, as well as sitting areas, first-aid equipment, shelters, restrooms and lunch rooms.
- The Act also imposes some restrictions on the employment of women, small children, and teenagers, such as working hours, intervals, holidays, etc., as well as on annual leave with pay, etc.
 - **Working hours:** The Act sets working hours for all workers, and no adult worker must be permitted to work in a workplace for

more than 48 hours per week. Weekly holidays need to be granted.

- The Act also imposes specific restrictions on owners, occupiers, or the manufacturer's head in order to safeguard employees and ensure their health and safety precautions.
- The Act protects workers from exploitation and improves working conditions and the environment within factory premises.
 - **Penalties:** The Act also specifies specific rules created with provisions under the Act, and written orders that are violated. It is an offence, and penalties will be imposed, imprisonment for up to a year; a fine of up to one lakh rupees; or both fine and imprisonment. Any employee who misuses equipment related to the welfare, safety, and health of other employees, or those connected to the performance of his duties, suffers a Rs.500 fine.

Summary

The Factories Act is a piece of legislation enacted to regulate labor in factories, ensuring the safety, health, and welfare of workers. Here are the key points:

1. **Scope and Application:**

- Applies to factories using power with 10 or more workers, and those without power with 20 or more workers.

2. **Health and Safety:**

- Mandates cleanliness, disposal of waste, proper ventilation, lighting, and control of dust and fumes.
- Specifies safety measures for machinery, fencing, and work practices to prevent accidents.
- Requires provision of first aid, ambulance facilities, and appropriate medical care.

3. **Working Hours:**

- Limits working hours to 48 hours a week and 9 hours a day.

- Mandates a rest interval of at least half an hour after five hours of work.
- Prescribes weekly holidays and compensatory leaves.

4. **Welfare Provisions:**

- Ensures provision of facilities like drinking water, washrooms, canteens, restrooms, and childcare for workers.
- Enforces maintenance of adequate working conditions and amenities.

5. **Employment of Young Persons:**

- Prohibits the employment of children below a certain age.
- Regulates the working hours and conditions for adolescents and young workers, requiring medical certificates for their fitness.

6. **Annual Leave:**

- Grants workers annual leave with wages, accrued based on their attendance.

7. **Record Keeping:**

- Requires factories to maintain records of workers, their working hours, wages, and other relevant details for inspection.

8. **Inspection and Penalties:**

- Empowers inspectors to visit factories to ensure compliance with the Act.
- Imposes penalties for violations, including fines and imprisonment.

The Factories Act aims to protect workers and ensure a safe and healthy working environment, promoting industrial peace and productivity.

**Check Your Progress**

- QUIZ – 1

1. Under the Factories Act, which of the following is considered a factory?

- A. A place where 5 or more workers are employed in manufacturing.
- B. A place where 10 or more workers are employed in manufacturing with the aid of power.
- C. A place where 15 or more workers are employed in manufacturing without the aid of Power.
- D. A place where any number of workers are employed in a non-manufacturing activity.

2. What is the maximum number of hours a worker is allowed to work in a week under the Factories Act?

- A. 40 hours
- B. 45 hours
- C. 48 hours
- D. 50 hours

3. According to the Factories Act, how many days of annual leave with wages is a worker entitled to after 240 days of work in a calendar year?

- A. 12 days
- B. 15 days
- C. 18 days
- D. 20 days

4. Which section of the Factories Act mandates the provision of crèche facilities for the children of women workers?

- A. Section 42
- B. Section 48
- C. Section 51
- D. Section 66

5. Under the Factories Act, which of the following is required to ensure the safety of workers?

- A. Provision of first aid boxes
- B. Clean drinking water
- C. Proper ventilation and lighting
- D. All of the above

Answers

1. B. A place where 10 or more workers are employed in manufacturing with the aid of power.
2. C. 48 hours
3. B. 15 days
4. B. Section 48
5. D. All of the above

2.2 LICENSING AND REGISTRATION FACTORIES

2.2.1 Introduction

The Factories Act is a significant labour based legislation incorporated in the year of 1948 with the purpose in view of providing an effective enactment for the proper regulation of registration of factories and working conditions of the workers employed in those registered factories. It as well ensures that numerous issues concerning the people employed at workplaces like their health; security and safety; leave period of factory workers; their efficiency etc. is fairly governed and looked into. Further, it sets out provisions relating to women employees and their concerned issues like paid leave, women safety at workplace, fair treatment and opportunity etc. Every factory owner is required under the Factories Act of 1948 to secure approval for building designs prior to opening of their factory. The factory license serves as a document of authorization issued by the appropriate regulatory bodies for carrying out manufacturing operations. In India it is the Department of Factories and Boilers that grant such licenses. Each factory owner is required to secure the labour and employment department's prior approval before beginning the factory registering process. The process of registering and renewing of the license is

important for ensuring that the safety and health of the workers are not compromised and is rather safeguarded as per the given provisions of the Factories Act. The Factories Act has been amended several times in order to adapt well to the changing landscape relating to labour conditions and increased technological advancement. Some Provisional measures undertaken by the Factories Act 1948 are-

- It regulates the use of dangerous machinery, and it lays down safety measures for the handling of hazardous substances.
- It sets standards for working hours, rest intervals, and overtime.
- It addresses the employment of women and young persons, including restrictions on night shifts and overtime.
- It mandates proper ventilation, lighting, and sanitation facilities in factories.
- It also covers annual leave with wages, employment of children, and penalties for contravention of its provisions.

2.2.2 APPLICABILITY AND APPLICATION FOR REGISTRATION

- I. **Applicability of the Act:** The Factories Act of 1948 governs all manufacturing operations and establishments that fall under the description of “factory” as stated in Sec.2(m) of the said Act, and it is applicable throughout the nation, including Jammu and Kashmir. Pursuant to Section 116, the Act also applies to the factories owned either by the central government or the state government.
- II. **Applicability of the Factory License:** Under the Factories Act of 1948 mandatory registration of factory is necessary to set up a factory in India. Factory registration is required for any premises where ten or more workers are employed, and power is used for manufacturing processes. For factories using no power, the threshold is twenty or more workers.

APPLICATION FOR REGISTRATION:

To initiate the registration process, the occupier or owner of the factory needs to obtain the prescribed application form which are usually available on the official website of the State’s Labour Department or can be obtained in person from the

local Factory Inspectorate. Following this the form contents is required to be duly filled properly. The application form typically includes sections where you need to provide various details about the factory and its operations. Following is a simple brief regarding the required information:

- a. **Name and Address of the Factory:** This includes the full legal name of the factory and its complete address, including details like street address, city or district, and pin code.
- b. **Name and Address of the Occupier:** The occupier refers to the person or entity responsible for the overall management and operation of the factory. Their complete name and contact address should be enclosed with no ambiguity to any of the details.
- c. **Nature of Manufacturing Process:** The type of manufacturing or industrial process that is to be carried out in the factory is required to be described well. This would help the authorities to understand the nature of the work and the potential risks involved.
- d. **Number of Workers Employed:** Specification of the correct number total workers currently employed in the factory is important. Further, it should also be ensured that this count complies with the threshold for registration based on the use of power.
- e. **Details of Machinery and Equipment:** All the machinery and equipment that are to be used in the manufacturing process are also required to be properly enclosed. The information such as the number, type, and capacity of machines are required to be included.
- f. **Factory Layout and Plans:** Some states may require one to submit a layout plan of the factory, showing the arrangement of various sections, machinery, and safety measures and hence it should be prepared well to submit. This plan should be prepared by a qualified engineer or architect in compliance with concerned laws and regulations.
- g. **Ownership and Legal Status:** Mentioning of the fact that whether the factory is owned by an individual, partnership, company, or any other legal entity is crucial. Hence, complete details relating to the legal status of the factory should be provided.

The application form is required to be accompanied with certain necessary documents, which may include:

- Proof of ownership or occupancy of the factory premises.
- Any approvals or permissions required by local authorities.
- Documents related to the safety measures and facilities provided for workers, as required by the Factories Act.

Further, the application form must as well be accompanied along with registration fee as specified by the state authorities. Once the application form is completed and all required documents are attached, the application is submitted. This can usually be done in person or by mail, as per the state's guideline. After submission, the Factory Inspector may schedule an inspection to verify compliance with safety and health standards. If the inspection is successful and all requirements are met, then a factory license is issued, allowing the factory to operate within the specified conditions.

2.2.3 VALIDITY OF FACTORY LICENSE

- h. The validity of the issued factory license may be in effect from 1 year to utmost of 5 years depending on the enacted rule regarding it by the respective state. Hence, the validity is subject to Number of Workers Employed: Specification of the correct number total workers currently employed in the factory is important. Further, it should also be ensured that this count complies with the threshold for registration based on the use of power.
- i. Details of Machinery and Equipment: All the machinery and equipment that are to be used in the manufacturing process are also required to be properly enclosed. The information such as the number, type, and capacity of machines are required to be included.
- j. Factory Layout and Plans: Some states may require one to submit a layout plan of the factory, showing the arrangement of various sections, machinery, and safety measures and hence it should be prepared well to submit. This plan should be prepared by a qualified engineer or architect in compliance with concerned laws and regulations.

- k. Ownership and Legal Status: Mentioning of the fact that whether the factory is owned by an individual, partnership, company, or any other legal entity is crucial. Hence, complete details relating to the legal status of the factory should be provided.

The application form is required to be accompanied with certain necessary documents, which may include:

- Proof of ownership or occupancy of the factory premises.
- Any approvals or permissions required by local authorities.
- Documents related to the safety measures and facilities provided for workers, as required by the Factories Act.

Further, the application form must as well be accompanied along with registration fee as specified by the state authorities. Once the application form is completed and all required documents are attached, the application is submitted. This can usually be done in person or by mail, as per the state's guideline. After submission, the Factory Inspector may schedule an inspection to verify compliance with safety and health standards. If the inspection is successful and all requirements are met, then a factory license is issued, allowing the factory to operate within the specified conditions.

The validity of the issued factory license may be in effect from 1 year to utmost of 5 years depending on the enacted rule regarding it by the respective state. Hence, the validity is subject to variation depending on the state in which the factory is set up. However, renewal of license before the expiration of the validity of license is essential for the continued functioning of the factory or manufacturing operations.

2.2.4 NOTICE TO CHIEF INSPECTOR

It is to be noted that a notice in writing to the Chief Inspector at least fifteen days before one intends to occupy or utilize any space as a factory needs to be furnished. Within a period of thirty days, the occupant of any establishment that becomes subject to the Act

for the very first time must submit a notice in writing to the chief inspector and such notice must include the information stated in Sec.7(1).

EMPLOYING OF NEW MANAGER

The Sec.7 as well delineates that within seven days of the newly recruited manager assuming the control of the factory, the factory's administration is required to appropriately inform the principal auditor about such recruitment. Further, when no person has been assigned as the manager or when the assigned manager fails to oversee the factory then any individual functioning as the manager, or in the event of no such individual functioning as the manager, the one who occupies the functioning of factory, will be considered to act as the manager of factory for the reason of this legislation.

In the case of **Mohd. Ismail Khizer Hussain & Co. vs The State Of Madras And**

Anr[2], it has been held that 'where a factory had been in existence and no previous permission for the site or the construction of the factory was required, this section does not enable the appropriate authority to demand that the owner of the factory should obtain the approval of the appropriate authority for the site of the plans of the factory buildings.'

2.2.5 RENEWAL OF LICENSE

- a. The renewal of a factory license under the Factories Act, 1948 is a necessary process to ensure continued compliance with the law. It's essential for factory owners to be proactive in renewing their factory license to ensure compliance with the Factories Act and to avoid any legal complications. The renewal application should be submitted before the current license expires to avoid any disruptions in factory operations. However, the specific requirements and processes for renewal may vary from state to state.

To renew obtain the prescribed renewal application form is required to be obtained. The renewal application form usually requires updating information about the factory's status and operations. While the specific requirements may vary by state, here are some common elements you might need to provide:

- Current status of the factory, including any changes in ownership or management.

- Updated details on the manufacturing process and machinery used.
- Current number of workers employed.
- Any modifications or improvements made to the factory's layout, safety measures, or facilities.
- A declaration of continued compliance with the Factories Act and relevant state regulations.

Further, the applicant may require the following necessary documents:

- Proof of payment of the renewal fee, which varies by state.
- Updated factory layout plans, if any changes have been made.
- Any documents or certificates related to safety measures and facilities.
- Photo-copy of the Original Factory License.

Upon receipt of the application, the relevant officer reviews it for accuracy. Following a thorough examination of the application, if the documents are deemed accurate, it proceeds to the approval stage under the jurisdiction of the competent authority. In cases where corrections are necessary, the applicant is promptly notified and requested to resubmit the revised application within a specified timeframe. Upon receiving the corrected documents from the applicant, the application is filed for further evaluation by the Competent Authority. Following approval, the renewed license, which bears the signature of the Competent Authority, is dispatched to the applicant via postal mail, accompanied by a formal covering letter.

Failure to renew the factory license on time can result in penalties, including fines and legal action. It can also lead to the suspension of factory operations until the renewal is completed.

Summary

The Factories Act mandates licensing and registration of factories to regulate their operations and ensure compliance with safety, health, and welfare standards. Here are the key points:

1. Registration Requirement:

- All factories must be registered with the relevant state authority before commencing operations.

2. Licensing:

- Factories must obtain a license from the state government, which involves submitting an application along with detailed plans of the factory premises.
- Licenses specify the maximum number of workers and the type of manufacturing processes permitted.

3. Application Process:

- The application must include details about the factory's location, layout, machinery, and safety measures.
- Accompanied by necessary documents such as site plans, building plans, and equipment specifications.

4. Approval and Inspection:

- Authorities review applications to ensure compliance with legal requirements and safety standards.
- Inspections may be conducted before granting a license to verify the information provided.

5. Renewal and Modification:

- Factory licenses are subject to periodic renewal, usually annually or as specified by the state authority.
- Any significant changes in factory operations, such as expansion or modification of processes, require updating the license and possibly reinspection.

6. Compliance Monitoring:

- Registered and licensed factories are regularly monitored by inspecting staff to ensure ongoing compliance with the Act's provisions.

7. Penalties for Non-Compliance:

- Operating without a valid license or registration can result in penalties, including fines and legal action. The licensing and registration process is

essential for regulating factory operations, ensuring they meet required safety, health, and welfare standards to protect workers and the environment.



Check Your Progress



- QUIZ - 1

1. Under the Factories Act, who is responsible for the licensing and registration of factories?

- A. The Central Government
- B. The State Government
- C. The Local Municipal Corporation
- D. The Ministry of Commerce

2. What document must be submitted for the registration of a factory under the Factories Act?

- A. Certificate of Incorporation
- B. Building Plan Approval
- C. Form No. 2
- D. Environmental Clearance Certificate

3. Which of the following is a requirement for obtaining a factory license under the Factories Act?

- A. Submission of site plans and building plans
- B. Employment of at least 50 workers
- C. Certification from the Ministry of Health
- D. Approval from the local police department

4. How often must a factory license be renewed under the Factories Act?

- A. Every year
- B. Every three years
- C. Every five years
- D. Every ten years

5. Who has the authority to inspect factories to ensure compliance with licensing and registration requirements under the Factories Act?

- A. Factory Inspectors
- B. Police Officers
- C. Health Inspectors
- D. Environmental Officers

Answers

1. B. The State Government
2. C. Form No. 2
3. A. Submission of site plans and building plans.
4. A. Every year
5. A. Factory Inspectors

2.3 Inspecting Staff under Factories Act

2.3.1 Introduction and Responsibilities of Inspecting Staff

The Factory Act mandates the appointment of inspecting staff to ensure compliance with the provisions aimed at safeguarding the health, safety, and welfare of workers. The inspecting staff, typically referred to as factory inspectors, play a crucial role in the enforcement of the Act. Here are the key aspects and responsibilities of the inspecting staff under the Factory Act:

Responsibilities of Inspecting Staff

1. Inspection and Monitoring:

- **Regular Inspections:** Conduct regular inspections of factories to ensure compliance with health, safety, and welfare standards prescribed by the Act.
- **Surprise Visits:** Perform unannounced visits to assess the factory's adherence to legal requirements without prior notice to the management.

2. Enforcement of Standards:

- **Health and Safety:** Ensure that factories maintain required health standards such as cleanliness, proper ventilation, adequate lighting, and safe disposal of waste.
- **Safety Measures:** Verify the implementation of safety measures like machine guards, proper maintenance of equipment, and availability of safety gear.

3. Examination of Records:

- **Review Documents:** Inspectors have the authority to review records and documents maintained by the factory, including employee registers, working hours, wage records, and safety logs.
- **Compliance with Reporting:** Ensure factories comply with the requirement to submit periodic reports and returns to the authorities.

4. Investigation of Complaints:

- **Address Worker Complaints:** Investigate complaints made by workers regarding unsafe working conditions, non-payment of wages, or violations of any provisions of the Act.
- **Follow-Up Actions:** Take necessary follow-up actions based on the findings of the investigation to rectify the issues.

5. Accident Investigation:

- **Report and Analyze:** Inspectors are responsible for investigating workplace accidents, determining the causes, and ensuring corrective measures are implemented to prevent recurrence.
- **Legal Action:** If necessary, recommend legal action against the factory for negligence or non-compliance leading to accidents.

6. Enforcement Actions:

- **Issuance of Notices:** Issue notices and warnings to factories found in violation of the Act's provisions, specifying the nature of noncompliance and the required corrective actions.
- **Prosecution:** Initiate legal proceedings against factories that fail to comply with the Act's provisions despite warnings.

7. Advisory Role:

- **Guidance to Employers:** Provide guidance to employers on best practices for compliance with health, safety, and welfare requirements.
- **Worker Education:** Educate workers about their rights under the Factory Act and the importance of adhering to safety protocols.

2.3.2 Powers of Inspecting Staff

1. Access to Premises:

- Inspectors have the right to enter any factory premises at any reasonable time for the purpose of carrying out their duties.

2. Examination Authority:

- Inspect machinery, plant, and equipment to ensure they meet safety standards.
- Take samples of materials and substances used or found in the factory for analysis.

3. Interrogation:

- Question the employer or any person found in the factory regarding health, safety, and welfare conditions and practices.

4. Seizure of Evidence:

- Seize or take copies of any register, record, or document as evidence of non-compliance or violation of the Act.

2.3.3 Qualifications and Training of Inspecting Staff

- **Educational Background:** Inspectors are generally required to have a background in engineering, industrial safety, or a related field.
- **Professional Training:** They undergo professional training to understand the legal, technical, and practical aspects of factory operations and the enforcement of the Factory Act.

Conclusion

The inspecting staff under the Factory Act are crucial for ensuring that factories operate in a manner that protects the health, safety, and welfare of workers. By conducting regular inspections, investigating complaints and accidents, enforcing compliance, and providing guidance, inspectors help maintain safe and lawful working environments. Their role not only upholds legal standards but also promotes a culture of safety and well-being in industrial establishments.

Summary

The Factories Act designates specific inspecting staff to ensure compliance with its provisions:

1. **Appointment:**

- Inspectors are appointed by the state government.

2. **Powers and Duties:**

- Inspectors have the authority to enter any factory premises for inspection.
- They can examine any machinery, equipment, or process to ensure safety and health standards.
- They can require the production of any documents, such as registers or records, for examination.
- Inspectors can take samples of materials for analysis to check compliance with safety and health standards.

3. **Inspection Reports:**

- Inspectors are required to prepare reports of their inspections, detailing any violations or areas of concern.

4. **Enforcement:**

- Inspectors have the power to issue orders for remedial measures if any non-compliance is found.
- They can initiate legal proceedings against factory owners or managers for any violations of the Act.

5. **Advisory Role:**

- Besides enforcement, inspectors often provide guidance to factory management on best practices for safety and health.

The role of inspecting staff is crucial for the effective implementation of the Factories Act, ensuring that factories maintain safe and healthy working conditions for their employees.

**Check Your Progress**

- QUIZ – 1

1. Who is responsible for ensuring the safety and health of workers in a factory?

- A. Factory Manager
- B. Chief Inspector of Factories
- C. Workers' Union
- D. Human Resources Department

2. Under the Factories Act, who has the authority to enter and inspect any factory at any time?

- A. Police Officer
- B. Chief Inspector of Factories
- C. Factory Owner
- D. Government Auditor

3. What is one of the main duties of an inspector under the Factories Act? A. To provide loans to

- A. factory owners
- B. To ensure workers are paid on time
- C. To examine the premises and ensure compliance with safety regulations
- D. To supervise production processes

4. Which of the following is a power granted to inspectors under the Factories Act?

- A. Conducting interviews with workers
- B. Ordering the closure of the factory
- C. Increasing the factory's production quota
- D. Setting workers' wages

5. What must an inspector do if they find a serious safety violation in a factory?

- A. Ignore it and move on
- B. Report it to the workers' union
- C. Issue a notice to the factory manager
- D. Inform the factory's customers

Answers

- 1. B. Chief Inspector of Factories
- 2. B. Chief Inspector of Factories
- 3. C. To examine the premises and ensure compliance with safety regulations
- 4. A. Conducting interviews with workers
- 5. C. Issue a notice to the factory manager.

2.4. Provisions Related to Hazardous Process

The provisions relating to hazardous processes in the Factory Act are designed to ensure the safety, health, and welfare of workers involved in operations that pose significant risks due to the nature of the materials or processes used. These provisions typically cover identification, control, and management of hazards, as well as emergency preparedness. Here is an overview of the key provisions relating to hazardous processes under the Factories Act, with a focus on the Factories Act, 1948 (India) as a reference:

2.4.1 Provisions Relating to Hazardous Processes

1. Definition and Identification:

- **Hazardous Process Definition:** The Act defines a hazardous process as any process or activity in an industrial establishment that involves the use of hazardous substances which pose a significant risk to health, safety, or the environment.
- **Notification of Hazardous Processes:** Factories engaging in hazardous processes must notify the appropriate regulatory authorities and provide details of the processes and substances involved.

2. Safety Measures and Risk Management:

- **Approval and Licensing:** Factories must obtain approval and licenses for conducting hazardous processes, ensuring that all safety standards and regulations are met.
- **Risk Assessment:** Employers are required to conduct thorough risk assessments to identify potential hazards associated with the processes and take preventive measures.
- **Safety Precautions:** Adequate safety measures, such as protective equipment, safety training, and engineering controls, must be implemented to minimize risks.

3. Health and Medical Surveillance:

- **Health Checks:** Regular health checks and medical surveillance must be conducted for workers involved in hazardous processes to detect any adverse health effects early.

4. **Worker Training and Information:**

- **Safety Training:** Workers must receive comprehensive training on the safe handling of hazardous materials, emergency procedures, and the use of personal protective equipment (PPE).
- **Information Dissemination:** Information about the hazards, safety measures, and emergency procedures must be clearly communicated to all workers.

5. **Monitoring and Control of Hazardous Substances:**

- **Environmental Monitoring:** Continuous monitoring of the workplace environment to ensure that levels of hazardous substances do not exceed prescribed limits.
- **Control Measures:** Implementation of control measures such as ventilation systems, containment structures, and safe disposal methods to reduce exposure to hazardous substances.

6. **Emergency Preparedness and Response:**

- **Emergency Plans:** Factories must prepare and implement comprehensive emergency plans to deal with incidents involving hazardous processes, including fires, explosions, and chemical spills.
- **Emergency Drills:** Regular emergency drills must be conducted to ensure that workers are familiar with emergency procedures and can respond effectively in case of an incident.

7. **Notification and Reporting:**

- **Incident Reporting:** Any accidents or incidents involving hazardous processes must be promptly reported to the relevant authorities, and a detailed investigation must be conducted to identify the cause and prevent recurrence.
- **Periodic Reporting:** Factories must submit periodic reports on the safety measures implemented and any incidents that have occurred to the regulatory authorities.

8. Regulatory Inspections and Compliance:

- **Inspections:** Regular inspections by government authorities to ensure compliance with safety standards and regulations.
- **Compliance Measures:** Factories found to be non-compliant with the provisions for hazardous processes must take corrective actions as directed by the inspectors.

2.4.2 Sections of the Factories Act, 1948 (India) Related to Hazardous Processes

1. **Section 2(cb):** Defines "hazardous process" and identifies the scope of activities covered under this definition.
2. **Section 41A:** Specifies the constitution of Site Appraisal Committees for the assessment and approval of sites where hazardous processes are carried out.
3. **Section 41B:** Mandates the provision of safety measures in hazardous processes, including monitoring, control, and emergency preparedness.
4. **Section 41C:** Requires factories to provide medical examination and health surveillance for workers involved in hazardous processes.
5. **Section 41D:** Details the responsibilities of the Occupier to ensure the safety and health of workers, including the preparation of safety policies and emergency plans.
6. **Section 41E:** Empowers the government to specify permissible levels of exposure to hazardous substances.
7. **Section 41F:** Provides for the inspection of hazardous processes by specially trained inspectors.
8. **Section 41G:** Encourages the formation of Safety Committees in factories engaged in hazardous processes to promote safety and health.
9. **Section 41H:** Details the information dissemination obligations to workers and the public regarding hazardous processes.

Summary

Provisions Relating to Hazardous Processes in the Factories Act

The Factories Act includes specific provisions for hazardous processes to safeguard workers from potential risks. Here are the key aspects:

1. Definition:

- Hazardous processes involve handling, processing, storage, or manufacturing of hazardous substances that pose significant risk to health and safety.

2. Site Appraisal Committees:

- The state government appoints site appraisal committees to assess new factories or significant expansions of existing ones handling hazardous substances.

3. Worker Safety:

- Workers involved in hazardous processes must undergo regular medical examinations.
- Factories must provide appropriate protective equipment and safety training to workers.

4. Health and Safety Measures:

- Factories must implement measures to control the release of hazardous substances. ○ Installation of effective ventilation systems to minimize worker exposure.
- Continuous monitoring of the work environment for harmful levels of substances.

5. Safety Management:

- Factories must prepare and implement safety policies and procedures. ○ Emergency plans for dealing with accidents and procedures for evacuation must be in place.

6. Medical Facilities:

- Provision of medical facilities for prompt treatment in case of exposure or accidents.
- Maintenance of health records for workers exposed to hazardous processes.

7. Disclosure of Information:

- Factories must disclose information about hazardous processes and substances to workers and local authorities.
- Labeling of hazardous substances and providing safety data sheets.

8. Workers' Rights:

- Workers have the right to be informed about potential hazards and to receive training on safety practices.
- Right to report unsafe conditions without fear of retaliation.

9. Emergency Preparedness:

- Factories must conduct regular drills and training for emergency response.
- Coordination with local emergency services for effective response to incidents.

These provisions aim to minimize risks associated with hazardous processes, ensuring a safer working environment and protecting the health and safety of workers.



Check Your Progress



- QUIZ – 1

1. What is defined as a hazardous process under the Factories Act?
 - A. Any process that uses electricity
 - B. Any process that involves manufacturing goods
 - C. Any process that poses a risk to health, safety, or life of workers
 - D. Any process that uses machinery
2. Which section of the Factories Act specifically deals with hazardous processes?
 - A. Section 2
 - B. Section 41A
 - C. Section 10

D. Section 25

3. Who is responsible for ensuring that adequate safety measures are in place for hazardous processes?

- A. Workers
- B. Chief Inspector of Factories
- C. Factory Owner/Manager
- D. Government Health Department

4. Under the Factories Act, what must be done if a new hazardous process is introduced in a factory?

- A. Increase workers' wages
- B. Inform the Chief Inspector of Factories and provide necessary information about the process
- C. Reduce working hours
- D. Change the factory's location.

5. What training must workers receive if they are involved in a hazardous process?

- A. Financial management training
- B. Safety and health training specific to the hazardous process
- C. Customer service training
- D. Marketing and sales training.

Answers

- 1. C. Any process that poses a risk to health, safety, or life of workers
- 2. B. Section 41A
- 3. C. Factory Owner/Manager
- 4. B. Inform the Chief Inspector of Factories and provide necessary information about the process
- 5. B. Safety and health training specific to the hazardous process

2.5 Labour and welfare Measures under factories Act

2.5.1 Introduction

The word 'labour welfare' refers to the services offered to employees within as well as outside the factory, such as canteens, restrooms, recreation areas, housing, and any other

amenities that support employee well-being. States that take welfare measures care about the overall well-being and productivity of their workforce. Early on in the industrialization process, social programmes for manufacturing workers did not receive enough priority. In the past, industrial labour conditions in India were terrible. Due to a growth in industrial activity in the latter part of the twenty-first century, several attempts were made to improve the working conditions of the workforce through the recommendations of the Royal Commission.

After gaining knowledge about the deficiencies and limitations of the previous Act, the Factories Act of 1948 was amended. The definition of 'factory' was expanded to encompass any industrial facility employing 10 or more people that uses power or any industrial establishment employing more than 20 people that uses no power, which was a significant development.

Other significant amendments included-

- Raising the minimum age of children who can work from 12 to 14 years old.
- Reducing the number of hours a child can work from five to four and a half.
- Preventing the kids from working between the hours of 7 p.m. and 6 a.m.
- The health, safety, and well-being of all types of employees are given particular attention.
- Welfare measures

The three main components of welfare measures are occupational health care, appropriate working hours, and appropriate remuneration. It speaks of a person's complete health, including their physical, mental, moral, and emotional states. The goal of welfare measures is to integrate the socio-psychological demands of the workforce, the particular technological requirements, the organisational structure and procedures, and the current socio-cultural environment. It fosters a culture of work dedication in enterprises and society at large, ensuring increased employee happiness and productivity.

2.5.2 Labour and Welfare Measures under Factories Act Washing facilities (Section 42)

- All factories should supply and maintain enough appropriate washing facilities for the use of the employees.
- For male and female employees, separate, well-screened facilities must be provided; these facilities also need to be easily accessible and maintained clean.
- The standards for appropriate and suitable facilities for washing must be set by the state government.

Facilities for storing and drying clothing (Section 43)

- The state government has a specific authority. It specifies that the state government has the authority to give instructions to the manufacturers regarding where to store the worker's clothing.
- They can also provide them with instructions on how to dry the workers' clothes. It refers to the circumstance in which workers are not dressed for work.

Facilities for sitting (Section 44)

- All factories should provide and maintain seating arrangements in appropriate areas for all workers who are required to work in a standing position in order to take advantage of any chances for rest that may arise throughout the course of the job.
- According to the chief inspector, workers in any factory involved in a certain manufacturing process or working in a specific room are able to perform their work effectively while seated.

First aid appliance (Section 45)

- All factories must have first aid kits, appliances, or cupboards stocked with the required supplies during all working hours, and they must be easily accessible for all manufacturing employees to access. Accordingly, there must be more first aid boxes or cupboards than the usual ratio of one for every 150 industrial employees, which must be fewer than that.
- The first aid box or cupboard should only include the recommended supplies.

- Throughout the factory's operating hours, each first aid box or cupboard should be kept under the supervision of a specific person who is accountable for it on a separate basis and must be readily available at all times during the working hours of the factory.

Canteen (Section 46)

- A canteen must be provided and kept up by the occupier for the benefit of the workers in any specified factory where more than 250 people are usually employed, according to rules that the state government may set.
- Food must be served, and prices must be established for it.

Shelters, restrooms and lunch rooms (Section 47)

- Every factory with more than 150 employees must have appropriate and suitable restrooms or shelters and a lunchroom with drinking water where employees can eat food they have brought with them and that is kept for their use. If a lunchroom is available, employees should stop eating in the work area.
- The shelters or restrooms need to be well-lighted, ventilated, kept clean, cool, and in good condition.

The state government sets the standards.

Creches (Section 48)

- Every factory with more than 30 female employees must have a suitable room for the use of children under the age of six of such women.
- Such rooms must be well furnished, well-lighted, and ventilated, and they must be kept clean and hygienic. They must also be under the care of women who have received training in child and infant care.
- In addition, facilities for washing and changing clothes can be made available for the care of the children of female workers.
- Any factory may be forced to provide free milk, refreshments, or both to such children.
- Small children can be fed by their mothers in any industry at necessary intervals.

Health

- Sections 11-20 of Chapter III of the Act deal with the Health of the Factories Act, 1948.

Cleanliness (Section 11)

- Every factory needs to be kept clean and clear of any effluvia from drains, latrines, or other annoyances. In particular:
- Dirt must be cleaned daily from floors, benches, staircases, and passages by sweeping or by another method, and it must be properly disposed of.
- The floor should be disinfectant-washed at least once a week.
- During the manufacturing process, the floor becomes moist; this must be drained via drainage.

Disposal of wastes and effluents (Section 12)

- Every factory has to have a method in place for treating wastes and effluents produced by the manufacturing process they use.

Ventilation and temperature (Section 13)

- In order to ensure worker comfort and prevent health problems, sufficient ventilation must be created for the circulation of air in a factory, which should be maintained at a specific temperature.
- Walls and roofing should be made of a material that is intended for a particular temperature that shouldn't go over as much as possible.
- Certain precautions must be taken to protect the employees in facilities where the manufacturing process requires extremely high or low temperatures.

Dust and fume (Section 14)

- Every factory has to have efficient measures to remove or prevent any dust, fumes, or other impurities that might harm or offend the employees employed and cause inhalation and buildup in any workroom.
- No factory may operate an internal combustion engine unless the exhaust is directed outside, and no other internal combustion engine may be used. Additionally, precautions must be made to avoid the buildup of fumes that might endanger the health of any employees inside the room.

Overcrowding (Section 16)

- There should be no overcrowding in factories that might harm the health of the workers.
- All employees must have ample space in a room to work in the building.

Lighting (Section 17)

- Every area of a factory where employees are employed must have adequate natural, artificial, or both types of lighting installed and maintained.
- All glass windows and skylights that provide lighting for the workroom in factories must be kept clean on the inside and outside.
- The production of shadows should not cause eye strain during any manufacturing process, and all factories must have preventative measures that should not cause glare from the source of light or via reflection from a smooth or polished surface.

Drinking (Section 18)

- All factories must have the appropriate installations in place, and maintain convenient locations with an adequate supply of clean drinking water.
- The distance between any drinking water and any washing area, urinal, latrine, spittoon, open drain carrying sullage or effluent, or another source of contamination in the factory must be 6 metres unless the chief inspector approves a shorter distance in writing. The labelling must be legible and in a language that workers could understand.
- In all factories with more than 250 regular employees, there needs to be a suitable method for providing cold drinking water during hot weather.

Latrines and urinals (Section 19)

- All factories should have enough restrooms, and urinal accommodations of the required types must be offered in a location that is convenient and always accessible to workers.
- Male and female employees must have separate enclosed rooms.
- These locations must be thoroughly cleaned, kept in a hygienic state, and have sufficient lighting and ventilation.

- Sweepers must be used to maintain latrines, urinals, and washing facilities clean.

Spittoons (Section 20)

- All factories must have spittoons in easily accessible locations, and they must be kept clean and hygienic.
- The state government specifies the number of spittoons that must be given, their placement in any factory, as well as their maintenance in a clean and hygienic manner.
- Except for spittoons designed, for this reason, no one should spit within the premises of a factory. A notice must be posted if any violations occur, with a fine of five rupees.

Safety

- Safety is covered in Chapter IV of the Act and is covered in Sections 21–41 of the Factories Act, 1948.

Employment of young persons on dangerous machines (Section 23):

- No young person is permitted to operate dangerous machines unless he has been adequately taught the hazards associated with the machine and the measures to be taken, and has received suitable training in working at the machine or adequate supervision by a person who has complete knowledge and experience of the equipment.

Prohibition of employment of women and children near cotton openers (Section 27):

- Women and children are not permitted to work in any area of a cotton pressing facility while a cotton opener is in operation. Women and children may be employed on the side of the partition where the feed-end is located if the inspector so specifies.

Hoists and lifts (Section 28):

- Every hoist and lift must be of strong mechanical structure, enough strength, and sound material. They also need to be regularly maintained, completely checked by a qualified person at least once every six months, and a register kept for the mandatory exams.
- A cage that is properly designed and installed must enclose all hoist and lift ways to prevent people from being trapped between any of the equipment.

- No larger load should be carried; the maximum safe operating load must be marked on the hoist or lift.
- Every hoist or lift gate must have interlocking or another effective system installed to prevent the gate from opening except during landing.

Protection of eyes (Section 35):

- The state government may require effective screens or appropriate goggles to be provided for the protection of persons employed or in the vicinity of the process during any manufacturing process carried out in any factory that involves risk to the eyes due to exposure to excessive light or injury to the eyes from particles or fragments thrown off during the process.

Precautions against dangerous fumes, gases etc (Section 36):

- No person shall be required or permitted to enter any chamber, tank, vat, pit, pipe, flue, or other confined space in any factory where any gas, fume, vapour, or dust is present to such a degree as to involve risk to persons being overcome, unless such chamber, tank, vat, pit, pipe, flue, or other confined space is provided with an adequate manhole or other effective means of egress.

Explosive or inflammable dust, gas etc (Section 37):

- Any factory involved in manufacturing processes that produce dust, gas, fume, or vapour of a nature that could explode on ignition must take all reasonably practicable precautions to prevent any explosion through The effective enclosure of the plant or machinery.
- The removal or prevention of the accumulation of such dust, gas, fume, or vapour, etc., or
- Otherwise by the exclusion or effective enclosure of all potential ignition sources.

Precautions in case of fire (Section 38):

- In order to protect and maintain safety to allow people to escape in the case of fire, all factories should have precautionary measures in place to avoid the breakout and spread of fire, both internally and externally. The required tools and facilities for extinguishing the fire must also be made accessible.

- All factory employees who are familiar with fire escape routes and have received sufficient training on the procedure to be followed in such circumstances must have access to appropriate measures.

2.5.3 Provisions of Working Hours, Holidays and Annual Leave

The Factories Act, particularly the Factories Act, 1948 (India), lays down clear provisions regarding working hours, holidays, and annual leave to ensure the welfare of workers. Here are the detailed provisions related to these aspects:

Working Hours

1. Daily Working Hours:

- **Adult Workers:** The Act stipulates that no adult worker (a person who has completed 18 years of age) shall be required or allowed to work in a factory for more than 9 hours in any day.
- **Spread Over:** The working hours of an adult worker shall be so arranged that inclusive of the intervals for rest, they shall not spread over more than 10.5 hours in any day.

2. Weekly Working Hours:

- **Maximum Weekly Hours:** An adult worker shall not be required or allowed to work in a factory for more than 48 hours in any week.

3. Intervals for Rest:

- **Rest Periods:** The Act mandates that no worker shall work for more than 5 hours before they have had an interval for rest of at least half an hour.

4. Night Shifts:

- **Shift Timing:** If workers are engaged in a shift that extends beyond midnight, the hours worked after midnight are counted for the previous day.

5. Overtime Work:

- **Overtime Limits:** Workers may work overtime, but the total number of hours of work including overtime shall not exceed 10 hours in a day and 60 hours in a week.

- **Overtime Wages:** Overtime work must be compensated at twice the ordinary rate of wages.

Holidays

1. Weekly Holidays:

- **Mandatory Day Off:** Every worker is entitled to a weekly holiday, typically Sunday. If required to work on this day, a compensatory day off should be provided within three days before or after the usual day of rest.

2. Compensatory Holidays:

- **Holiday Substitution:** When a worker is required to work on a holiday, they are entitled to a compensatory holiday of equal duration within the same month or within two months thereafter.

Annual Leave with Wages

1. Entitlement:

- **Eligibility:** Workers are entitled to annual leave with wages if they have worked for at least 240 days in a calendar year.
- **Calculation of Leave:**
 - Adult workers earn leave at the rate of 1 day for every 20 days worked.
 - For adolescent workers (below 18 years of age), the rate is 1 day for every 15 days worked.

2. Accumulation and Availment:

- **Accumulation of Leave:** Leave can be accumulated and carried forward to the next year up to a maximum of 30 days for adults and 40 days for adolescents.
- **Application for Leave:** Workers must apply for leave in advance and the employer should normally grant the leave, unless it is deferred due to exigencies of work.

3. Leave Pay:

- **Wages During Leave:** Wages for the leave period should be paid at the rate equal to the daily average of the total full-time earnings of the worker for the

days on which they actually worked during the month immediately preceding the leave.

4. **Leave Encashment:**

- **Leave on Termination:** If a worker's service is terminated by the employer, any leave not availed should be encashed and paid to the worker.

Summary

The Factories Act provides guidelines on working days, annual leave, and holidays to ensure the well-being and productivity of factory employees. Here are the key points:

1. **Working Days:**

- Employees can work a maximum of 48 hours per week.
- The daily working hours should not exceed 9 hours.
- There must be a rest interval of at least half an hour after 5 hours of continuous work.

2. **Weekly Holidays:**

- Every worker is entitled to at least one day off each week, typically Sunday.
- If a worker is required to work on their designated weekly holiday, they must receive a substituted rest day within the same month.

3. **Annual Leave with Wages:**

- Workers who have worked for at least 240 days in a calendar year are entitled to annual leave with wages.
- For adults, leave is calculated at one day for every 20 days of work performed.
- For children, leave is calculated at one day for every 15 days of work performed.
- Leave can be accumulated and carried forward to the next year, up to a maximum limit specified by the Act.

4. **Procedure for Taking Leave:**

- Workers should apply for leave in advance.
- The employer should normally grant the leave as requested, unless it disrupts factory operations.
- In case of refusal, the employer must communicate the reason in writing.

5. Payment During Leave:

- Workers are entitled to their usual daily wage during the period of annual leave.
- Wages for the leave period must be paid before the leave begins.

6. Other Holidays:

- Public holidays and festival holidays are generally granted as per statespecific legislation and individual factory policies. ○ These holidays are in addition to the weekly rest day and annual leave.

These provisions aim to balance the demands of work with the need for rest and recreation, promoting the overall health and well-being of factory employees.

2.5.4. Special Provisions for Women and Young Persons

1. Women Workers:

- **Working Hours:** Women workers are generally not allowed to work between 7 PM and 6 AM. However, this can be relaxed with the prior approval of the state government.
- **Overtime:** Similar to other workers, women can work overtime but within the legal limits and with appropriate compensation.

2. Adolescent Workers:

- **Working Hours:** Adolescents (aged 15-18) are not allowed to work for more than 4.5 hours a day and not between 7 PM and 6 AM.
- **Weekly Hours:** They cannot work more than 27 hours in a week.

Summary

The Factories Act provides a robust framework to regulate working hours, holidays, and annual leave, ensuring that workers are not exploited and receive adequate rest and compensation. These provisions play a crucial role in promoting a healthy work-life balance, enhancing productivity, and safeguarding the welfare of workers in industrial settings. Compliance with these regulations is mandatory for employers and helps in fostering a fair and conducive working environment.

**Check Your Progress**

- QUIZ – 1

1. What is the maximum number of working hours allowed per day for an adult worker under the Factories Act?
A. 8 hours
B. 9 hours
C. 10 hours D. 12 hours

2. Under the Factories Act, how many consecutive hours of rest must be given to workers between shifts?
A. 8 hours
B. 10 hours
C. 12 hours D. 24 hours

3. What is the maximum number of working hours allowed per week for an adult worker under the Factories Act?
A. 40 hours
B. 44 hours
C. 48 hours D. 50 hours

4. How many days of paid leave is an adult worker entitled to for every 20 days of work completed in a calendar year?
A. 1 day
B. 2 days
C. 4 days
D. 5 days

5. Under the Factories Act, what is the minimum weekly off period that must be given to workers?
A. Half a day
B. One day
C. One and a half days
D. Two days

Answers

1. B. 9 hours
2. C. 12 hours
3. C. 48 hours
4. B. 1 day
5. B. One day

2.6 Employment of Women and Young Persons Under the Factories Act.

The Factories Act includes specific provisions to protect and regulate the employment of women and young persons (children and adolescents) in factories. These provisions ensure their safety, health, and welfare while accommodating their special needs and vulnerabilities.

2.6.1 Provisions for Employment of Women

1. Working Hours:

- **Night Shifts:** Women are generally not allowed to work between 7 PM and 6 AM. However, this restriction can be relaxed with the prior approval of the state government under certain conditions.
- **Daily Hours:** Women cannot be required or allowed to work for more than 9 hours in a day.
- **Weekly Hours:** The total hours of work, including overtime, should not exceed 48 hours in a week.

2. Rest Intervals:

- **Rest Periods:** Women workers must be given a rest interval of at least half an hour after working for 5 hours continuously.

3. Maternity Benefits:

- **Maternity Leave:** Women are entitled to maternity leave and benefits under the Maternity Benefit Act, 1961. This includes paid leave and protection from dismissal during pregnancy.
- **Crèches:** Factories employing a certain number of women workers must provide crèches for the children of working mothers.

4. Safety Measures:

- **Safety Equipment:** Adequate safety measures and equipment must be provided to ensure the safety of women workers.
- **Separate Facilities:** Separate and adequately maintained toilets, washrooms, and restrooms must be provided for women.

2.6.2 Provisions for Employment of Young Persons

Young persons under the Factories Act are classified into two categories: children (below 14 years) and adolescents (aged 15-18 years).

1. Prohibition of Employment of Children:

- **Child Labour:** Employment of children below the age of 14 years is prohibited in any factory.

2. Employment of Adolescents:

- **Certificate of Fitness:** Adolescents aged 15-18 can be employed only if they have a certificate of fitness issued by a certifying surgeon, indicating that they are fit to work in a factory.
- **Working Hours:**
 - Adolescents are not allowed to work for more than 4.5 hours in a day.
 - They cannot work during the night (between 7 PM and 6 AM).
 - The total number of hours of work in a week should not exceed 27 hours.
- **Rest Intervals:** Adolescents must be given a rest interval of at least half an hour after working continuously for 4.5 hours.
- **Prohibition of Certain Processes:** Adolescents cannot be employed in hazardous processes or occupations that are likely to harm their health or safety.

3. Special Provisions:

- **Light Work:** Adolescents may be employed in light work that does not endanger their health or safety and is appropriate to their age and physical condition.
- **Educational Facilities:** Factories are encouraged to provide educational facilities for adolescent workers to ensure their continued education.

2.6.3 Enforcement and Compliance

1. Inspection and Monitoring:

- Factory inspectors have the authority to enforce compliance with these provisions and ensure that factories do not employ women and young persons in contravention of the law.
- Inspectors can enter factory premises, examine records, and question employers to verify compliance.

2. Penalties for Non-Compliance:

- Employers found violating the provisions related to the employment of women and young persons can face legal action, including fines and imprisonment.
- Factories must maintain accurate records of the employment of women and young persons, including their working hours and health records.

Conclusion

The provisions related to the employment of women and young persons in the Factories Act are designed to ensure their protection, safety, and welfare. By regulating working hours, providing rest intervals, mandating safety measures, and ensuring the prohibition of child labor, the Act aims to create a conducive and safe working environment for these vulnerable groups. Compliance with these provisions is crucial for promoting fair labor practices and safeguarding the rights and wellbeing of women and young workers in industrial settings.

Summary

The Factories Act includes specific provisions for the employment of young persons to protect their health, safety, and welfare. Here are the key points:

1. Definition:

- Young persons refer to individuals who are 15 to 18 years old.
- Children below 14 years of age are prohibited from working in factories.

2. Working Hours:

- Young persons are not allowed to work for more than 4.5 hours a day.
- They are prohibited from working between 10 p.m. and 6 a.m.

3. Certification of Fitness:

- Young persons must obtain a certificate of fitness from a certifying surgeon to be employed in a factory.
- The certificate ensures they are physically capable of performing the work without harm to their health.

4. Register of Young Workers:

- Factories must maintain a register of young workers, recording their names, ages, and certificate details.
- This register must be available for inspection by authorities.

5. Prohibition of Hazardous Work:

- Young persons are not permitted to work in processes or operations declared hazardous by the government. ○ These processes may include exposure to toxic substances, dangerous machinery, or extreme conditions.

6. Rest Intervals:

- Young persons must be given a rest interval of at least half an hour after 4.5 hours of work.

7. Education and Training:

- Employers are encouraged to provide education and vocational training to young workers to improve their skills and future employment prospects.

These provisions aim to protect young persons from exploitation, ensure their physical and mental well-being, and promote their overall development while allowing them to gain work experience in a safe environment.



Check Your Progress



- QUIZ – 1

1. What is the minimum age for a young person to be employed in a factory under the Factories Act?

A. 12 years

- B. 14 years
 - C. 16 years
 - D. 18 years
2. Under the Factories Act, women workers are prohibited from working in which of the following periods?
- A. Between 5 AM and 9 PM
 - B. Between 6 AM and 10 PM
 - C. Between 7 PM and 6 AM
 - D. Between 8 PM and 7 AM
3. What is the maximum number of hours a young person (aged 15 to 18) can work in a day in a factory?
- A. 6 hours
 - B. 7 hours
 - C. 8 hours
 - D. 9 hours
4. Under the Factories Act, what special provision is made for the safety of women workers?
- A. They must be provided with separate washrooms and restrooms.
 - B. They must be paid higher wages than men.
 - C. They must work fewer hours than men.
 - D. They must receive additional training and education.
5. According to the Factories Act, young persons are required to obtain a certificate of fitness from whom before being employed?
- A. Factory Manager
 - B. Chief Inspector of Factories
 - C. Government Doctor
 - D. Employer

Answers

- 1. B. 14 years
- 2. C. Between 7 PM and 6 AM
- 3. B. 7 hours
- 4. A. They must be provided with separate washrooms and restrooms.
- 5. C. Government Doctor

2.7 – Equal Remuneration Act 1976

2.7.1 Introduction

- ❖ Age discrimination and gender discrimination are covered by this Act. For purposes of this Act, the following expressions shall have the meanings assigned to them here under: -
- ❖ Age means a person's age as of the relevant date
- ❖ Child means a person under Eighteen years of age, either wholly or partially dependent on others for support and maintenance
- ❖ Women means a female human being of any age
- ❖ Remuneration means the salary, wages, bonus, commission, and other types of monetary consideration payable to a person in return for their services, whether payable in cash or otherwise, including provident fund, pension

2.7.2 Objectives of Equal Remuneration act, 1976

- ❖ To provide equal wages to men and women based on the nature of employment
- ❖ To provide equality of treatment in employment
- ❖ To protect persons against discrimination concerning employment or occupation
- ❖ To ensure that no person shall be unfairly dismissed from work on grounds only of sex
- ❖ The "Equal Remuneration Act, 1976" extends to India except for the State Of Jammu And Kashmir. It was enacted to make it illegal for employers to discriminate between men and women employees on their pay scale.

2.7.3 The Salient Features of Equal Remuneration Act, 1976

1. **Remuneration to be paid in cash or in-kind at the same rate:** Under section 2(e) of the remuneration act, a woman shall not be paid a rate less than what is being paid to male workers of a corresponding grade employed in the same establishment if the nature of employment is not essentially different. If

employment is essentially different, then pay should be made differently but based on skills, capacity, and performance.

2. **No discrimination in favour of men:** Under section 3(1) of the remuneration act, no employer shall discriminate between men and women in favour of men by paying them fewer wages for the same work or employment. The definition provided under section 2(h) says that any differential pay shall be justified and has to be on any one or more of the following grounds:-
3. **Any other factor which is not prohibited under the provisions of this Act:** Under section 3(2) of the remuneration act, The employer shall not discriminate between men and women in favour of men by paying women fewer wages for the same work or employment. The definition provided under section 2(h) says that any differential pay shall be justified and has to be on any one or more of the following grounds. This is an addition to the Act made in 1998 by introducing section 3(2).
4. **No discrimination on the ground of sex:** Section 4 of the remuneration act, 1976 prohibits discrimination and offers a guarantee against the exploitation of women workers. It states that no woman shall be dismissed on grounds only of her sex.
5. **No discrimination in employment:** Section 5 of the remuneration act, 1976 prohibits discrimination and offers a guarantee against the exploitation of women workers. It states that no employer shall discriminate between men and women regarding employment or any term or condition of employment based on their sex by paying them fewer wages for the same work or employment.

Duty of employer to pay equal remuneration to men and women workers for the same work or work of similar nature

- ❖ The employer must not discriminate on grounds of sex, when it comes to remuneration provided for the same amount and nature of work. This Act was placed because there were numerous cases of women getting paid at a lower rate than their male counterparts.
- ❖ No discrimination to be made while recruiting men and women workers
- ❖ The Act suggests that there must not be discrimination in recruitment of personnel on the basis of ground of sex. The section states that there must

be no discrimination in remuneration from the commencement of the Act and provides an exception regarding employment of women is prohibited. There are certain places which are hazardous for employment of women and children, the section provides immunity from employment at those places.

Summary

The Equal Remuneration Act is a significant piece of legislation aimed at eliminating gender-based wage discrimination and ensuring equal pay for equal work. Here's a summary of the key aspects of the Equal Remuneration Act:

1. Objective

- **Eliminate Gender Discrimination:** The primary objective is to ensure that men and women receive equal pay for equal work and to prevent genderbased discrimination in employment.

2. Scope and Application

- **Applicability:** The Act applies to a wide range of employment sectors, including both organized and unorganized sectors. It covers all employers and workers in any industry, trade, business, or occupation.

3. Key Provisions

- **Equal Remuneration:** Employers are required to pay equal remuneration to men and women workers for the same work or work of a similar nature. This includes basic wages and any other benefits, such as bonuses or allowances.
- **Prohibition of Discrimination:** Employers cannot discriminate against women in matters related to recruitment, promotion, training, or transfer based on gender.
- **Recruitment and Promotion:** The Act mandates that employers should not make any distinction between men and women during recruitment processes and promotional decisions.

4. Definitions

- **Same Work or Work of a Similar Nature:** The Act defines this as work in respect of which the skill, effort, responsibility, and working conditions are similar. This definition is crucial for interpreting the Act's provisions.
- **Remuneration:** It includes basic wages or salary and any additional emoluments payable, whether in cash or kind.



Check Your Progress



- QUIZ - 1

1. What is the primary objective of the Equal Remuneration Act?
 - A. To provide higher wages to men
 - B. To ensure equal pay for equal work for both men and women
 - C. To reduce working hours
 - D. To provide health benefits to employees
2. Under the Equal Remuneration Act, who is responsible for ensuring compliance with the Act?
 - A. Employees
 - B. Trade Unions
 - C. Employers
 - D. Government inspectors
3. Which of the following is prohibited under the Equal Remuneration Act?
 - A. Discriminating between men and women in recruitment and wages
 - B. Providing training to employees
 - C. Offering health benefits
 - D. Allowing overtime work
4. What action can be taken if an employer is found guilty of violating the Equal Remuneration Act?
 - A. Increase in taxes
 - B. Legal proceedings and penalties
 - C. Suspension of operations
 - D. Reduction in workforce
5. What is the role of the appropriate government under the Equal Remuneration Act?
 - A. To provide loans to employers
 - B. To ensure enforcement of the Act and take necessary action in case of violations
 - C. To manage the financial accounts of companies
 - D. To hire and train employees

Answer

1. B. To ensure equal pay for equal work for both men and women
2. C. Employers
3. A. Discriminating between men and women in recruitment and wages
4. B. Legal proceedings and penalties
5. B. To ensure enforcement of the Act and take necessary action in case of violations

2.8. Advisory Committee

2.8.1 Introduction

- Section 6(1) of the Act states that an Advisory committee must be created which will aid the purposes increasing employment opportunities. The government is taking all possible steps in making a change in the remuneration policies of the employers in India.
- Section 6(2) states, the definition of appropriate government is given in 2(a)(1) here means, the part of the Central Government which is responsible for the administration of that area of work. The areas of work, which are administered by a Central authority or a Central Act, for example, Banking companies, oil fields etc. will be addressed to the Central Government. The rest of the areas which come under the state government's authority, will be governed by the State government.
- The advisory committee must consist of at least 10 people, which will be nominated by the appropriate government. Women must consist of one-half of this committee because that will help in formulation of policies with the help of people who are the real stakeholders.

Under the Equal Remuneration Act, 1976, there are provisions for the formation of Advisory Committees at both the central and state levels. These committees play

a crucial role in advising the government on matters related to the implementation and enforcement of the Act. Here's an overview of the Advisory Committees under the Equal Remuneration Act:

2.8.2 Advisory Committee under the Equal Remuneration Act

1. Central Advisory Committee:

- **Composition:** The Central Advisory Committee is constituted by the Central Government and includes representatives from:
 - Employers' organizations,
 - Employees' organizations,
 - Experts in the field of labor or women welfare,
 - Central and state government representatives.

Functions:

- Advising the Central Government on policies and measures for the implementation of the Act.
- Reviewing the progress of implementation and suggesting improvements.
- Examining specific issues related to equal remuneration and making recommendations.
- Any other functions as prescribed by the Central Government.

2. State Advisory Committees:

- **Composition:** Similarly, State Advisory Committees are constituted by the respective state governments with representatives from:
 - Employers' organizations,
 - Employees' organizations,
 - Experts in relevant fields,
 - State government officials.
- #### **Functions:**

- Advising the state government on matters concerning the implementation of the Act within the state.
- Monitoring the progress of implementation at the state level.
- Addressing specific state-level issues related to equal remuneration and suggesting solutions.
- Undertaking any additional functions assigned by the state government.

2.8.3 Role and Importance of Advisory Committee

- **Policy Formulation:** The Advisory Committees assist the government in formulating policies and strategies to promote equal remuneration for men and women.
- **Monitoring and Evaluation:** They monitor the implementation of the Act and evaluate its impact, providing feedback for improvements.
- **Expertise and Advice:** By including experts and stakeholders, the committees ensure a comprehensive understanding of issues and effective advice on solutions.
- **Recommendations:** They make recommendations to address challenges and ensure compliance with the provisions of the Act.
- **Awareness and Education:** Advisory Committees contribute to raising awareness about equal remuneration rights and ensuring compliance among employers.

Conclusion

The Advisory Committees under the Equal Remuneration Act play a vital role in advancing the principle of equal pay for equal work for men and women. By advising and assisting the government at both central and state levels, these committees contribute to the effective implementation and enforcement of the Act, fostering gender equality in the workplace. Their continuous engagement helps in

addressing challenges, promoting awareness, and ensuring that the objectives of the Equal Remuneration Act are met across different sectors and regions.

Under the Equal Remuneration Act, 1976, there are provisions to address offenses and penalties for violations of the Act. Here's an overview of the offenses and penalties prescribed under the Act

2.8.4 Offenses and Penalties Under Equal Remuneration Act

1. Discrimination in Remuneration:

- Any employer who pays different remuneration to employees of the opposite sex for the same work or work of a similar nature is committing an offense under the Act.
- Discrimination based on gender in matters of recruitment, promotion, training, or transfer is also considered an offense.

2. Prohibition of Discrimination:

- It is an offense to publish any advertisement which indicates preference or intention to discriminate based on gender in terms of remuneration or conditions of employment.

3. Failure to Maintain Records:

- Employers are required to maintain records as prescribed by the Act, including records related to employment, remuneration, and other terms and conditions of service.
- Failure to maintain or furnish such records upon request is considered an offense.

Penalties

1. First Offense:

- For the first offense under the Equal Remuneration Act, the employer or the person responsible can be punished with imprisonment for a term which may extend to one year, or with a fine which may extend to ten thousand rupees, or with both.

2. Subsequent Offenses:

- In case of a subsequent offense, the punishment may extend to imprisonment for a term which shall not be less than six months but which may extend to two years, and also with a fine which shall not be less than twenty-five thousand rupees but which may extend to fifty thousand rupees.

3. Failure to Maintain Records:

- If an employer fails to maintain or furnish records as required by the Act, they may be punishable with a fine which may extend to ten thousand rupees.

Enforcement and Compliance

- **Inspectors:** The Act empowers inspectors appointed by the government to enter and inspect any premises, examine records, and take necessary actions to ensure compliance with the provisions of the Act.
- **Prosecution:** Legal proceedings for offenses under the Act can be initiated by the appropriate authority against the employer or the responsible person.
- **Compensation:** In addition to penalties, the Act may also provide for the payment of compensation to the affected employees who have been discriminated against in terms of remuneration or conditions of service.

Conclusion

The Equal Remuneration Act, 1976, aims to eliminate gender-based discrimination in remuneration and promote equality in the workplace. By establishing clear offenses and penalties, the Act seeks to deter discriminatory practices and ensure fair treatment of employees irrespective of gender. Compliance with the Act is crucial for employers to avoid legal liabilities and contribute to creating an inclusive and equitable work environment.

Summary

Advisory Committees

- **Constitution of Committees:** The Act provides for the establishment of advisory committees to promote equal remuneration. These committees may include representatives of employers, employees, and government officials.
- **Functions:** The advisory committees are responsible for advising on ways to improve the implementation of the Act and to promote the objective of equal remuneration.

Enforcement and Compliance

- **Inspectors:** Appointed by the government, inspectors have the authority to inspect establishments, examine records, and ensure compliance with the Act.
- **Maintenance of Registers:** Employers are required to maintain registers and records that document the remuneration paid to workers, ensuring transparency and accountability.

Penalties for Non-Compliance

- **Fines and Imprisonment:** Employers who violate the provisions of the Act are subject to penalties, including fines and imprisonment. The severity of the penalty depends on the nature and extent of the violation.

Dispute Resolution

- **Complaints and Redressal:** Workers who feel aggrieved by any decision of the employer in violation of the Act can file a complaint with the appropriate authority. The Act provides a mechanism for the resolution of such disputes.

Role of Government

- **Regulatory Oversight:** The government plays a crucial role in overseeing the implementation of the Act, conducting inspections, and taking necessary actions to ensure compliance.

- **Awareness and Training:** The government may also engage in activities to promote awareness about the Act and provide training to employers and workers on its provisions.

Impact

- **Promotion of Gender Equality:** The Act is instrumental in promoting gender equality in the workplace by ensuring that women receive fair compensation for their work.
- **Encouragement of Fair Practices:** By mandating equal remuneration, the Act encourages employers to adopt fair and equitable practices, fostering a more inclusive work environment.

The Equal Remuneration Act is a vital legislative measure to combat wage discrimination based on gender, promoting fairness and equality in the workplace. Its implementation helps in creating a more balanced and just employment landscape where men and women are treated equally in terms of pay and opportunities.



Check Your Progress



- QUIZ - 1

1. What is the penalty for contravening the provisions of the Equal Remuneration Act?
 - A. Fine up to Rs. 10,000
 - B. Fine up to Rs. 20,000
 - C. Fine up to Rs. 50,000
 - D. Fine up to Rs. 1,00,000
2. Who has the authority to impose penalties for violations under the Equal Remuneration Act?
 - A. Employees
 - B. Employers
 - C. Trade Unions
 - D. Government Inspectors
3. Under the Equal Remuneration Act, what is the penalty for obstructing any Inspector in the discharge of their duties?
 - A. Fine up to Rs. 5,000
 - B. Fine up to Rs. 10,000

C. Fine up to Rs. 20,000 D. Fine up to Rs. 50,000

4. If an employer continues to violate the provisions of the Equal Remuneration Act after the first conviction, what is the penalty?

- A. Double the original fine
- B. Triple the original fine
- C. No additional penalties
- D. Closure of the business

5. What additional penalty can be imposed under the Equal Remuneration Act if an employer fails to pay the compensation ordered by the court?

- A. Fine
- B. Imprisonment
- C. Both A and B
- D. None of the above

Answers

- 1. B. Fine up to Rs. 10,000
- 2. D. Government Inspectors
- 3. C. Fine up to Rs. 20,000
- A. Double the original fine
- C. Both A and B (Fine and Imprisonment)

2.9 Glossary

Inflammable	Easily set on fire or capable of catching fire and burning quickly.
Hoist	To lift something, especially using ropes or machinery.
Spittoons	A bowl or other container placed in public areas for people to spit into.
Crèches	A nursery or day care centre for young children
Hazardous	Work environments or substances that can cause harm or injury to workers

2.10 Self-Assessment Questions

Sl.no	Questions	Level
1.	Define factories Act. Explain its objectives.	K3
2.	Explain the role of inspecting staff under factories Act 1948.	K3
3.	Describe advisory committee under the Equal Remuneration Act.	K3

4.	Discuss the offences and penalties under Equal Remuneration Act.	K3
5.	Give an account of Equal Remuneration Act.	K3
6.	Describe the provisions relating to working hours of employees under the factories act.	K4
7.	Discuss the measures of disposal of waste under the factories act.	K4
8.	Explain any five sections related to hazardous processes.	K4
9.	Explain the qualification and training of inspecting staff under factories act	K4
10.	Describe the process of applying factories for registration.	K4

Essay Type Answers: (8 Marks) K5/KS Level Questions

Sl.no	Questions	Level
1.	Briefly explain the provisions relating to safety under the factories act.	K5
2.	Explain the provisions relating to health under the factories act 1948.	K5
3.	Describe the safety measures taken under the factories act	K5
4.	Discuss the provisions relating to employment of children and adolescents under factories act.	K5
5.	Write and short note on a. registration of factories. b. licensing of factories.	K5
6.	Enumerate the provisions of factories act, 1948 relating to annual leave with wages	K6
7.	Examine the provisions relating to hazardous processes under the factories act.	K6
8.	Write a detailed note on working hours of adult workers with special reference to welfare provisions under factories act.	K6
9.	Remuneration under Equal Remuneration act - Discuss	K6
10.	Equal Remuneration Act is a significant piece of legislation aimed at eliminating gender-based wage discrimination and ensuring equal pay for equal work- Discuss the key aspects.	K6

UNIT – 2 – FACTORIES ACT AND EQUAL REMUNERATION ACT – ASSIGNMENTS – Quadrant 3

2.11 Activities - Assignment



- Topic: "The Evolution and Impact of the Factories Act."
Discuss the historical background, key provisions, amendments, and the impact of the Factories Act on workers' rights and industrial safety
- Topic: "Factories Act Implementation in Modern Industries."
Analyze a specific industry or company, examining how they comply with the Factories Act. Highlight any violations and the subsequent actions taken.

	<p>3. Topic: "Reform Proposals for the Factories Act." Critically analyze the current Factories Act and propose reforms to address modern industrial challenges and worker safety issues.</p>
	<p>Topics for Discussion (Quadrant – 4)</p> <ol style="list-style-type: none"> 1. Discuss the extent and causes of the gender pay gap in various industries. 2. What are the major challenges in implementing the Equal Remuneration Act in the workplace 3. How has the Equal Remuneration Act affected women's employment rates and career progression? 4. Share real-life examples or case studies. 5. What role do employers and trade unions play in ensuring compliance with the Equal Remuneration Act? 6. Analyze the legal framework of the Equal Remuneration Act and its social implications. 7. Discuss how societal attitudes towards gender equality influence the effectiveness of the Act. 8. Discuss the provisions of the Factories Act related to worker safety and health. 9. Explore the effectiveness of these provisions in modern industries. 10. Evaluate the role and effectiveness of factory inspections under the Factories Act. 11. Discuss the challenges faced by inspectors and the measures to improve compliance.

2.12 Suggested Reading References

1. "Industrial and Labour Laws" by S.P. Jain and Simmi Agrawal.
2. "The Factories Act, 1948" by J.P. Sharma.
3. "Labour and Industrial Laws" by P.K. Padhi.
4. "Employment Law in India" by S.C. Srivastava.

UNIT III The Workmen's Compensation Act, 1923 and The Employees' State Insurance Act, 1948

. The Workmen's Compensation Act, 1923: Definitions – Objectives – Disablement – Employer's liability for compensation – Amount of compensation – Disbursement of compensation – Notice and claims – Penalties – The Employees' State Insurance Act 1948: Objects – Definitions – Administration of ESI Scheme – ESI Fund – ESI Corporation - Medical benefit council – Benefits under the Act – ESI court.

The Workmen's Compensation Act, 1923 and The Employees' State Insurance Act, 1948

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Learning objectives

- ❖ The Workmen's Compensation Act (now Employee's Compensation Act) and the Employees' State Insurance Act are crucial legislations aimed at ensuring social security and welfare for employees in India.
- ❖ Stakeholders can effectively navigate the legal framework, promote workplace safety, and enhance compliance with statutory requirements to safeguard the interests of workers and employers alike.

- ❖ These learning outcomes aim to equip learners with a comprehensive understanding of the Workmen's Compensation Act, enabling them to apply its provisions effectively in various professional and legal contexts.

WORKMEN'S COMPENSATION ACT, 1923 AND THE EMPLOYEES STATE INSURANCE ACT 1948

3.1.1 Introduction and Definition

Every employee needs a secured job and wants to get compensation for the expenses he has incurred. This is a requirement that needs to be fulfilled by the company whether it is small scale or large scale. After all, a company's success depends on its employees. Therefore, the protection of employees' and their safety is a top priority of a company. This article is all about how much compensation is given, under what conditions, who is entitled to claim compensation and a lot more. The Workmen's Compensation Act, also known as the Employees'

Compensation Act in some jurisdictions, is a piece of social welfare legislation aimed at providing financial compensation to employees who suffer injuries, disabilities, or death as a result of workplace accidents or occupational diseases. The Act defines the framework for compensation, outlining the responsibilities of employers and the rights of employees in such situations.

Definition

The Workmen's Compensation Act can be defined as:

"A statutory framework designed to provide financial compensation to employees who suffer injury, disability, or death arising out of and in the course of their employment. The Act outlines the obligations of employers to compensate their workers, specifies the types and amounts of compensation, and provides mechanisms for resolving disputes and claims related to workplace injuries or fatalities."

3.1.2 Main features of the Act

The “Employees Compensation Act, 1923” is an Act to provide payment in the form of compensation by the employers to the employees for any injuries they have suffered during an accident. Earlier this Act was known as the Workmen Compensation Act, 1923. When the employer is not liable to pay compensation-

1. If the injury does not end in the entire or partial disablement of the employee for a period exceeding three days.
2. If the injury, not leading in death or permanent total disablement, is caused by an accident which is directly attributable to:
 - The employee having at the time of the accident is under the influence of drink or drugs;
 - The wilful disobedience of the employee to an order if the rule is expressly given or expressly framed, for the purpose of securing the safety of employees; or
 - The wilful removal or disregard by the employee of any safety guard or other device which has been provided for the purpose of securing the safety of employees.

3.1.3 OBJECTIVES

The objectives of the Workmen’s Compensation Act are centered around providing financial protection and support to workers who suffer injuries or death as a result of their employment. Here are the primary objectives of the Act:

1. **Compensation for Injuries:** To provide fair and timely compensation to workers who suffer injuries arising out of and in the course of their employment. This includes compensation for temporary or permanent disablement, both partial and total.

2. **Compensation for Death:** To ensure that dependents of a worker who dies as a result of a workplace injury or occupational disease receive financial compensation to support them after the loss of the primary breadwinner.
3. **Employer Liability:** To clearly define the liability of employers to compensate workers for injuries or death caused by accidents during employment, thereby ensuring accountability and responsibility on the part of employers.
4. **Medical Expenses:** To cover medical expenses incurred by workers for treatment of injuries sustained during employment, ensuring that workers have access to necessary medical care without bearing the financial burden.
5. **Preventive Measures:** To encourage employers to implement safety measures and maintain safer working environments to reduce the occurrence of workplace accidents and occupational diseases.
6. **Legal Framework:** To provide a structured legal framework for addressing and resolving disputes related to compensation claims, ensuring that workers have a clear and accessible process for seeking redress.
7. **Social Security:** To contribute to the broader social security system by providing a safety net for workers, thereby promoting social justice and economic stability for workers and their families.
8. **Awareness and Education:** To promote awareness among workers and employers about the rights and obligations under the Act, ensuring that both parties are informed about the compensation mechanisms and procedures.

These objectives collectively aim to create a balanced and just system where workers are protected from the financial hardships that can arise from workplace injuries or fatalities, and employers are incentivized to maintain safer work environments.

3.1.4 SCOPE AND COVERAGE

As per Section 1, the Act extends to the whole of India and it applies to railways and other transport establishments, factories, establishments engaged in making, altering, repairing, adapting, transport or sale of any article, mines, docks, establishments engaged in constructions, fire-brigade, plantations, oilfields and other employments listed in Schedule II of the Act. The Workmen's Compensation (Amendment) Act, 1995, has extended the scope of the Act to cover workers of newspaper establishments, drivers, cleaners, etc. working in connection with, motor vehicle, workers employed by Indian companies abroad, persons engaged in spraying or dusting of insecticides or pesticides in agricultural operations, mechanised harvesting and thrashing, horticultural operations and doing other mechanical jobs.

1. **Financial Protection:** It provides financial protection to employees and their dependents in case of injury or death arising out of and in the course of employment.
2. **Prompt Compensation:** It ensures prompt and reasonable compensation to employees or their dependents without the need for lengthy legal proceedings.
3. **Legal Liability:** It establishes the liability of employers for compensation in case of injury, disablement, or death of employees arising from work-related accidents or diseases.
4. **No-Fault Basis:** Compensation is provided on a no-fault basis, meaning that employees are entitled to compensation regardless of who was at fault for the injury or death.
5. **Scope of Coverage:** It covers a wide range of work-related injuries, including accidents, occupational diseases, and disabilities resulting from employment conditions.
6. **Prevention of Litigation:** The Act aims to prevent lengthy legal battles by providing a statutory framework for the assessment and payment of compensation.

7. **Social Welfare:** It serves as a social welfare measure by ensuring that employees and their families are financially supported during times of injury, disability, or death resulting from work.

These objectives collectively aim to protect the interests of workers and their families while promoting safety and welfare in the workplace.

Summary

Scope:

1. **Coverage:** The Act covers employees (workmen) in various industries, including hazardous occupations, construction, manufacturing, and other sectors specified under the law.
2. **Injuries Covered:** It encompasses injuries arising from accidents at the workplace, occupational diseases contracted during employment, and disabilities resulting from work-related conditions.
3. **No-Fault Basis:** Compensation is provided irrespective of fault, focusing on the fact that the injury or illness arose in the course of employment.
4. **Medical Expenses:** Covers medical expenses related to the injury or illness and provides compensation for temporary or permanent disabilities.

Objectives:

1. **Financial Protection:** Provide monetary compensation to employees or their dependents in the event of work-related injuries, disabilities, or death, ensuring they are not financially burdened.
2. **Legal Liability:** Establishes the liability of employers to compensate employees for injuries or fatalities occurring during the course of employment.
3. **Social Welfare:** Serve as a social security measure to support workers and their families during times of crisis caused by work-related accidents or diseases.
4. **Prompt Compensation:** Ensure timely and fair compensation without the need for prolonged litigation, thus providing immediate relief to affected employees and their families.

5. **Safety Promotion:** Encourage employers to prioritize workplace safety and implement measures to prevent accidents and occupational hazards.
6. **Employer Responsibility:** Emphasize the responsibility of employers to maintain safe working conditions and provide adequate compensation when incidents occur.
7. **Employee Rights:** Safeguard the rights of employees by providing a legal framework for claiming compensation, thereby ensuring their dignity and financial stability.

Overall, the Act aims to balance the interests of employers and employees by promoting safety in the workplace and providing a structured mechanism for compensating workers affected by work-related injuries or illnesses.



Check Your Progress



- QUIZ – 1

1. Who is eligible to receive workmen compensation?
 - A) Only permanent employees
 - B) Only contractors
 - C) Any worker injured during the course of employment
 - D) Only those injured due to employer negligence

2. What is the primary purpose of workmen compensation laws?
 - A) To penalize employers for accidents
 - B) To provide financial aid to injured workers
 - C) To increase workplace productivity
 - D) To reduce working hours

3. Who typically administers workmen compensation benefits?
 - A) Employer's insurance company
 - B) State government agencies
 - C) Labor unions

D) Federal government

4. How are workmen compensation benefits usually calculated?

- A) Based on the worker's salary
- B) Fixed amounts based on injury type
- C) Percentage of medical bills
- D) All of the above

5. What should a worker do if injured on the job to claim workmen compensation?

- A) Wait for the employer to file a claim
- B) File a lawsuit against the employer
- C) Seek immediate medical attention and report the injury to the employer
- D) Notify the state government

Answers

1. C) Any worker injured during the course of employment.
2. B) To provide financial aid to injured workers.
3. A) Employer's insurance company.
4. A) Based on the worker's salary.
5. A) Seek immediate medical attention and report the injury to the employer

3.2 Employers Liability for Compensation, Disablement

3.2.1 Introduction

1. As per the Section 3 of the Act, if a worker suffered personal injury by accidents arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of the Act.
2. To submit a statement to the Commissioner (within 30 days of receiving the notice) in the prescribed form, giving the circumstances attending the

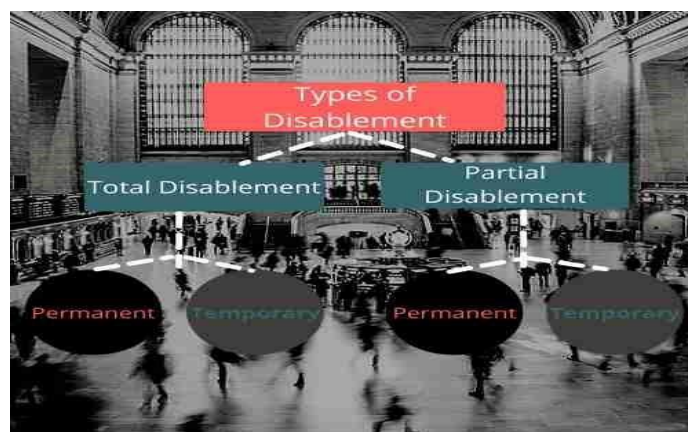
death of a workman as result of an accident and indicating whether he is liable to deposit any compensation for the same.

3. To submit accident report to the Commissioner in the prescribed form within 7 days of the accident, which results in death of a workman or a serious bodily injury to a workman.
4. In case, where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment to the extent of liability which he accepts and such payment shall be deposited with the Commissioner or make it to the workmen as the case may be without prejudice to the right of a workmen.

DISABLEMENT

Disablement is whereas termed as the lack of efficiency to work or move. In respect of the types of disablement in the Workmen Compensation Act, disablement is coined as the reduction in the earning capacity of the employees due to the happening of an event or accident occurring during employment which is compensated by the employers under the worker's compensation act.

This must be noted that the act leads to the step of taking care of the employees so that they work willingly which is further elaborated in employee retention meaning.



3.2.2 Classification/Types of Disablement In Workmen Compensation Act:

Types of Disablement in Workmen Compensation Act

Furthermore, Types of Disablement in the Workmen Compensation Act can be classified into

- A) Total disablement
- B) Partial disablement

Which can be further categorized as

- a) Temporary disablement
- b) Permanent disablement

A) TOTAL DISABLEMENT

I) Total Disablement (Permanent) :

As the name suggests, total permanent in types of disablement in workmen compensation act states a condition when the employee faces a lifetime injury or the life pending in his company due to the accident along with a reduction in his major efficiency to work.

For example: If Mr X works in a marketing department and comes across an accident leading to paralysis in his leg. Therefore, in such a case he cannot continue his fieldwork.

II) Total Disablement (Temporary) :

Now, total temporary in types of disablement in workmen compensation act refers to a situation when the employee suffers a major reduction in his work which he did before the injury but for a temporary basis.

For example: In the above-mentioned example if Mr X meets an accident resulting in a fracture in his leg, in that case, he cannot continue his fieldwork but for a temporary basis.

B) PARTIAL DISABLEMENT

Types of Disablement In Workmen Compensation Act

I) Partial Disablement (Permanent):

Partial permanent in types of disablement in workmen compensation act occurs when an employee's capacity to work compromises or decreases as compared to the work done by him before the injury but for a lifetime.

For example: If Rahul is a data entry operator and loses his left hand in an accident. Being a right-handed person, he will be able to perform his task but with a reduction in his efficiency for his whole life which is termed as partial permanent disablement.

II) Partial Disablement (Temporary) :

Secondly, temporary partial disablement in types of disablement in workmen compensation act does not affect the work of the employee to a great extent. As a result, it explains a reduction in the employee's capacity to work that too for a temporary basis. In this case, he gets the least compensation depending on the type of accident.

For example: For a data entry operator, a fracture in his left hand for a temporary basis might capacitate his work as he used to do before the accident but it would be present only for a temporary basis which is referred to as temporary partial disablement of an employee.

3.2.3 Employers liability for Compensation

Under the Workmen's Compensation Act, employers have specific liabilities towards their employees in the event of workplace injuries, disabilities, or death. These liabilities are designed to ensure that employees or their dependents receive fair and timely compensation without the need for litigation. Here are the key aspects of employers' liability under the Act:

1. Compensation for Injury or Disablement

- **Temporary Disablement:** Employers are liable to compensate workers for any temporary disablement caused by workplace accidents. Compensation is generally calculated based on the worker's wages and the extent of the disablement.
- **Permanent Disablement:** In cases of permanent disablement, compensation is determined based on the severity of the disability and the worker's wages. The Act provides a detailed schedule for calculating the amount based on the nature of the injury.

2. Compensation for Death

- Employers must provide compensation to the dependents of a worker who dies as a result of a workplace accident or occupational disease. The compensation amount is calculated based on the worker's wages and specific provisions outlined in the Act.

3. Medical Expenses

- Employers are required to cover medical expenses related to the treatment of injuries sustained by workers in the course of their employment. This includes hospitalization, medical care, and any other necessary treatment.

4. Occupational Diseases

- Employers are liable for compensation in cases where workers contract occupational diseases that are specified in the Act and arise out of their

employment. This liability extends to diseases contracted due to the nature of the work or the working conditions.

5. Prompt Payment of Compensation

- Employers must ensure the prompt payment of compensation to the injured worker or the dependents of a deceased worker. The Act stipulates specific timelines for the payment of compensation to avoid delays and ensure timely support for affected workers or their families.

6. Failure to Pay Compensation

- If an employer fails to pay the compensation due under the Act, the worker or their dependents can file a claim before the relevant authority, such as a Commissioner for Workmen's Compensation. Employers may also be subject to penalties or additional liabilities for non-compliance.

7. Exemptions and Defences

- The Act provides certain exemptions and defenses for employers. For instance, if the injury is self-inflicted, caused by the worker's own negligence, or occurs under the influence of alcohol or drugs, the employer may not be liable to pay compensation. Additionally, injuries that occur while the worker is not engaged in their official duties may also be exempted.

8. Record Keeping and Reporting

- Employers are required to maintain records of workplace accidents and occupational diseases and report such incidents to the relevant authorities. This helps in the proper administration of the Act and ensures transparency and accountability.

9. Insurance

- Employers are encouraged or, in some jurisdictions, mandated to take out insurance policies to cover their liabilities under the Workmen's

Compensation Act. This ensures that employers have the financial capacity to meet their compensation obligations.

10. Legal Compliance

- Employers must comply with all provisions of the Workmen's Compensation Act, including adhering to guidelines on safety measures, reporting accidents, and cooperating with authorities in the investigation of workplace incidents.

By adhering to these liabilities, employers contribute to a safer and more secure working environment, providing necessary financial support to workers or their dependents in the event of workplace-related injuries, disabilities, or death.

SUMMARY

Employer liabilities for compensation and disablement under the Employees' Compensation Act can be summarized as follows:

1. **Legal Liability:** Employers are legally liable to provide compensation to employees (or their dependents in case of death) for injuries, disabilities, or death arising out of and in the course of employment.
2. **Scope of Coverage:** Liability covers a wide range of work-related incidents, including accidents, occupational diseases, and disabilities resulting from workplace conditions.
3. **No-Fault Basis:** Compensation is provided on a no-fault basis, meaning employees are entitled to compensation regardless of who was at fault for the injury or illness.
4. **Prompt Payment:** Employers are required to promptly report and compensate employees or their dependents in case of injury, disability, or death. Delays or non-compliance can lead to legal penalties.
5. **Medical Expenses:** Employers are responsible for covering medical expenses related to the treatment and rehabilitation of employees injured at work.

6. **Permanent Disablement:** If an employee suffers permanent disablement due to a work-related injury, the employer is liable to provide compensation based on the severity and nature of the disability.
7. **Temporary Disablement:** Compensation is also provided for temporary disablement, ensuring that employees receive financial support during recovery periods when they are unable to work.
8. **Safety Measures:** Employers are expected to implement safety measures and provide a safe working environment to prevent accidents and reduce the risk of occupational hazards.
9. **Insurance Requirement:** Many jurisdictions require employers to maintain insurance coverage or a compensation fund to ensure that they can meet their liabilities under the Act.
10. **Legal Compliance:** Failure to comply with the provisions of the Employees' Compensation Act can result in legal action, fines, or other penalties imposed by regulatory authorities.

In essence, the Act places a significant responsibility on employers to ensure the health, safety, and financial well-being of their employees, reinforcing the principle of social justice and workplace welfare.



Check Your Progress



- QUIZ – 1

1. What is the primary purpose of the Employees' Compensation Act, 1923?
 - A. To provide retirement benefits to employees
 - B. To ensure employees receive compensation for injuries sustained at work
 - C. To regulate working hours and conditions
 - D. To provide tax benefits to employers

2. Which of the following is NOT a type of disablement under the Employees' Compensation Act, 1923?
 - A. Permanent Total Disablement
 - B. Permanent Partial Disablement

- C. Temporary Total Disablement
- D. Temporary Partial Disablement

3. In case of permanent total disablement, what percentage of the employee's monthly wage is used to calculate the compensation amount?

- A. 25%
- B. 50%
- C. 60%
- D. 75%

4. What is the maximum period for which compensation can be awarded for temporary disablement?

- A. 12 months
- B. 24 months
- C. 36 months
- D. Until the employee is fit to return to work

5. Under the Employees' Compensation Act, 1923, who is liable to pay compensation to the employee for a work-related injury?

- A. The government
- B. The insurance company
- C. The employer
- D. The employee's family

Answers:

- B. To ensure employees receive compensation for injuries sustained at work
- D. Temporary Partial Disablement
- C. 60%
- D. Until the employee is fit to return to work
- C. The employer

3.3 Amount of Compensation

The amount of compensation under the Workmen's Compensation Act (now known as the Employees' Compensation Act in India) is determined based

on the type of injury or incident (temporary disablement, permanent disablement, or death) and the worker's wages. Here are the detailed provisions for calculating the compensation:

1. Compensation for Death

- The compensation amount for death resulting from a workplace injury or occupational disease is calculated as the higher of:
 - 50% of the worker's monthly wages multiplied by the relevant factor (as provided in the Schedule IV of the Act), or
 - A minimum fixed amount specified by the Act (currently ₹120,000 in India).

2. Compensation for Permanent Total Disablement

- The compensation for permanent total disablement is calculated as the higher of:
 - 60% of the worker's monthly wages multiplied by the relevant factor, or
 - A minimum fixed amount specified by the Act (currently ₹140,000 in India).

3. Compensation for Permanent Partial Disablement

- The compensation for permanent partial disablement is calculated based on the extent of loss of earning capacity caused by the injury, which is specified as a percentage in the Act's schedule. The calculation is:
 - The percentage of loss of earning capacity multiplied by the compensation amount for permanent total disablement.

4. Compensation for Temporary Disablement

- For temporary total or partial disablement, the compensation is a half-monthly payment equal to 25% of the worker's monthly wages. This payment continues for the duration of the disablement or until the worker returns to work.

5. Calculation Example

To illustrate the calculation, consider the following example:

- **Worker's Monthly Wages:** ₹10,000
- **Relevant Factor for Age:** 221.37 (This factor varies based on the age of the worker at the time of the accident as per Schedule IV)

For Death

- 50% of Monthly Wages: ₹5,000
- Compensation: ₹5,000 * 221.37 = ₹1,106,850
- Since this amount is higher than the minimum fixed amount, the compensation paid would be ₹1,106,850.

For Permanent Total Disablement

- 60% of Monthly Wages: ₹6,000
- Compensation: ₹6,000 * 221.37 = ₹1,328,220
- Since this amount is higher than the minimum fixed amount, the compensation paid would be ₹1,328,220.

For Permanent Partial Disablement (Example: 30% loss of earning capacity)

- Compensation for Permanent Total Disablement: ₹1,328,220
- Compensation: 30% of ₹1,328,220 = ₹398,466

6. Half-Monthly Payments for Temporary Disablement

- Half-Monthly Payment: 25% of Monthly Wages: ₹2,500

- These payments are made every fortnight during the period of temporary disablement.

Additional Considerations

- **Medical Expenses:** Employers are also required to cover medical expenses related to the treatment of injuries.
- **Dependents:** In the case of death, compensation is paid to the dependents of the deceased worker.
- **Occupational Diseases:** Similar calculations apply for occupational diseases as specified in the Act. or fatality, and the wage levels of the worker.

3.3.1 Disbursement of Compensation

The disbursement of compensation under the Workmen's Compensation Act (Employees' Compensation Act) follows a structured process to ensure that the injured worker or the dependents of a deceased worker receive the appropriate compensation promptly and fairly. Here is an overview of the process:

1. Notification of Injury or Death

- **Employer's Responsibility:** Upon the occurrence of a workplace injury or death, the employer must be notified immediately.
- **Worker's/Dependents' Responsibility:** The injured worker or the dependents of a deceased worker must inform the employer about the incident as soon as possible.

2. Filing of Claim

- The injured worker or the dependents must file a claim for compensation with the employer. This claim should include details of the injury, the circumstances of the accident, and any medical reports or other relevant documentation.

3. Medical Examination

- The employer may require the injured worker to undergo a medical examination by a certified medical practitioner to assess the extent of the injury and the worker's ability to return to work.

4. Calculation of Compensation

- The employer calculates the compensation amount based on the provisions of the Act, considering factors such as the worker's wages, the severity of the injury or the circumstances of the death, and the relevant factors specified in the Act's schedule.

5. Payment of Compensation

- **Direct Payment:** The employer disburses the compensation amount directly to the injured worker or to the dependents in the case of death. This payment should be made promptly to avoid delays.
- **Deposit with Commissioner:** In some cases, particularly in cases of death or serious injury, the employer may be required to deposit the compensation amount with the Commissioner for Workmen's Compensation. The Commissioner then disburses the amount to the dependents after verifying their claims.

6. Approval by Commissioner

- For compensation related to death or permanent disablement, the employer must obtain approval from the Commissioner before disbursing the compensation. The Commissioner ensures that the compensation amount is calculated correctly and that the rightful claimants receive the payment.

7. Disbursement to Dependents

- In cases where the compensation is deposited with the Commissioner, the dependents must submit proof of their relationship to the deceased worker and any other required documentation. The Commissioner verifies these claims and disburses the compensation accordingly.

8. Periodic Payments

- For cases of temporary disablement, the compensation is disbursed in the form of half-monthly payments. These payments continue for the duration of the temporary disablement or until the worker is able to return to work

9. Dispute Resolution

- If there is a dispute regarding the compensation amount or the eligibility of the claim, the injured worker or the dependents can approach the Commissioner for resolution. The Commissioner conducts an inquiry and makes a decision, which can be appealed in a higher court if necessary.

10. Record Keeping

- Employers are required to maintain detailed records of all workplace injuries, claims filed, compensation amounts calculated, and payments made. These records should be available for inspection by relevant authorities to ensure compliance with the Act.

11. Penalties for Non-Compliance

- Employers who fail to comply with the provisions of the Act, such as not paying the due compensation or not depositing the amount with the Commissioner, may face legal penalties, including fines and additional liabilities.

By following this process, the Workmen's Compensation Act ensures that workers or their dependents receive timely and fair compensation for workplace injuries or fatalities, and provides a clear framework for the calculation, disbursement, and resolution of compensation claims.

3.3.2 Notice, Claims and Penalties Under Workmen Compensation Act

Under the Workmen's Compensation Act (now known as the Employees' Compensation Act in India), the procedures for notice of injury, filing claims, and the penalties for non-compliance are clearly outlined to ensure that workers or their dependents receive fair and timely compensation. Here are the details:

Notice of Injury

Worker's Responsibility:

- **Immediate Notification:** The injured worker or their representative must inform the employer of the accident as soon as possible. This notice can be given orally or in writing.
- **Content of Notice:** The notice should include the name and address of the injured worker, the date and time of the accident, the nature of the injury, and the circumstances in which the accident occurred.
- **Exemption from Notice:** In some cases, such as when the employer already has knowledge of the accident, the requirement for formal notice may be waived.

Filing Claims

Procedure:

1. **Submitting a Claim:** The injured worker or dependents of a deceased worker must submit a claim for compensation to the employer. This should include necessary details such as medical reports, proof of relationship in case of death claims, and any other relevant documentation.
2. **Time Limit:** Claims should be filed within a reasonable time after the occurrence of the injury or death. There is typically a two-year limitation period for filing claims from the date of the accident or death.

Employer's Responsibility:

- **Claim Verification:** The employer must verify the details of the claim, including investigating the circumstances of the accident and ensuring the validity of the documents provided.
- **Calculation of Compensation:** The employer calculates the compensation amount based on the worker's wages, the extent of the injury, and the provisions specified in the Act.

Disbursement of Compensation

Direct Payment:

- **Immediate Payment:** For straightforward cases, the employer should disburse the compensation amount directly to the injured worker or their dependents promptly.

Deposit with Commissioner:

- **Commissioner's Approval:** In cases involving death or serious injury, the employer may need to deposit the compensation amount with the Commissioner for Workmen's Compensation, who then disburses it to the rightful claimants after verification.

Penalties for Non-Compliance Employer's

Liability:

- **Failure to Pay Compensation:** If an employer fails to pay the due compensation within the stipulated time, they can be penalized. The penalty may include paying interest on the overdue amount and additional fines.
- **Non-Reporting of Accidents:** Employers who do not report workplace accidents to the relevant authorities can be subject to fines and legal action.
- **Non-Compliance with Medical Treatment:** Employers are required to provide medical treatment for injured workers. Failure to do so can lead to penalties.

Legal Penalties:

- **Fines:** Employers may be fined for various non-compliance issues, such as not maintaining required records, not reporting accidents, or not depositing compensation amounts with the Commissioner.
- **Interest on Compensation:** If compensation is not paid within the specified time, employers may have to pay interest on the compensation amount, calculated from the date of the accident.
- **Criminal Liability:** In severe cases of willful negligence or non-compliance, employers may face criminal charges, resulting in higher fines and potential imprisonment.

Dispute Resolution

Role of the Commissioner:

- **Inquiry and Adjudication:** The Commissioner for Workmen's Compensation has the authority to inquire into claims, resolve disputes, and ensure that compensation is fairly and promptly disbursed.
- **Appeals:** Decisions made by the Commissioner can be appealed to higher courts if either party (employer or worker) is dissatisfied with the outcome.

By adhering to these procedures and understanding the penalties for noncompliance, both employers and employees can ensure a fair and efficient process for handling compensation claims under the Workmen's Compensation Act. This framework helps in maintaining a safe and just working environment.

The Workmen's Compensation Act, now often referred to as the Employees' Compensation Act, is a crucial piece of social welfare legislation designed to protect workers who suffer injuries, disabilities, or death due to workplace accidents or occupational diseases. The primary objectives of the Act are to provide financial compensation to affected workers or their dependents, ensure timely medical care, and promote safer working conditions.

Key Features of the Act:

1. **Coverage and Applicability:** The Act covers a wide range of workers in various industries and establishes the employer's liability to compensate for work-related injuries or death. It defines who qualifies as a "workman" and the scope of employer responsibilities.
2. **Types of Compensation:**
 - **Death:** Compensation is provided to dependents based on a percentage of the deceased worker's wages, with specific minimum amounts.
 - **Permanent Total Disablement:** Compensation is calculated similarly to death compensation, based on the severity of the disablement.
 - **Permanent Partial Disablement:** Compensation is determined by the percentage loss of earning capacity.
 - **Temporary Disablement:** Workers receive half-monthly payments during the period of temporary disablement.
3. **Claim Process:**
 - **Notification:** Workers or their dependents must notify the employer of any workplace injury or death.
 - **Filing Claims:** Claims for compensation must be filed with the employer and can also be submitted to the Commissioner for Workmen's Compensation in certain cases.
 - **Medical Examination:** Employers may require injured workers to undergo medical examinations to assess the extent of the injury.
4. **Disbursement of Compensation:**
 - Compensation is either paid directly to the worker or their dependents or deposited with the Commissioner for Workmen's Compensation.
 - Employers must ensure prompt payment of compensation to avoid penalties.

5. **Employer's Liability:**

- Employers are liable to compensate workers for injuries or death that occur during the course of employment.
- Employers must cover medical expenses related to the treatment of work-related injuries. ○ Failure to comply with the Act can result in legal penalties, including fines and interest on unpaid compensation.

6. **Dispute Resolution:**

- Disputes related to compensation claims are resolved by the Commissioner for Workmen's Compensation. ○ Appeals against the Commissioner's decisions can be made to higher courts.

7. **Penalties for Non-Compliance:**

- Employers who fail to pay compensation or comply with other provisions of the Act face penalties, including fines and potential imprisonment for severe violations.

Importance of the Act:

- **Social Security:** Provides a safety net for workers and their families, ensuring financial support in case of workplace injuries or fatalities.
- **Employer Accountability:** Encourages employers to maintain safe working environments and adhere to safety regulations.
- **Timely and Fair Compensation:** Establishes a clear and efficient process for workers to receive compensation without lengthy legal battles.

In summary, the Workmen's Compensation Act is a vital legislation that safeguards the interests of workers by providing them with financial protection and ensuring a fair process for compensation claims. It underscores the importance of workplace safety and holds employers accountable for the welfare of their employees.

SUMMARY

The Workmen's Compensation Act is designed to provide financial compensation to employees who suffer injuries or contract diseases during the course of their employment. It aims to ensure that workers or their dependents receive timely and adequate compensation for employment-related injuries or deaths. Here's a summary of the key aspects of the Workmen's Compensation Act:

- **Employer's Liability:** Employers are liable to pay compensation for injuries, disabilities, or death caused to workers due to accidents arising out of and during the course of employment.
- **Types of Compensation:** Compensation is categorized based on the nature of the injury:
 - **Death:** Compensation to the dependents of the deceased worker.
 - **Permanent Total Disablement:** Compensation for injuries leading to complete incapacity to work.
 - **Permanent Partial Disablement:** Compensation for injuries leading to partial incapacity to work.
 - **Temporary Disablement:** Compensation for temporary injuries affecting the worker's ability to earn.

4. Calculation of Compensation

- **Wages Basis:** Compensation amounts are calculated based on the worker's monthly wages and the extent of injury or disablement.
- **Age Factor:** The age of the worker at the time of the accident is also considered in the calculation.
- **Medical Costs:** Employers are also responsible for covering the medical expenses related to the injury.

5. Reporting and Claims

- **Notification of Accidents:** Workers or their dependents must notify the employer of the accident within a specified time frame to claim compensation.
- **Claims Procedure:** The Act outlines the procedure for filing compensation claims, including the necessary documentation and time limits for filing.

6. Dispute Resolution

- **Commissioners for Workmen's Compensation:** Special commissioners are appointed to adjudicate disputes and claims under the Act. They have the authority to determine the amount of compensation and resolve disputes.
- **Appeals:** Provisions for appealing the decisions of the commissioners in higher courts.

7. Penalties for Non-Compliance

- **Fines and Imprisonment:** Employers who fail to comply with the Act's provisions, such as not paying compensation or failing to report accidents, can face fines and imprisonment.
- **Liability:** Employers are held liable for compensation even if the worker was negligent, provided the injury or death arose out of and in the course of employment.

8. Exclusions and Exceptions

- **Non-Applicability:** The Act does not cover injuries caused by war or nuclear disasters.
- **Intentional Injuries:** Injuries resulting from intentional self-harm or intoxication are not compensable under the Act.

9. Amendments and Updates

- **Periodic Revisions:** The Act has undergone several amendments to increase compensation amounts, cover more workers, and adapt to changing industrial conditions.

10. Impact

- **Worker Protection:** Provides a safety net for workers and their families in the event of workplace accidents, ensuring financial stability during recovery periods.
- **Employer Responsibility:** Encourages employers to maintain safe working conditions to avoid liability and compensation claims.

The Workmen's Compensation Act plays a crucial role in the labour welfare framework by providing a mechanism for workers to receive compensation for employment-related injuries and deaths. It balances the interests of both workers and employers, promoting a safer and more secure working environment.



Check Your Progress



- QUIZ – 1

1. How is the amount of compensation for permanent partial disablement calculated?

- A. As a percentage of the employee's annual salary
- B. Based on the degree of disability and the employee's monthly wage
- C. As a fixed amount set by the government
- D. As a lump sum decided by the employer

2. What is the minimum compensation amount for fatal accidents as per the Employees' Compensation Act?

- A. Rs. 50,000
- B. Rs. 80,000
- C. Rs. 100,000
- D. Rs. 120,000

3. Who is responsible for disbursing the compensation to the employee or their dependents?

- A. The insurance company directly
- B. The government
- C. The employer or the employer's insurance company
- D. The labor union

4. What penalty is imposed on an employer who fails to pay the compensation within the specified period?

- A. Imprisonment up to 6 months
- B. A penalty equal to 50% of the compensation amount plus interest
- C. A fine of Rs. 10,000
- D. Suspension of business operations

5. In case of dispute regarding the amount of compensation, which authority is responsible for resolving it?

- A. The local police
- B. The labor union
- C. The Commissioner for Workmen's Compensation
- D. The employer's human resources department

Answers:

1. B. Based on the degree of disability and the employee's monthly wage
2. D. Rs. 120,000
3. C. The employer or the employer's insurance company
4. B. A penalty equal to 50% of the compensation amount plus interest
5. C. The Commissioner for Workmen's Compensation

3.4 EMPLOYEES STATE INSURANCE ACT 1948

3.4.1 Introduction and Definitions

Introduction

The Employees' State Insurance Act incorporates a number of sections, these sections provide for medical benefits and insurance for any employees working under factories registered under the ESI Corporation. This is an exciting prospect from both an employee's and a legal perspective as the beginning of a formal social security program in India.

This article will explain the highlight sections of the Act, as well as elaborate landmark cases that prove the authenticity of the scheme, and how it worked for the benefit of its employees at times of need.

The Employees' State Insurance Act, 1948 (ESI Act) is a piece of social welfare legislation enacted to provide comprehensive social security to employees in India. It is designed to protect workers and their families by offering financial assistance and medical care in cases of sickness, maternity, employment injury, and other related issues.

Definition

"The Employees' State Insurance Act, 1948, is a social security legislation in India that provides for the health insurance, medical care, and financial support to employees in the case of sickness, maternity, disablement, and death due to employment injury, thereby ensuring comprehensive social security for workers and their dependents."

3.4.2 Objectives of the Act

1. **Medical Benefits:** Providing comprehensive medical care to insured employees and their families.
2. **Cash Benefits:** Offering cash benefits to employees during periods of sickness, maternity, or employment-related injuries.
3. **Rehabilitation:** Facilitating the vocational rehabilitation of insured persons who suffer from physical disablement due to employment injury.
4. **Dependents' Benefits:** Ensuring financial support to the dependents of deceased employees who die as a result of employment injuries.
5. **Preventive Measures:** Promoting measures for the improvement of the health and safety of the workforce.

3.4.3 Administration of ESI Scheme

The administration of the Employees' State Insurance (ESI) scheme is overseen by the Employees' State Insurance Corporation (ESIC), a statutory body established under the Employees' State Insurance Act, 1948. The ESIC operates under the jurisdiction of the Ministry of Labour and Employment, Government of India. The administration of the ESI scheme involves multiple layers of governance to ensure effective implementation and delivery of benefits to the insured persons and their families.

Sum up

The Employees' State Insurance Act, 1948, is a significant social security legislation in India designed to protect employees against the impact of sickness, maternity, disability, and death due to employment-related injuries. The Act establishes the Employees' State Insurance Corporation (ESIC) to oversee and administer a self-financing health insurance scheme where both employers and employees contribute. It provides medical benefits, cash benefits during sickness and maternity, disability benefits for work-related injuries, and dependent benefits to the family of deceased employees. The Act covers establishments with 10 or more employees, ensuring comprehensive social security for workers in various industries



Check Your Progress



- QUIZ - 1

1. Which of the following is the primary purpose of the Employees' State Insurance Act, 1948?

- A. To provide educational benefits to employees
- B. To offer financial assistance for housing
- C. To protect employees against sickness, maternity, disability, and death due to employment injuries
- D. To provide retirement benefits

2. Which organization is responsible for administering the Employees' State Insurance Scheme?

- A. Employees' Provident Fund Organization (EPFO)
- B. Central Board of Direct Taxes (CBDT)
- C. Employees' State Insurance Corporation (ESIC)
- D. National Social Security Board (NSSB)

3. What is the minimum number of employees required in an establishment for it to be covered under the Employees' State Insurance Act, 1948?

- A. 5 employees
- B. 10 employees
- C. 15 employees
- D. 20 employees

4. Which of the following benefits is NOT provided under the Employees' State Insurance Act, 1948?

- A. Medical benefits
- B. Sickness benefits
- C. Maternity benefits
- D. Unemployment benefits

5. Who contributes to the Employees' State Insurance fund?

- A. Only the employer
- B. Only the employee

- C. Both the employer and the employee
- D. The government

Answers

1. C. To protect employees against sickness, maternity, disability, and death due to employment injuries
2. C. Employees' State Insurance Corporation (ESIC)
3. B. 10 employees
4. D. Unemployment benefits
5. C. Both the employer and the employee

3.5 EMPLOYEES STATE INSURANCE FUND

3.5.1 Purpose of Employees State Insurance Fund

The Employees' State Insurance (ESI) fund is a crucial financial mechanism established under the Employees' State Insurance Act, 1948, to support the implementation of the ESI scheme. Here are the key aspects of the ESI fund:

1. **Financial Stability:** The ESI fund serves as a dedicated pool of resources to finance the benefits and services provided under the ESI scheme.
2. **Social Security:** It ensures that funds are available for providing medical care, cash benefits, and other entitlements to insured employees and their dependents in times of need.
3. **Operational Costs:** The fund covers administrative expenses, including salaries of staff, maintenance of medical institutions (dispensaries, hospitals, diagnostic centers), and other operational costs related to the ESI scheme.

3.5.2 Sources of Funding

1. **Employer Contributions:** Employers are mandated to contribute a percentage of the wages of their employees covered under the ESI scheme. This contribution is a primary source of income for the ESI fund.

2. **Employee Contributions:** Employees also contribute a smaller percentage of their wages towards the ESI fund. This contribution is deducted from their salaries.
3. **Government Contributions:** In some cases, state governments may contribute to the ESI fund, particularly for specific welfare measures or to support medical infrastructure.

3.5.3 Management of the ESI Fund

1. **Employees' State Insurance Corporation (ESIC):** The ESIC is responsible for managing and administering the ESI fund. It ensures that contributions are collected, allocated, and disbursed in accordance with the provisions of the Employees' State Insurance Act.
2. **Investment:** The ESI fund may be invested in government securities, bonds, and other approved financial instruments to generate returns and ensure the long-term sustainability of the fund.
3. **Financial Planning:** The ESIC prepares annual budgets and financial plans to manage the ESI fund effectively, balancing income from contributions with expenditures on benefits and administrative costs.

Utilization of ESI Fund

1. **Medical Benefits:** The fund covers the cost of medical treatment provided through ESI hospitals, dispensaries, and empanelled private practitioners.
2. **Cash Benefits:** It finances cash benefits such as sickness benefits, maternity benefits, disablement benefits (temporary and permanent), and dependents' benefits.
3. **Administrative Expenses:** The fund is used to meet administrative expenses incurred in running the ESI scheme, including salaries, maintenance of facilities, and technological investments.

Auditing and Oversight

1. **Audits:** Regular audits are conducted to ensure transparency and accountability in the management of the ESI fund. These audits verify the accuracy of financial records and compliance with legal and regulatory requirements.
2. **Oversight:** The utilization of the ESI fund is monitored by the ESIC Board of Directors, government authorities, and auditors to prevent misuse and ensure that funds are utilized for their intended purposes.

3.5.4 Benefits to Insured Persons

1. **Healthcare Access:** The ESI fund ensures access to quality healthcare services for insured employees and their families, promoting health and wellbeing.
2. **Financial Security:** It provides financial security through timely payment of cash benefits during periods of illness, maternity, disablement, and to dependents in case of death.
3. **Social Welfare:** By supporting the ESI scheme, the fund contributes to the broader goal of social welfare, protecting the interests of workers and promoting a secure and stable workforce.

In summary, the ESI fund plays a pivotal role in financing the comprehensive social security benefits provided under the Employees' State Insurance scheme, ensuring that employees across various sectors have access to essential healthcare and financial support when needed.

Summary

1. **Social Security:** To provide financial protection to employees in the event of sickness, maternity, disability, and death due to employment injury.
2. **Healthcare:** To offer comprehensive medical care to employees and their dependents.

Key Features:

1. **Coverage:** The scheme covers employees earning up to a certain wage ceiling, currently set at Rs. 21,000 per month (Rs. 25,000 for persons with disabilities).
2. **Contributions:**
 - **Employee Contribution:** Currently, 0.75% of the employee's wages.
 - **Employer Contribution:** Currently, 3.25% of the employee's wages.
3. **Benefits:**
 - **Medical Benefits:** Full medical care for insured persons and their dependents.
 - **Sickness Benefit:** Financial assistance during certified sickness for a maximum of 91 days in a year.
 - **Maternity Benefit:** Paid to insured women during pregnancy for a period of 26 weeks, extendable by 30 days on medical advice.
 - **Disablement Benefit:** Compensation for temporary or permanent disablement due to employment injury.
 - **Dependants' Benefit:** Monthly pension to the dependents of an insured person who dies as a result of an employment injury.
 - **Funeral Expenses:** A lump sum payment towards funeral expenses of the deceased insured person.
 - **Rehabilitation Allowance:** For vocational rehabilitation and retraining of insured persons who become disabled due to an employment injury.

Administration:

1. **ESI Corporation (ESIC):** An autonomous body under the Ministry of Labour and Employment, Government of India, which administers the scheme.

2. **Infrastructure:** The ESIC operates hospitals, dispensaries, and clinics across the country to provide medical care.

Funding:

1. **Sources:** Primarily funded through contributions from employees and employers.
2. **Utilization:** Funds are used for providing medical care, cash benefits, and administrative expenses.

Recent Updates:

1. **Digital Initiatives:** Introduction of online services for registration, contribution payment, and claim settlement to enhance efficiency.
2. **Expansion:** Continuous efforts to extend coverage to more workers, including those in the unorganized sector.

The ESI Fund plays a crucial role in providing social security and healthcare to workers, thereby contributing to their well-being and financial stability.



Check Your Progress



- QUIZ – 1

1. **What is the current wage ceiling for an employee to be eligible for the ESI scheme?**
 - A. Rs. 15,000 per month
 - B. Rs. 21,000 per month
 - C. Rs. 25,000 per month
 - D. Rs. 30,000 per month
2. **What percentage of an employee's wages is contributed by the employer towards the ESI fund?**
 - A. 1.75%

B. 2.75%

C. 3.25%

D. 4.25%

3. For how many weeks is the maternity benefit paid to insured women under the ESI scheme?

A. 12 weeks

B. 16 weeks

C. 20 weeks

D. 26 weeks

4. Who administers the ESI scheme in India?

A. Ministry of Health and Family Welfare

B. Employees' Provident Fund Organization (EPFO)

C. Employees' State Insurance Corporation (ESIC)

D. Ministry of Finance

5. Which benefit under the ESI scheme provides financial assistance to the dependents of an insured person who dies due to employment injury?

A. Medical Benefit

B. Sickness Benefit

C. Dependants' Benefit

D. Disablement Benefit

Answers:

1. B. Rs. 21,000 per month

2. C. 3.25%

3. D. 26 weeks

4. C. Employees' State Insurance Corporation (ESIC)

5. C. Dependants' Benefit

3.6 EMPLOYEES STATE INSURANCE CORPORATION

The Employees' State Insurance Corporation (ESIC) is a statutory body established under the Employees' State Insurance Act, 1948, to administer the ESI scheme, a comprehensive social security and health insurance scheme for Indian workers.

Here's an overview of the ESIC and its functions:

3.6.1 Establishment and Structure

1. **Statutory Body:** The ESIC is a statutory body created by the Government of India under the Employees' State Insurance Act, 1948.
2. **Central Role:** It serves as the central organization responsible for implementing and managing the ESI scheme across the country.
3. **Governing Body:** The ESIC is governed by a Board of Directors that includes representatives from the government (both central and state), employers, employees, medical professionals, and the Parliament.

3.6.2 Functions and Responsibilities

1. **Policy Formulation:** The ESIC formulates policies related to the administration and implementation of the ESI scheme, ensuring compliance with the provisions of the Employees' State Insurance Act.
2. **Administration of Funds:** It manages the Employees' State Insurance Fund (ESI Fund), which finances the benefits and services provided under the ESI scheme, including medical care and cash benefits.
3. **Implementation of ESI Scheme:** The ESIC oversees the operational aspects of the ESI scheme, including registration of employers and employees, collection of contributions, and disbursement of benefits.
4. **Medical Services:** It operates a network of ESI hospitals, dispensaries, diagnostic centers, and empanels private medical practitioners to provide medical services to insured persons and their dependents.
5. **Financial Management:** The ESIC prepares annual budgets, manages investments of the ESI Fund, and ensures financial sustainability of the scheme.
6. **Promotion of Welfare:** It promotes measures for the welfare of insured persons, including initiatives for occupational health and safety, vocational rehabilitation, and preventive healthcare.

3.6.3 Organizational Structure

1. **Headquarters:** The ESIC headquarters is located in New Delhi, from where it coordinates and oversees the activities of regional and local offices.
2. **Regional Offices:** ESIC has regional offices in various states and union territories of India, each responsible for implementing the ESI scheme within its jurisdiction.
3. **Local Offices:** These offices handle day-to-day operations, including registration of employees, collection of contributions, processing of claims, and providing customer service to insured persons and employers.

3.6.4 Services Provided by ESIC

1. **Healthcare Services:** ESIC provides comprehensive medical care through its network of hospitals, dispensaries, and empanelled medical practitioners. It covers treatment for illness, maternity, and employment-related injuries.
2. **Cash Benefits:** It disburses various cash benefits, including sickness benefits, maternity benefits, disablement benefits (temporary and permanent), and dependent benefits.
3. **Administrative Support:** ESIC offers administrative support to insured persons and employers, including guidance on scheme benefits, claim processing, and resolution of grievances.

3.6.5 Governance and Accountability

1. **Board Meetings:** The ESIC Board of Directors meets regularly to review performance, approve policies, and make strategic decisions related to the ESI scheme.
2. **Audit and Compliance:** The ESIC undergoes regular audits to ensure financial transparency, compliance with legal requirements, and efficient management of resources.

3. **Oversight:** Government authorities and parliamentary committees provide oversight to ESIC's operations to ensure adherence to statutory mandates and public accountability.

3.6.6 Role in Social Security

The ESIC plays a crucial role in promoting social security and welfare by providing accessible and affordable healthcare services and financial protection to millions of workers and their families across India. It contributes to enhancing the quality of life, ensuring dignity in employment, and fostering a healthy and productive workforce.

In conclusion, the Employees' State Insurance Corporation (ESIC) is instrumental in administering the ESI scheme, offering a robust framework for social security and healthcare benefits to covered employees in India.

Summary

The Employees' State Insurance Corporation (ESIC) is a statutory body established under the Employees' State Insurance Act, 1948, which provides social security and health insurance to workers in India. Here's a summary of the ESIC:

Purpose and Objectives:

- **Social Security:** To offer financial protection to employees against events such as sickness, maternity, disability, and death due to employment injury.
- **Healthcare:** To provide comprehensive medical care to insured employees and their dependents.

Key Features:

1. Coverage:

- Applies to employees earning up to Rs. 21,000 per month (Rs. 25,000 for persons with disabilities).
- Covers factories and establishments with 10 or more employees.

2. Contributions:

- **Employee Contribution:** 0.75% of the employee's wages.
- **Employer Contribution:** 3.25% of the employee's wages.

3. Benefits:

- **Medical Benefit:** Full medical care for insured persons and their families.
- **Sickness Benefit:** Financial assistance during periods of certified sickness for up to 91 days in a year.
- **Maternity Benefit:** Paid leave for insured women for 26 weeks, extendable by 30 days on medical advice.
- **Disablement Benefit:** Compensation for temporary or permanent disablement due to employment injury.
- **Dependants' Benefit:** Monthly pension to dependents in case of death due to employment injury.
- **Funeral Expenses:** Lump sum payment towards the funeral expenses of the deceased insured person.
- **Rehabilitation Allowance:** For vocational rehabilitation and retraining of insured persons who become disabled.

Administration:

- **ESI Corporation (ESIC):** An autonomous body under the Ministry of Labour and Employment, Government of India.
- **Infrastructure:** Operates hospitals, dispensaries, and clinics to provide medical care to beneficiaries.

Funding:

- Primarily funded through contributions from both employers and employees.
- Funds are used for providing medical care, cash benefits, and administrative expenses.

Recent Developments:

- **Digital Initiatives:** Introduction of online services for registration, contribution payment, and claim settlement.
- **Expansion:** Efforts to extend coverage to more workers, including those in the unorganized sector.

The ESIC plays a critical role in providing social security and healthcare to workers, ensuring their well-being and financial stability. It aims to improve the quality of life for employees and their families by offering a wide range of benefits and services

**Check Your Progress**

- QUIZ – 1

1. What is the main objective of the Employees' State Insurance Corporation (ESIC)?

- A. To provide retirement benefits to employees
- B. To offer comprehensive medical care and financial protection against health related contingencies
- C. To regulate working hours and conditions
- D. To manage employee provident funds

2. What percentage of an employee's wages is contributed by the employee towards the ESI fund?

- A. 0.75%
- B. 1.75%
- C. 2.75%
- D. 3.25%

3. Which benefit under the ESIC scheme provides financial assistance during periods of certified sickness?

- A. Disablement Benefit
- B. Sickness Benefit
- C. Dependants' Benefit
- D. Maternity Benefit

4. Who is eligible for the benefits provided by the ESIC?

- A. All government employees
- B. Employees earning up to Rs. 21,000 per month (Rs. 25,000 for persons with disabilities)
- C. Only employees in hazardous industries
- D. Employees with more than 10 years of service

5. Which body administers the Employees' State Insurance scheme in India?

- A. Ministry of Health and Family Welfare
- B. Employees' Provident Fund Organization (EPFO)
- C. Employees' State Insurance Corporation (ESIC)
- D. Ministry of Finance

Answers:

1. B. To offer comprehensive medical care and financial protection against health-related contingencies
2. A. 0.75%
3. B. Sickness Benefit
4. B. Employees earning up to Rs. 21,000 per month (Rs. 25,000 for persons with disabilities)
5. C. Employees' State Insurance Corporation (ESIC)

3.7 Medical benefit council

3.7.1 Introduction

The term "Medical Benefit Council" does not specifically correspond to a wellknown entity or organization in the context of the Employees' State Insurance (ESI) Act or related social security schemes in India. However, I can provide information on relevant bodies or councils that are involved in overseeing medical benefits or healthcare services under various schemes:

Employees' State Insurance Corporation (ESIC)

The Employees' State Insurance Corporation (ESIC) is the central administrative body responsible for implementing the ESI scheme. It manages a network of medical facilities, including hospitals, dispensaries, and diagnostic centers, where insured persons and their dependents can receive medical care. The ESIC ensures the provision of medical benefits under the ESI scheme, including outpatient treatment, hospitalization, maternity care, and specialist consultations.

Medical Benefit Council in Other Contexts

In other contexts outside the ESI Act, a "Medical Benefit Council" could refer to:

1. **Health Insurance Companies:** Some private health insurance companies or organizations may have internal councils or committees that oversee medical benefits provided to their policyholders. These councils may formulate policies, review claims, and ensure that medical benefits are administered efficiently and fairly.
2. **Government Health Schemes:** Under various government health schemes or insurance programs, there may be councils or committees responsible for overseeing the provision of medical benefits to beneficiaries. These bodies ensure compliance with scheme guidelines, monitor healthcare delivery, and address beneficiary grievances.

3. **Corporate Health Benefit Programs:** Within corporate settings, large organizations may establish councils or committees to manage employee health benefit programs. These councils often work with insurance providers or healthcare administrators to ensure employees receive adequate medical coverage and services.

3.7.2 Functions of a Medical Benefit Council

- **Policy Formulation:** Develop policies and guidelines related to medical benefits and healthcare services.
- **Benefit Administration:** Oversee the administration and management of medical benefits, including claims processing and provider network management.
- **Quality Assurance:** Monitor the quality of healthcare services provided to beneficiaries and ensure compliance with medical standards and regulations.
- **Grievance Redressal:** Address complaints and grievances related to medical benefits and healthcare service delivery.
- **Educational Initiatives:** Conduct programs and initiatives to educate beneficiaries about their entitlements, healthcare options, and preventive health measures.

If you have a specific context or region in mind where "Medical Benefit Council" is mentioned, please provide additional details so I can offer more targeted information.

3.7.3 Benefits under the Act

Under the Employees' State Insurance Act (ESI Act), 1948, employees who are covered under the scheme are entitled to various benefits aimed at providing social security and financial assistance in times of need. These benefits include:

1. Medical Benefits:

- **Hospitalization:** Coverage for inpatient treatment in ESIC hospitals and tie-up hospitals for insured persons and their dependents.

- **Outpatient Services:** Access to outpatient medical care, including consultations, diagnostic tests, and medicines, at ESIC dispensaries and clinics.

2. Cash Benefits:

- **Sickness Benefit:** Provides cash compensation for temporary disablement due to sickness, certified by a qualified medical practitioner. The benefit is payable for a maximum of 91 days in a year at the rate of 70% of the wages.
- **Extended Sickness Benefit:** For certain long-term diseases, the benefit is extended up to two years at an enhanced rate of 80% of the wages.
- **Maternity Benefit:** Cash compensation for insured women during maternity leave, including prenatal and postnatal care. The benefit is provided at the rate of 100% of the average daily wages for up to 26 weeks.
- **Disablement Benefit:** Compensation for permanent or temporary disablement resulting from an employment injury, depending on the extent of the disability.
 - **Temporary Disablement:** Paid at 90% of the wages until the person is fit to resume work.
 - **Permanent Disablement:** Lump-sum compensation based on the degree of disablement, ranging from a percentage of the monthly wage for partial disablement to a constant monthly payment for total disablement.
- **Dependants' Benefit:** Paid as a monthly payment to dependents of an insured person who dies due to an employment injury.

3. **Funeral Expenses:** A lump-sum amount provided to the dependents or nominees of the deceased insured person to cover funeral expenses.

4. **Rehabilitation Services:** Vocational rehabilitation services for insured persons who require rehabilitation due to permanent disablement.

5. Other Benefits:

- **Confinement Expenses:** Reimbursement of medical expenses for the confinement of an insured woman in a hospital or at home during childbirth.
- **Medical Benefits for Family:** Dependent family members of the insured person are also entitled to medical benefits.

Summary

The Medical Benefit Council is a statutory body established under the Employees' State Insurance Act, 1948, which plays a crucial role in the administration and provision of medical benefits under the Employees' State Insurance (ESI) scheme. Here's a summary of the Medical Benefit Council:

Purpose and Objectives:

- **Advisory Role:** To advise the Employees' State Insurance Corporation (ESIC) on matters related to the administration of medical benefits.
- **Policy Formulation:** To help in formulating policies and guidelines to ensure effective delivery of medical care to insured persons and their dependents.

Key Features:

1. Composition:

- The Medical Benefit Council is composed of medical professionals and experts.
- Members include representatives from central and state governments, the ESIC, medical institutions, and other stakeholders.

2. Functions:

- **Advisory:** Provides recommendations on improving and extending medical benefits under the ESI scheme.
- **Supervisory:** Monitors the quality of medical care provided to beneficiaries.

- **Regulatory:** Suggests amendments to the ESI Act and regulations to enhance the medical benefits.

3. Meetings:

- The council meets periodically to discuss and review policies, procedures, and the quality of medical services provided under the ESI scheme.
- Decisions and recommendations made during these meetings are forwarded to the ESIC for implementation.

4. Impact:

- Ensures that medical benefits are in line with the latest healthcare standards and practices.
- Enhances the overall efficiency and effectiveness of the medical care delivery system under the ESI scheme.

5. Recent Initiatives:

- Focus on digitalization and online services to streamline the provision of medical benefits.
- Efforts to expand medical infrastructure and facilities in underserved areas.

Administration:

- **Reporting:** The Medical Benefit Council reports to the ESIC and works in coordination with other committees and bodies under the ESI Act.
- **Implementation:** Recommendations by the council are implemented by the ESIC and other relevant authorities.

Importance:

- The Medical Benefit Council is vital in ensuring that insured employees and their dependents receive timely, high-quality medical care.
- It helps in maintaining transparency, accountability, and continuous improvement in the medical services provided under the ESI scheme.

The council's work significantly contributes to the overall success and reliability of the ESI scheme, ultimately benefiting millions of workers and their families across India.



Check Your Progress



- QUIZ – 1

1. What is the primary role of the Medical Benefit Council under the ESI Act?

- A. To collect contributions from employees and employers
- B. To advise the ESIC on the administration of medical benefits
- C. To regulate working hours and conditions
- D. To provide pension benefits to retired employees

2. Who are the members of the Medical Benefit Council?

- A. Only government officials
- B. Medical professionals, representatives from central and state governments, ESIC, and medical institutions
- C. Labor union representatives
- D. Retired employees

3. How often does the Medical Benefit Council meet to discuss and review policies?

- A. Annually
- B. Biannually
- C. Periodically
- D. Monthly

4. What is one of the key functions of the Medical Benefit Council?

- A. Collecting taxes for the government
- B. Monitoring the quality of medical care provided to beneficiaries
- C. Managing employee provident funds
- D. Conducting employment training programs

5. To whom does the Medical Benefit Council report its recommendations?

- A. Ministry of Health and Family Welfare
- B. Employees' Provident Fund Organization (EPFO)
- C. Employees' State Insurance Corporation (ESIC)
- D. Ministry of Finance

Answers:

- 1. B. To advise the ESIC on the administration of medical benefits
- 2. B. Medical professionals, representatives from central and state governments, ESIC, and medical institutions
- 3. C. Periodically
- 4. B. Monitoring the quality of medical care provided to beneficiaries
- 5. C. Employees' State Insurance Corporation (ESIC)

3.8 ESI COURT

3.8.1 Introduction

The ESI Court plays a pivotal role in maintaining the integrity and effectiveness of the ESI scheme by providing a robust mechanism for the resolution of legal disputes and ensuring accountability in the administration of social security benefits. It established under the provisions of the Employees' State Insurance Act, 1948. Its primary function is to adjudicate disputes and claims related to the ESI scheme. Here's an introduction to the ESI Court:

3.8.2 Dispute Resolution Mechanisms

1. Employees' Insurance Court (EIC):

- The primary judicial authority for resolving disputes under the ESI Act is the Employees' Insurance Court (EIC).
- These courts are established by the central or state governments and have the jurisdiction to adjudicate matters related to disputes arising under

the ESI Act, including claims for benefits, disputes between employers and employees regarding coverage or contributions, and other related issues.

- Appeals from decisions of the EIC generally lie with higher courts, depending on the jurisdiction and the nature of the dispute.

2. Labour Courts and Industrial Tribunals:

- In some states, disputes under the ESI Act may also be handled by Labour Courts or Industrial Tribunals, especially when they involve issues related to employment conditions, disputes between employers and employees, or matters not specifically covered by the EIC.

3. Appellate Authorities:

- Appeals from decisions of the EIC or Labour Courts/Industrial Tribunals may be made to higher judicial authorities, such as High Courts and the Supreme Court of India, depending on the nature and amount in dispute.

3.8.3 Functions of ESI Courts or Tribunals

- **Adjudication:** Hear and decide disputes related to coverage, contributions, benefits, and other matters under the ESI Act.
- **Enforcement:** Ensure compliance with the provisions of the ESI Act and rules made thereunder.
- **Grievance Redressal:** Provide a forum for employees and employers to resolve disputes fairly and impartially.
- **Judicial Review:** Review decisions of administrative bodies or employers related to ESI benefits and ensure they comply with legal requirements.

3.8.4 Process for Dispute Resolution

1. **Filing of Claims:** A claimant (employee or dependent) typically files a claim or dispute before the appropriate ESI Court or Tribunal.

2. **Adjudication:** The court or tribunal conducts hearings, reviews evidence, and listens to arguments from both parties before issuing a decision.
3. **Appeals:** Parties dissatisfied with the decision of the lower court or tribunal may appeal to higher judicial authorities as per the prescribed appellate procedure.

3.8.5 Role in Protecting Rights

ESI Courts and tribunals play a crucial role in protecting the rights of employees and ensuring employers comply with the provisions of the ESI Act. They provide a formal legal framework for resolving disputes and upholding the principles of social security and welfare embedded in the Act.

Summary

In summary, while there is no singular "ESI court" per se, disputes under the ESI Act are addressed through judicial mechanisms such as Employees' Insurance Courts, Labour Courts, and Industrial Tribunals, ensuring fair and impartial resolution of issues related to employment benefits and social security.

Purpose and Objectives:

- **Dispute Resolution:** The ESI Court provides a legal forum for resolving disputes and claims arising under the ESI Act between insured persons, employers, and the Employees' State Insurance Corporation (ESIC).
- **Claims Adjudication:** It adjudicates on matters such as the eligibility of employees for benefits, disputes over contributions, and issues related to medical benefits and compensation.

Features:

1. Jurisdiction:

- The ESI Court has exclusive jurisdiction over disputes and claims arising under the ESI Act within its designated area.
- It handles cases related to the recovery of contributions, penalties, and disputes regarding entitlements under the ESI scheme.

2. Composition:

- The court typically consists of a judicial officer appointed by the state government, often with expertise in labor and social security laws.
- It may include additional members or assessors to assist in technical matters related to the ESI Act.

3. Powers and Functions:

- **Adjudication:** The ESI Court hears and decides disputes filed by parties aggrieved by decisions of the ESIC or disputes between employers and employees regarding entitlements.
- **Enforcement:** It can enforce its decisions, including orders for the payment of benefits, contributions, or penalties.
- **Appeals:** Decisions of the ESI Court can be appealed to higher judicial forums as per the provisions of the ESI Act.

4. Process:

- Parties can file disputes and claims before the ESI Court, presenting evidence and arguments to support their case. ○ The court conducts hearings, examines witnesses, and reviews documents to arrive at a decision based on the merits of each case.

5. Impact:

- Ensures fair and impartial resolution of disputes related to the ESI scheme, thereby protecting the rights of insured persons and ensuring compliance with statutory provisions. ○ Provides a legal mechanism to address grievances and uphold the principles of social justice and welfare for industrial workers.

Recent Developments:

- **Digitalization:** Adoption of online filing systems and case management tools to enhance efficiency and accessibility of judicial proceedings.
- **Specialization:** Focus on specialized training and capacity building for judicial officers handling ESI Court matters.

Importance:

- The ESI Court plays a pivotal role in maintaining the integrity and effectiveness of the ESI scheme by providing a robust mechanism for the resolution of legal disputes and ensuring accountability in the administration of social security benefits.

In summary, the ESI Court stands as a critical institution within India's social security framework, safeguarding the rights and entitlements of industrial workers and promoting equitable access to justice under the ESI Act.

**Check Your Progress****- QUIZ – 1****1. What is the primary role of the ESI Court?**

- A. To collect contributions from employees and employers
- B. To adjudicate disputes and claims arising under the Employees' State Insurance Act
- C. To regulate working hours and conditions
- D. To provide medical care to insured persons

2. Who appoints the judicial officers to preside over the ESI Court?

- A. Ministry of Labour and Employment
- B. Employees' State Insurance Corporation (ESIC)
- C. State Government
- D. Supreme Court of India

3. What types of disputes does the ESI Court typically adjudicate?

- A. Property disputes between employers and employees
- B. Criminal cases involving workplace incidents
- C. Claims related to benefits and contributions under the ESI scheme
- D. Tax disputes between employers and the government

4. What is the jurisdiction of the ESI Court?

- A. It has jurisdiction over all civil and criminal cases
- B. It handles disputes and claims arising specifically under the ESI Act
- C. It only deals with cases related to labor strikes

D. It oversees disputes between trade unions and employers

5. What is one of the powers of the ESI Court?

- A. Issuing business licenses to employers
- B. Imposing fines on employees
- C. Enforcing its decisions for the payment of benefits and contributions
- D. Registering trade unions

Answers:

1. B. To adjudicate disputes and claims arising under the Employees' State Insurance Act
2. C. State Government
3. C. Claims related to benefits and contributions under the ESI scheme
4. B. It handles disputes and claims arising specifically under the ESI Act
5. C. Enforcing its decisions for the payment of benefits and contributions

3.9 GLOSSARY

DISPUTE	A disagreement or argument between two people.
COMPLIANCE	The act of doing everything that someone tells or commands.
APPEALS	To make a serious request for something you need.
DISBURSEMENT	The act of paying out money especially from a fund.
COMPENSATION	A fact or action that removes or reduce that bad effect of something.
JURISDICTION	Legal power or authority .

3.10 Self Assessment Questions

Short Answers: (5 Marks) K3/K4 Level Questions

Sl.no	Questions	Level
1.	Write a short note on scope of workmen's compensation Act 1923.	K3
2.	Define workmen compensation? Explain its objectives.	K3
3.	What is disablement? Explain its types.	K3
4.	Describe the functions of Medical Benefit Council.	K3
5.	Governance and accountability under the ESIC Act – Discuss.	K3
6.	Describe the responsibility of ESIC.	K4

7.	Explain the types of compensation.	K4
8.	Describe the liability of employer.	K4
9.	Explain the schemes of ESI.	K4
10.	Describe the process of disputes under ESI Court.	K4

Essay Type Answers: (8 Marks) K5/K6 Level Questions

Sl.no	Questions	Level
1	State the difference between maternity benefit Act and employee state Insurance Act	K5
2	Explain constitution, powers and procedure of ESI courts.	K5
3	Solve the following problem: Ajay an employee in AVB Industries died in K5 a fatal accident in the factory. The employer paid the widow of Ajay, compensation a sum of Rs. 1 lakh directly. Is it valid payment? Explain	K5
4	Explain the retrenchment compensation	K5
5	Discuss the liability of the employer to pay compensation under the workmen compensation Act.	K5
6	Write an explanatory note on Medical Benefit Council under employees	K6
7	When or when not an employer is liable to pay the compensation for	K6
8	How to calculate compensations at different cases. Do the exercises.	K6
9	Explain ESIC.	K6
10	Explain the structured process of disbursement.	K6

UNIT – 3 – WORKMENS COMPENSATION ACT 1923, EMPLOYEES STATE INSURANCE ACT 1948

3.11 ASSIGNMENTS – Quadrant 3



Activities

1. Present at least two real-life cases where the Workmen's Activities Compensation Act was applied. Present at least two real-life cases where the ESI Act was applied
2. Analyze the impact of these acts on workers and employers. Discuss the relevance and effectiveness of these acts in today's context.
3. Provide suggestions on how these acts can be improved to better protect workers and address current labor market challenges.

Topics for Discussion (Quadrant – 4)

1. Compare and contrast the Workmen's Compensation Act in India with similar laws in other countries.

	<ol style="list-style-type: none">2. Discuss the differences in coverage, benefits, and administration.3. Evaluate how these differences impact the protection and welfare of workers.4. Discuss the Act's role in promoting occupational safety and health in the workplace.5. Analyze the correlation between the Act and the reduction in workplace accidents and illnesses.6. Explore ways to strengthen the Act to further enhance workplace safety and health standards.7. Explore key amendments and changes made to the Act over the years.8. Evaluate the impact of these changes on employees and employers.9. Analyse the eligibility criteria for employees to be covered under the ESI Act. <p>Discuss the range of benefits provided, including medical, sickness, maternity, disability, and dependents' benefits.</p>
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3.12 Suggested Reading References

1. "Labour and Industrial Laws" by S.N. Mishra.
2. "Industrial Relations and Labour Laws" by P.C. Tripathi, C.B. Gupta, and N.D. Kapoor.
3. "Commentary on the Employees' State Insurance Act, 1948" by S.C. Srivastava
4. "Law Relating to Labour and Industrial Relations" by H.L. Kumar.
"Commentary on the Workmen's Compensation Act, 1923" by R.S. Narul

UNIT IV The Payment of Wages Act,1936 and The Minimum Wages Act, 1948

The Payment of Wages Act, 1936: Object and Scope –Definition – Procedure regarding payment of wages – Deduction from wages – Mode of payment of wages. The Minimum Wages Act, 1948: Objects - Scope – Definition – Items to be included in the minimum wages – Fixation and revision of minimum wages – Norms to be followed in the payments of minimum wages.

The Payment of Wages Act,1936 and The Minimum Wages Act, 1948

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Learning Objective

- Understand which types of employees and establishments are covered under the Payment of Wages Act.
- Recognize the applicability of the Act to different sectors and industries.
- Define key terms such as wages, employee, employer, and industrial establishment as per the Act.
- Distinguish between different forms of wages (basic pay, allowances, and deductions).
- Understand the objectives of the Minimum Wages Act in ensuring fair remuneration for workers.
- Recognize which sectors and types of employees are covered under the Act.
- By achieving these learning objectives, individuals will gain a comprehensive understanding of the legal frameworks governing wage

payments and minimum wage standards, ensuring fair and just compensation for employees in various sectors.

4.1 THE PAYMENT OF WAGES ACT 1936

4.1.1 Introduction, Meaning and Definition

In 1926, the Indian government communicated with neighbouring governments to learn more about the situation of wage payments to workers in industry. On the 15th of February 1935, the Payment of Wages Bill, based on indistinguishable criteria from the former Bill of 1933 but completely overhauled (restored), was introduced in the Legislative Assembly.

The bill was sent to a Select Committee for further consideration. This article will serve as a guide to Payment of Wages Act.

WAGES

Wage is the monetary compensation or payment, sometimes known as personnel expenses, that an employer pays to employees in exchange for work performed. Wage can be computed as a fixed amount for each task accomplished, or as an hourly/daily rate based on an easily measured quantity of work completed.

Wages comprise all monetary remunerations and "including" the following:

- Amount payable under the terms of employment
- Amount payable under any award, settlement, or court order
- Paid as overtime labor or for vacations / leave period Payable on account of Termination of employment.

Payment of Wages Act, 1936

- The Payment of Wages Act of 1936 governs how wages are paid to employees (direct and indirect). The statute is intended to protect employees from unlawful employer deductions and/or unjustifiable salary delays.
- Define laws around wage period, time, and mode of payment of wages to particular classes of workers working in industry without any

unjust deductions other than those specified in the Act

- Regulates the rights of the workers covered by this Act.

DEFINITION:

- Minimum Wages Act, in simpler words, is the act to provide for fixing minimum rates of salaries in specific jobs/professions.
- The Minimum Wages Act is a vital act that every working individual must be aware of. HR managers, in particular, should be well-versed in this act.
- "employed person" [sec 2 (i)] includes the legal representative of a deceased employed person;
- "employer"[sec 2 (ia)] includes the legal representative of a deceased employer;
- **"industrial or other establishment"[sec 2 (i1)]** means any -
 - (a) tramway service or motor transport service engaged in carrying passengers or goods or both by road for hire or reward;
 - (aa) air transport service other than such service belonging to or exclusively employed in the military naval or air forces of the Union or the Civil Aviation Department of the Government of India;
 - (b) Dock wharf or jetty
 - (c) inland vessel mechanically
 - (c) inland vessel mechanically propelled;
 - (d) mine quarry or oil-field;
 - (e) plantation;
 - (f) workshop or other establishment in which articles are produced adapted or manufactured with a view to their use transport or sale;
 - (g) Any place where work is being done on the construction, development, or maintenance of buildings, roads, bridges, or canals, or on operations related to navigation, irrigation, or water supply, or on the generation, transmission, and distribution of electricity or any other form of power;
 - (h) any other establishment or type of establishments that the Central Government or a State Government may specify by publication in the

Official Gazette, having regard to the nature of the establishment, the necessity for protection of persons employed within, and other relevant circumstances.

- "Wages" [sec 2 (iv)] means all remuneration (whether in the form of salary allowances or otherwise) expressed in money or capable of being expressed in money that would be payable to a person employed in respect of his employment or work done in such employment if the terms of employment express or implied were fulfilled, and includes –
 - (a) any income due by a court order, award, or settlement between the parties;
 - (b) any additional payment due under the terms of employment (whether called a bonus or by any other name);
 - (c) any remuneration to which the person employed is entitled in respect of overtime work, holidays, or any leave period;
 - (d) any sum payable due to the person's termination of employment under any legislation, contract, or instrument that allows for the payment of such sum, with or without deductions, but does not specify a time limit within which the payment must be paid;
 - (e) any payment to which the employee is entitled under any system framed under any law in force at the time, but excluding –
 - (1) any incentive (whether through a profit-sharing arrangement or elsewhere) that is not included in the remuneration payable under the terms of employment or that is not payable under any award, settlement, or court order;
 - (2) any house-accommodation, light water supply, medical attendance, or other amenity, or any service excluded from the computation of wages by a general or special order of the State Government;
 - (3) any contribution made by the employer to any pension or provident fund, and any interest accrued thereon;
 - (4) any travel allowance or the value of any travel concession;
 - (5) any sum paid to the employed person to offset particular expenses imposed on him by the nature of his work; or

- (6) any gratuity payable on termination of employment in circumstances other than those listed in sub-clause (d).

4.1.2 Objective of the Payment of Wages Act, 1936

Considering the efforts of the public at large, the Payment of Wages Act of 1936 was passed by the British Government on April 23, 1936. As previously stated, this Act was enacted to regulate the payment of wages for a specific group of workers. In accordance with the

Payment of Wages Act, “wages” refers to any compensation given to employees, with some exceptions listed in the specific exclusions mentioned under the Act. These exclusions include any monetary value for housing accommodations or incentives, as well as gratuities, travel expenses, and the amount offered for the delivery of electricity or water.

The Payment of Wages Act 1936 is a useful piece of legislation that governs how specific kinds of people employed in industries get paid.

The primary goals of the Act are-

- To guarantee consistent and fast wage payments,
- To prevent wage employees from being exploited by eliminating arbitrary penalties and wage deductions, and
- It outlines the obligations of businesses to pay wages; fix wage periods; compensation schedules and methods; allowable deductions; and other related issues.

4.1.3 PROCEDURE REGARDING PAYMENT OF WAGES

The four sections which detail the rules for payment of wages under the Payment of Wages Act, 1936 are:

1. Responsibility for payment of wages – Section 3

2. Fixation of wage periods – Section 4
3. Time of payment of wages – Section 5
4. Wages to be paid in currency notes or currency coins – Section 6

Let's look at each of these sections in detail.

Section 3 – Responsibility for Payment of Wages

(1) Every employer is responsible for the payment of all wages to all the employees that he employs. In any other case, if the employer names a person, or if there is a person responsible to the employer or is nominated, then such a person is responsible for the payment of wages.

(2) Notwithstanding anything contained in sub-section (1), the employer is responsible to make the payment of all wages which the Act requires him to make. In fact, if the contractor or the person that the employer designates to make the payment fails to do so, then the responsibility lies with the employer.

Section 4 – Fixation of Wage Periods

(1) The person responsible for the payment of wages under Section 3 must fix periods in respect of which he shall make the payment of wages. This period is called the wage period.

(2) A wage period will not exceed one month under any circumstance

Section 5 – Time of Payment of Wages

(1) Every person employed upon or in:

- a. Any railway, factory or industrial or other establishments upon or in which the total number of employed persons is less than one thousand, must receive his

wages before the expiry of the seventh day from the last day of the wage period for which the wages are payable.

- b. Any other railway, factory or industrial or other establishments, must receive his wages before the expiry of the tenth day from the last day of the wage period for which the wages are payable.

(2) If the employer terminates the employment of a person, then he must ensure that the terminated employee receives his wages before the expiry of the second working day from the date of termination of employment.

(3) The Appropriate Government can exempt to such an extent and also subject to such conditions in the order the person responsible for the payment of wages to employed persons.

(4) The employer or the person responsible for paying wages must ensure that the wages are paid on a working day.

Section 6 – Payment of wages in currency notes or currency coins

1. The employer or the person responsible for making the payment of wages must pay in currency coins or currency notes or in both. Further, he cannot pay in kind.
2. Also, the employer can pay the wages via a cheque or a direct deposit to the bank account of the employee after taking a written authorization from him.

SUMMARY

Objective:

The main objective of the Payment of Wages Act, 1936, is to ensure that workers receive their wages on time and without any unauthorized deductions. It aims to protect workers from exploitation by employers regarding wage payments.

Purpose:

1. **Timely Payment of Wages:** Ensures that workers are paid their wages at regular intervals without unnecessary delays.
2. **Prevention of Unauthorized Deductions:** Safeguards workers from arbitrary or unauthorized deductions from their wages by the employers.
3. **Legal Recourse:** Provides a legal framework for workers to address grievances related to non-payment or delayed payment of wages.

Procedure:

1. **Responsibility of Employers:** The employer is responsible for paying wages to workers employed directly or through contractors.
2. **Wage Period:** Wages must be paid either daily, weekly, fortnightly, or monthly. The wage period should not exceed one month.
3. **Time of Payment:** For establishments with less than 1000 employees, wages must be paid within the 7th day of the end of the wage period. For establishments with more than 1000 employees, wages must be paid within the 10th day.
4. **Deductions:** The Act specifies permissible deductions such as fines, absence from duty, damage or loss of goods, house accommodation, advances, and others. Unauthorized deductions are prohibited.
5. **Fines:** Fines can only be imposed if there is a specific provision in the employment contract and the workers are informed in advance.
6. **Complaints and Appeals:** Workers can file complaints regarding the nonpayment or delayed payment of wages with the appropriate authority appointed under the Act. The authority can investigate and direct the payment of wages along with compensation.
7. **Penalties:** Employers violating the provisions of the Act can be penalized. This includes fines and, in severe cases, imprisonment.

The Payment of Wages Act, 1936, is an essential piece of legislation that protects workers' rights to fair and timely remuneration, thereby promoting better labor standards and practices in India.



Check Your Progress



- QUIZ - 1

- 1. The Payment of Wages Act, 1936, primarily aims to regulate which of the following?**
 - A. The working hours of employees
 - B. The timely payment of wages to certain classes of employees
 - C. The provision of medical benefits to employees
 - D. The retirement benefits for employees

- 2. According to the Payment of Wages Act, 1936, wages must be paid on which of the following days if the number of employees is less than 1000?**
 - A. The last working day of the month
 - B. Within 7 days of the end of the wage period
 - C. Within 10 days of the end of the wage period
 - D. The 15th day of the following month

- 3. Which of the following deductions is permissible under the Payment of Wages Act, 1936?**
 - A. Arbitrary fines imposed by the employer
 - B. Amounts spent by the employer on employee welfare activities
 - C. Absence from duty
 - D. Personal loans taken by employees from external sources

- 4. Under the Payment of Wages Act, 1936, which authority is responsible for hearing and deciding claims arising out of deductions from wages or delay in payment of wages?**
 - A. Labour Court
 - B. Tribunal
 - C. Inspector
 - D. Authority appointed by the appropriate government

5. The maximum wage period for the payment of wages under the Payment of Wages Act, 1936, should not exceed which of the following?

- A. One week
- B. Two weeks
- C. One month
- D. Two months

Answers

1. B. The timely payment of wages to certain classes of employees
2. B. Within 7 days of the end of the wage period
3. C. Absence from duty
4. D. Authority appointed by the appropriate government
5. C. One month.

4.2 DEDUCTION FROM WAGES

4.2.1 DEDUCTIONS PERMITTED UNDER THIS ACT

Employer deductions should only be made in compliance with this act. The following are the deductions that are said to be permitted under this act.

- Fines,
- Deductions for absence from duty,
- Deductions for damage to or loss of goods made by the employee due to his negligence,
- Deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees with the acceptance of employee,
- Deductions for house-accommodation supplied by the employer or by government or any housing board,

- Deductions made if any payment of any premium on his life insurance policy to the Life Insurance Corporation with the acceptance of employee,
- Deductions for such amenities and services supplied by the employer as the State Government or any officer,
- Deductions for recovery of advances connected with the excess payments or advance payments of wages,
- Deductions for recovery of loans made from welfare labor fund,
- Deductions for recovery of loans granted for house-building or other purposes,
- Deductions of income-tax payable by the employed person,
- Deductions for recovery of losses sustained by a railway administration on account of acceptance by the employee of fake currency,
- Deductions by order of a court,
- Deduction for payment of provident fund,
- Deductions for payments to co-operative societies approved by the State Government,
- Deductions for payments to a scheme of insurance maintained by the Indian Post Office
- Deduction made if any contribution made as fund to trade union with the acceptance of employee,
- Deductions, for payment of insurance premium on Fidelity Guarantee Bonds with the acceptance of employee,
- Deductions for recovery of losses sustained by a railway administration on account of failure by the employee in collections of fares and charges,
- Deduction made if any contribution to the Prime Minister's National Relief Fund with the acceptance of employee,

4.2.2 Limit for deductions

- The entire amount of deductions from employees' earnings should not exceed 50%, although deductions from employees' wages can be up to 75% in the case of payments to co-operative organizations.

4.2.3 Fines

- The employer should impose a fine on the employee with the agreement of the state government or other appropriate body. Before imposing a fine on an employee, the employer should follow the rules outlined below.
- A penalties notice board for employees should be posted in the workplace, and it should include actions that employees should not engage in.
- No fine should be imposed on the employee until he provides an explanation and justification for his actions or omissions.
- The total amount of the fine shall not exceed 3% of his annual salary.
- No fines shall be levied on employees under the age of fifteen.
- A one-time fine should be imposed on the employee's wage for the conduct or omission he committed.
- Fines should not be collected from the employee in installments.
- The fine must be paid within 60 days of the day the fine was imposed.
- A fine should be issued for the employee's daily act or omission.
- All fines collected from employees should be credited to the common fund and used for employee benefit.

4.2.4 Deductions for absence from Duty

- Employers can make deductions for an employee's absence from work for a single day or for a period of time.
- The amount deducted from duty for absence should not be more than a sum that bears the same connection to the wage payable in respect of the wage period as this duration of absence does to such payment period. (For

example, if an employee's monthly compensation is 6000/- and he is absent for one month.) Absence from duty should not be deducted more than 6000/- from the salary.)

- Employees who arrive at work and refuse to work for no apparent reason are considered absent from duty.
- If ten or more people are away from work without notice or reasonable cause, the employer has the right to withdraw eight days' salary from their pay.

4.2.5 Deductions for Damage or Loss

- Employers should offer employees the opportunity to explain why and how the damage or loss occurred, and deductions from employee wages should not exceed the value or quantity of damage or loss suffered by the employee.
- [Section 10(2)] All such deductions and realizations shall be recorded in the form provided in a register to be kept by the person responsible for the payment of wages under section 3.

4.2.6 Deductions for services rendered

- If the employee accepts the employer's house-accommodation amenity or service, the employer is the only one who can take from the employee's pay. The amount deducted shall not exceed the value of the house-accommodation amenity or service provided.

4.2.7 Deductions for recovery of advances

- If the employer paid an advance to the employee before the employment began, the employer should be reimbursed from the first payment of wages/salary to the employee. However, the employer should not be able to recoup the advance granted for the employee's travel expenses.

4.2.8 Deductions for recovery of Loans

- Any rules set by the State Government governing the extent to which such loans may be given and the rate of interest due thereon will apply to deductions for recovery of loans provided for house-building or other purposes.

4.2.9 Deductions for Payments to Co-operative Societies and Insurance Schemes

- Deductions for payments to co-operative societies, deductions for payments to the Indian Post Office's insurance scheme, and employee acceptance deductions for payment of any premium on his life insurance policy to the Life Insurance Corporation are subject to any conditions imposed by the State Government.

SUMMARY

Deductions from Wages under the Payment of Wages Act, 1936

The Payment of Wages Act, 1936, permits certain deductions from the wages of workers under specific conditions. The types and extent of permissible deductions are outlined to ensure that workers are not unfairly deprived of their earnings.

Permissible Deductions:

1. **Fines:** Deductions for fines can be made if the employer has previously notified the worker about the fines and the conditions under which they may be imposed. The total fines in a wage period should not exceed 3% of the wages payable.
2. **Absence from Duty:** Deductions can be made for the absence of duty. This includes unauthorized absence or absence due to participation in a strike.

3. **Damage or Loss:** If the worker causes damage to or loss of goods expressly entrusted to them or for loss of money for which they are responsible, deductions can be made. These deductions should be reasonable and should not exceed the amount of damage or loss caused.
4. **House Accommodation:** Deductions can be made for house accommodation provided by the employer.
5. **Amenities and Services:** Deductions for amenities and services supplied by the employer, such as electricity, water, etc., if the worker has accepted these services.
6. **Recovery of Advances:** Deductions for recovery of advances given to the worker. Advances must have been made with prior agreement on repayment terms.
7. **Adjustment of Overpayments:** Deductions for adjustments of overpayments of wages.
8. **Income Tax:** Deductions for income tax payable by the worker.
9. **Provident Fund and Other Funds:** Deductions for contributions to provident funds or any other statutory fund.
10. **Insurance Premiums:** Deductions for insurance premiums on policies that benefit the worker.
11. **Trade Union Subscriptions:** Deductions for subscriptions to trade unions or cooperative societies approved by the state government.
12. **Court Orders:** Deductions made in compliance with court orders or judgments, such as those for maintenance payments.
13. **Other Deductions:** Any other deductions authorized by the state government in consultation with the central government, provided they are not detrimental to the interest of the worker.

Procedure for Deductions:

- **Notification and Explanation:** Employers must inform workers about any fines or deductions in advance.

- **Recording:** All deductions must be recorded in a register maintained by the employer.
- **Limitations:** The total deductions (excluding those for absence from duty) should not exceed 50% of the worker's wages for any wage period. In cases where deductions include payments to cooperative societies, the total should not exceed 75%.

The Payment of Wages Act ensures that deductions from wages are regulated and transparent, protecting workers from arbitrary or excessive deductions by employers.

Payment of wages in current cash, either coins or notes

The employer or person in charge of paying wages must pay the wages to the workers in the currently prevalent currency, either coins, cash notes, or a combination of both. Furthermore, the employer is also not allowed to make a kind payment. Moreover, after receiving written authorisation from the employee, the employer may pay the employee's earnings via cheque or bank transfer into his bank. The employer of each employee working in such commercial or other facilities shall pay the employee's wages only by issuing a cheque or by depositing the money to his bank account, as specified by the competent government by notification in the Official Gazette.

1. Objective:

- The primary objective of the Payment of Wages Act is to regulate the payment of wages to certain classes of employed persons. It ensures that wages are disbursed on time and without unauthorized deductions.

2. Scope and Coverage:

- The Act applies to employees in factories, railways, and certain other establishments specified by the government. It covers employees earning below a certain wage threshold, which may be revised periodically.

3. Definitions:

- o The Act defines key terms such as wages, employee, employer, and industrial establishment. "Wages" include all remuneration expressed in terms of money, including allowances and bonuses, but exclude certain specified payments.

4. Timely Payment of Wages:

- o The Act mandates the payment of wages on time. Wages must be paid monthly, within seven days after the end of the wage period, if the number of employees is less than 1,000. For establishments with more than 1,000 employees, wages must be paid within ten days.

5. Permissible Deductions:

- o The Act specifies permissible deductions from wages, including fines, absence from duty, damage or loss, and other deductions authorized by law. These deductions are subject to limits to ensure that employees receive a fair portion of their earnings.

6. Responsibilities of Employers:

- o Employers are responsible for paying wages on time and maintaining proper records of wage payments. They must comply with the provisions of the Act regarding permissible deductions and provide timely information to employees about their wages and deductions.

7. Grievance Redressal:

- o Employees can file complaints about non-payment or improper payment of wages. The Act provides mechanisms for the resolution of such grievances through inspectors and appellate authorities.

8. Penalties for Non-compliance:

- o The Act imposes penalties for non-compliance. Employers who violate the provisions regarding wage payments, deductions, or maintenance of records may face fines and other legal consequences.

9. Enforcement and Inspection:

- o The Act provides for the appointment of inspectors to ensure compliance. Inspectors have the authority to investigate, audit wage records, and ensure that employers adhere to the legal requirements



Check Your Progress



- QUIZ – 1

1. According to the Payment of Wages Act, 1936, which of the following is a permissible deduction from wages?
 - A) Any amount the employer decides for damage to property.
 - B) Fines without prior notice to the employee.
 - C) Deductions for amenities provided by the employer.
 - D) Deductions for employee transportation without consent.
2. What is the maximum percentage of wages that can be deducted as fines under the Payment of Wages Act, 1936?
 - A) 5%
 - B) 10%
 - C) 3%
 - D) 2%
3. Under the Payment of Wages Act, 1936, deductions for absence from duty can be made for:
 - A) Authorized absence.
 - B) Unauthorized absence.
 - C) Both authorized and unauthorized absence.
 - D) Only for sickness.
4. According to the Act, deductions for recovery of advances can be made:
 - A) Without any prior agreement.
 - B) With an agreement between the employer and the employee.
 - C) Only if the employee agrees verbally.
 - D) If the employer decides unilaterally.
5. Which of the following is NOT a permissible deduction under the Payment of Wages Act, 1936?
 - A) Deductions for amenities and services supplied by the employer.
 - B) Deductions for income tax payable by the worker.
 - C) Deductions for union fees without the worker's consent.
 - D) Deductions for recovery of advances.

Answers:

1. C) Deductions for amenities provided by the employer.
2. C) 3%
3. C) Both authorized and unauthorized absence.
4. B) With an agreement between the employer and the employee.
5. C) Deductions for union fees without the worker's consent.

4.3 THE MINIMUM WAGES ACT 1948

4.3.1 - Introduction and Meaning

The economic policies and labour laws complement each other in India. To ensure the social justice and economic well-being of the workers, the Parliament enacted the Minimum Wages Act, 1948. Enacted to address the growing concerns of worker exploitation and inequality, the Act has far-reaching implications for both employees and employers. The primary objective of the Minimum Wages Act, 1948 is to safeguard the interests of the workers by providing a mechanism for ensuring a bare minimum level of remuneration.

From agriculture and manufacturing to the service industry, the Act plays a pivotal role in establishing equitable compensation structures. Additionally, there are various challenges in implementing and adhering to the stipulated minimum wages, considering the dynamic nature of economic landscapes and the diverse needs of an expanding workforce.

The Act categorises the workers into skilled, semi-skilled and unskilled labourers and provides the mechanism for fixing separate minimum wages for each class of labour. In this article, an attempt has been made to analyse the important provisions of the Act, along with the important judicial pronouncements by various Courts of the country. Further, the provisions of the Act have been compared with the provisions of the Code on

Wages, 2019, in order to ascertain what changes would be implemented through the new legislation.

MEANING

The minimum wages act, 1948, is the minimum amount that an organisation has to pay a particular employee (skilled or unskilled) for a specific job at a particular time that any contract agreement or collective agreement cannot reduce. The Minimum Wage Act was first implemented in 1948 and took effect on 15 March. The Act also created the Tripartite Committee of Fair Wage. This committee was formed to set the minimum wage guidelines in India. It defined the minimum wage and the criteria for its calculation. It set the foundation for the wage fixation process in India.

The salary levels are determined based on the number of employees.

4.3.2 Objectives of the Minimum Wages Act 1948

The following are the goals of the Minimum Wages Act of 1948:

- ❖ To make it illegal to take advantage of workers at work.
- ❖ To make sure that all blue-collar workers in the organised sector get paid at least the minimum wage.
- ❖ To make sure that the Act applies to as many organised sector workers as possible.
- ❖ To allow the government to set minimum pay and then change them every five years based on how the economy is doing in the country.
- ❖ To protect the worker so that they can meet their needs and be healthy and comfortable.

The Minimum wage Act 1948 accommodates fixing wage rates (time, piece, ensured time, additional time) for any industry.

1) While fixing hours for an ordinary working day according to the demonstration, ought to ensure the accompanying:

- The number of hours to be fixed for an ordinary working day should have at least one stretch/break

- One three-day weekend from a whole week ought to be given to the representative for rest
 - Installation for the day chosen to be given for rest ought to be paid at a rate at the very least the additional time rate
- 2) If a representative is engaged with work that classifies his service in at least two booked vocations, the worker's pay will incorporate a particular compensation pace of all work for the number of hours devoted at each undertaking.
 - 3) The business must keep records of all workers' work, wages, and receipts.
 - 4) Appropriate legislatures will characterise and dole out the errand of review and choose examiners for the equivalent.

4.3.3 SCOPE OF MINIMUM WAGES ACT

The importance of the Minimum wage act 1948 is to prevent employee exploitation and ensure a decent living for a worker. The Act provides that the government will fix the minimum wage rate and revise it every five years. It appoints advisory committees to consider the proposals. The government must follow the guidelines and implement them as soon as possible. In many cases, this means announcing the changes to the law before the public.

- The Act was introduced in 1948, and it was amended in 2000
- The changes included a change in the floor level for minimum wages
- Currently, the minimum wage floor in India is 115, but the law also gives exceptions for certain employees
- The lowest floors are in Andhra Pradesh, Kerala, and Gujarat
- In addition to this, the new law provides for higher minimum wages for workers with disabilities

The act requires the government to consult with the committee and the representatives of the people affected by the minimum wage.

- The committee determines the minimum rate of the act
- The government must publish it in the official newspapers and enforce it within three months
- The government must inform the affected parties of the proposed minimum wage by publishing the decision in a national daily
- In case of non-payment of wages, the authority must pay ten times the difference.

4.3.4 Fixation and Revision of Minimum rates

- The Minimum Wages Act, 1948, for the most part, indicates the lowest pay permitted by law rates on an everyday basis and stretches out to the whole nation. It is overhauled every five years, but there is an arrangement to increment the dearness allowance every two years. ILC first suggested the standards for fixing and amending minimum wages.
- Update of the lowest pay permitted by law rates depends on a 'typical cost for many everyday items list', and wages can be fixed for a whole state, some portion of the state, class or classes, and occupations relating to these classifications. The obsession with wages depends on the standards referenced and a compensation board (different for various industries).
- Under the Minimum Wages Act, State and Central Governments can fix and reexamine the least wages.
- The demonstration determines that the "suitable" government ought to improve the wages; for example, if the wages to be fixed are according to any power of the Central Government or Railway organisation, then the Central government fixes it
- Assuming that the compensation rate is to be fixed or amended for planned work, the separate state legislatures set it
- The Centre fixes the National floor level Minimum Wage that is lower than most states' individual least wages
- The vagueness and cross-over in the locale of government levels have caused discussions and contentions

- One of such discussions spins around fixing wage paces of MGNREGA plot and a business ensure drive by the Central Government.

Fixing Minimum Rates of Wages

Section 3 of the Act provides for fixing the rates of the minimum wage by the appropriate government. Sub-section (1) provides that the appropriate government shall fix the minimum rate of wages payable to the employees in employment mentioned under Part I or Part II of the Schedule to the Act (Scheduled Employment) and review the minimum wages for a period of five years. Sub-section (1A) provides that the appropriate government may refrain from fixing minimum wages for any Scheduled Employment where the number of employees in the whole State is less than one thousand until such number remains less than one thousand.

Sub-section (2) provides that the appropriate government may fix:

1. Minimum time rate;
2. Minimum piece rate; 3. A guaranteed time rate; and
4. An overtime rate.

Sub-section (3) provides the power to the appropriate government to fix different rates of minimum wages for the following:

1. Different scheduled employments;
2. Different classes of work in the same scheduled employment;
3. Adults, adolescents, children and apprentices; and
4. Different localities

These minimum wages can be fixed either on an hourly basis, by the day, by the month, or by any other time period as prescribed by the appropriate government.

Section 4 of the Act provides the minimum rates of wages. Minimum rates of wages shall consist of either:

“(i) a basic rate of wages and a special allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as the “cost of living allowance”); or

(ii) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concessional rates, where so authorised; or

(iii) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.”

Further, Section 5 of the Act provides that the appropriate government may fix or revise minimum wages either by appointing committees and sub-committees or by publishing its proposal for the people likely to be affected by such proposals in the Official Gazette.

In *Standard Vacuum Refining Company v. Its Workmen (1961)*, the Apex Court held that the following shall be the guiding principles for the determination of minimum wages by all wage fixing authorities:

1. A standard working-class family should contain 3 units for every earning member, in which the earnings of women, children, and adolescents must be disregarded;
2. Minimum food requirement must be calculated on the basis of net calorie intake;
3. Clothing must be calculated at the rate of 18 yards per person per annum;

4. With respect to housing, the rent corresponding to the minimum area provided for under the Government's Industrial Housing Scheme should be taken into consideration; and
5. Fuel, lighting, and other miscellaneous items of expenditure must constitute 20% of the total minimum wage.

Later, It was held that the education of the children, medical requirements, minimum recreation, including festivals, etc., and provision for old age, etc. should further constitute 25% of the total minimum wage.

4.3.5 Procedure For Fixing And Revising Minimum Wage

Fixing Of Minimum Rates u/s 3(2)

The appropriate government can fix

- A minimum piece rate
- Minimum time rate
- Overtime rate which is the minimum time or piece rate as a substitution of some other rate which would have been otherwise applied for overtime work performed by employees.
- Guaranteed time rate which is the minimum remuneration rate applicable to employees who had been working on piece rate till now if he is again employed on time rate.

While revising or freshly fixing the wage rate under the Minimum wages act

- Varying rates of minimum wage shall be fixed for
 - Varying classes of work under the same scheduled employment
 - Different scheduled employment
 - Various localities and
 - Apprentices, children, adolescents, and adults

- Minimum wage rate can either be fixed by one or more of these wage periods
 - Month
 - Day
 - Hour
 - Any other larger wage-period which is deemed appropriate

Section 4 of the Minimum wages act states that the appropriate government can either fix or revise the wage rate of scheduled employments.

However, the following parts shall come under the purview of the appropriate government in such a case:

- Basic wage rate and special allowance which should be in harmony with the cost of living index of its workers.
- Basic wage rate either along with or without the cost of living allowance as well as the authorized cash value of concessions pertaining to the supply of essential commodities at subsidized rates.
- A comprehensive wage rate comprising of the cash value of the concessions, cost of living allowance and the basic rate.

Alternatively, a competent authority can calculate the cash value of concessions and cost of living allowance. This has to be done after appropriate intervals and according to the directions laid down by the appropriate government.

Let us understand more about [Deductions from Wages here](#) in detail

Section 5 of Minimum Wages Act – Procedure To Fix Or Revise Minimum Wages

- When the minimum wage rate of scheduled employment is fixed, or revised for the very first time under this act,
 - As many committees and sub-committees can be appointed as necessary.
 - A notification containing the relevant proposals can be published in the official gazette containing information related to people who might

be affected by the same. A date also needs to be specified within a span of two months from the date of notification within which the proposals should be considered.

- The appropriate government can issue a notification in the Official Gazette after considering the advice of the committee to fix or revise the minimum wage rate.

4.3.6 Mode of payment of wages under Minimum Wages Act, 1948

All the wages shall be paid in cash only, as provided under Section 11 of the Act. However, where it has been a practice to pay the wages in kind, either wholly or partly, authorisation from the appropriate government is necessary. This includes concessions on essential commodities as required.

Section 12 of the Act provides the manner in which the employees have to make the payment of the minimum wages. The provision provides that the employer shall pay the minimum rates of wages to every employee working under him within the prescribed time period.

Fixing hours for a normal working day under Minimum Wages Act, 1948

Section 13 of the Act provides that the appropriate government may fix the working hours in the following manner:

1. Fix the working hours of a normal day, including one or more specified intervals.
2. Provide a day of rest in every period of seven days to all the employees or a class of employees, and adequate remuneration must be provided to the employees during the day of rest.
3. Provide payment to the employees on the day of rest, which shall not be less than the overtime rate.

Section 14 of the Act provides that where an employee works over the specified number of hours in a normal working day, he shall be entitled to receive such overtime wages at the rate fixed under the Act for every hour after his normal working hours.

In case an employee works for less number of hours in a normal working day than prescribed, he shall still receive the minimum wages fixed under the Act. However, this provision shall apply only if the lower number of hours of work was not caused by the unwillingness of the employee. The provision has been provided under Section 15 of the Act.

4.3.7 Compliance under Minimum Wages Act, 1948

Section 18 of the Act mandates the maintenance of records and registers by every employer under the Act. The records shall contain the particulars of the employees employed by the employer, the work performed by them, the wages paid to them, the receipts given by them, and any other information prescribed by the appropriate government. The employer also has to keep an exhibit of the factory, workshop, or place where the scheduled employment is carried out. Such registers and records may be perused by the inspector appointed by the appropriate government under Section 19 of the Act. The inspector may:

1. In order to examine the register, a record of wages, etc., the inspectors may enter the premises or places within the local limits of their authority where the employees are employed to work and for which minimum rates of pay have been determined under the Act.
2. Examine any person whom the inspector may have reasons to believe is an employee.
3. Require any contractor to provide information relating to the employees.
4. Seize or make copies of the wage registers, etc., which he may have reasons to believe were committed by the employer.

5. The appropriate government may provide any other powers or duties under the Act.

Every inspector under the Act shall be deemed to be a public servant as prescribed under the Indian Penal Code, 1860.

4.3.8 Difference between the Payment of Wages Act, 1936 and Minimum Wages Act, 1948

In general, people think that the Minimum Wages Act of 1948 is simply an extension of the Payment of Wages Act, 1936. However, this is not true at all. Both the Acts are entirely different. As per the Payment of Wages Act of 1936, workers must be able to get their wages on time, and it also specifies the minimum wages that must be paid to them.

Basis	Payment of Wages Act of 1936	Minimum Wages Act of 1948
Objective of the Act	The objective behind the introduction of this Act was to prevent delays in the payment of wages that led to a debt trap for the informal sector workers.	The objective behind the introduction of this Act was to ensure that every worker receives at least a minimum amount of money as wages and to avoid the exploitation of the informal sector workers.
Application and scope of the Act	Payment of Wages Act of 1936 applies uniformly to the whole territory of India, including the State of Jammu and Kashmir.	Minimum Wages Act of 1948 is applicable to the whole of India. However, its scope varies depending on states and regions
Definition of Wages	Payment of Wages Act of 1936 defines “wages” under Section 2 (VI) of the Act.	Minimum Wages Act of 1948 defines “wages” under Section 2 (h) of the Act.

Purpose of the act	The Act aims to control how certain types of people who work in the industry are paid their wages. Its goal is to guarantee the regular payment of wages free from any unlawful deductions	The Act is designed to set up the minimum wage determining mechanism in industries where there is no plan in place for the absolute management of wages. This mechanism is built by collective bargaining agreements or other means. It prevents the exploitation of workers.
Inclusion of housing allowance	The housing allowance is not a part of wages under the Payment of Wages Act of 1936.	Wages include a housing rent allowance under the Minimum Wages Act of 1948.
Additional remuneration	Regardless of whether it is referred to as a monetary incentive or by another name, any additional compensation due under the conditions of employment is not considered as “wages.”	The additional payments due under the conditions of employment to the employee are not considered wages.
Scope of wages	Wages”encompasses compensation for extra hours, holidays, and leave time.	Compensation for extra hours, holidays, and leave time is excluded.
Compensation by the court	Any compensation that is due under a court’s orders, judgments, or settlements is considered wages.	It excludes any compensation due in accordance with a court’s decision, settlement, or decree.
Other monetary amounts payable regarding employment	Wages also comprise any amount that is payable by the employer to the employee related to his or her termination of work under any law, etc.	Wages under the Minimum Wages Act of 1948 does not comprise any amount that is payable by the employer to the employee related to his or her termination of work under any law, etc.

Scheme-related monetary benefit	Any amount that the employee is eligible to receive under a scheme created in accordance with law is included in wages.	Any amount that the employee is eligible to receive under a scheme created in accordance with a law is not included in the wages.
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Summary

The Payment of Wages Act, 1936, and the Minimum Wages Act, 1948, are both crucial pieces of legislation in India concerning workers' rights and wages, but they serve different purposes:

1. Payment of Wages Act, 1936:

- **Objective:** Ensures timely payment of wages to employees and prevents unauthorized deductions from their wages.
- **Key Provisions:**
 - Specifies the time and manner of wage payments (weekly, monthly, etc.).
 - Limits fines and deductions that employers can make from wages.
 - Provides for complaints and penalties for non-compliance.
- **Applicability:** Applies to all establishments and industries where workers are employed, including factories, mines, plantations, shops, and other establishments.

2. Minimum Wages Act, 1948:

- **Objective:** Ensures that workers receive wages that are not below a prescribed minimum rate, thereby preventing exploitation.
- **Key Provisions:**
 - Fixes minimum rates of wages for scheduled employments (industries or sectors).
 - Specifies the intervals for payment of wages.
 - Empowers appropriate governments to revise minimum wages.
 - Provides for the appointment of advisory boards and inspectors.
- **Applicability:** Applies to scheduled employments as notified by the government, which includes various industries and sectors.

While both acts address aspects of wages and workers' rights, the Payment of Wages Act primarily focuses on the timely payment and deductions of wages, ensuring that workers are paid promptly and fairly. On the other hand, the Minimum Wages Act focuses on establishing and enforcing minimum wage standards to prevent the exploitation of workers by ensuring they are paid at least the minimum rate set for their employment sector or industry. Together, these acts contribute to safeguarding workers' rights and promoting fair labor practices in India.

**Check Your Progress****- QUIZ - 1**

1. The Minimum Wages Act, 1948, aims to ensure:
 - A) Timely payment of wages.
 - B) Equal wages for men and women.
 - C) Wages that are not below a prescribed minimum rate.
 - D) All of the above.
2. Who fixes the minimum rates of wages under the Minimum Wages Act, 1948?
 - A) Central Government.
 - B) State Government.
 - C) Employer.
 - D) Trade Union.
3. The Minimum Wages Act applies to which of the following sectors?
 - A) A) All sectors.
 - B) Only agricultural sectors.
 - C) Only industrial sectors.
 - D) Scheduled employments as notified by the government.
4. Which of the following is responsible for the enforcement of the Minimum Wages Act, 1948?
 - A) Police Department.
 - B) Labor Department.
 - C) Judiciary.
 - D) Ministry of Finance.

5. What is the interval for payment of wages under the Minimum Wages Act, 1948?
- Monthly.
 - Quarterly.
 - Half-yearly.
 - Weekly or less.

Answers:

- C) Wages that are not below a prescribed minimum rate.
- D) Trade Union.
- D) Scheduled employments as notified by the government.
- B) Labor Department.
- D) Weekly or less.

4.4 Glossary

Permissible	Followed by Law or by a set of rules.
Deductions	Taking away an amount or number from total.
Remuneration	Money paid for work or a service.
Exploitation	The action of making use of and benefiting from resources.
Compensation	Money that you pay to somebody because you have injured him/her.

4.5 Self-Assessment questions

Short Answers: (5 Marks) K3/K4 Level Questions

Sl.no	Questions	Level
1.	Define payment of Wages Act 1936. Explain its objectives.	K3
2.	Describe the primary goal of the payment of wages Act.	K3
3.	What do you mean by deductions and explain its limits.	K3
4.	Discuss deduction for recovery of loans, deductions for payment to co-operative societies and insurance schemes.	K3

5.	Describe the scope of minimum wages Act.	K3
6.	Explain the fixation of minimum rates.	K4
7.	Describe the modes of payment of wages under minimum wages act 1948.	K4
8.	Explain compliance under minimum Wages Act, 1948.	K4
9.	Difference between payment of wages Act and minimum wages Act, 1948.	K4
10.	Give a short note on procedure for deductions.	K4

Essay Type Answers: (8 Marks) K5/KS Level Questions

Sl.no	Questions	Level
1.	Restrictions with respect to deductions from the wages for absence from duty under payment of wages Act.	K5
2.	It is permissible to pay wages in kind under minimum wages Act- Discuss	K5
3.	What establishments may be exempted form operation of Employees under payment of wages?	K5
4.	Define wages under payment of wages Act 1936.	K5
5.	Analyze the procedure for fixing of minimum wages under minimum wages Act 1948.	K5
6.	Explain time and manner of payment of wages under payment of wages act and state the person responsible for payment of wages.	K6
7.	Examine the concept of minimum, fair and living wages.	K6
8.	Explain the following with reference to minimum wages Act: a) Inspector. b) Authority to hear and decide claims.	K6
9.	Discuss authorized deductions under payment of wages Act, 1936	K6
10.	Discuss the concept of permanent total disablement and permanent partial disablement. What is the amount f compensation provided In the about category of cases.	K6

UNIT – 4 – PAYMENT OF WAGES ACT 1936 and Minimum Wages Act, 1948 – ASSIGNMENTS – Quadrant 3

4.6 Activities - Assignment



Activities

Topic: "Impact of the Payment of Wages Act on Various Industries"

Students can conduct surveys or interviews with professionals from Activities different industries to understand how the Act affects wage payment practices.

Topic: "The History and Evolution of the Payment of Wages Act"

Students can explore the historical context, key amendments, and current provisions of the Act.

Evaluate the challenges faced by employers in complying with the Minimum Wages Act. How can these challenges be mitigated? Draft a proposal for amending the Minimum Wages Act to address current economic challenges or emerging labor market trends.

Topics for Discussion (Quadrant – 4)

1. Discuss how the Payment of Wages Act and the Minimum Wages Act collectively contribute to protecting workers' rights and welfare
2. Explore the challenges faced by employers and government agencies in ensuring compliance with both Acts. Discuss strategies for effective monitoring and enforcement
3. Discuss the role of trade unions in advocating for fair wages and timely payments. Share examples of successful union interventions.
4. Compare the Payment of Wages Act and the Minimum Wages Act with similar legislation in other countries.

Discuss what can be learned from international practices.

Debate potential reforms to both Acts to address emerging labor market trends, such as gig economy workers and digital payment methods

UNIT V The Provident Fund and Miscellaneous Provision Act, 1952, The Payment of Gratuity Act, 1972 and The Payment of Bonus Act, 1965

Provident Fund and Miscellaneous Provision Act, 1952: Definitions – Scope – Nature – Objects – Various schemes – The Payment of Gratuity Act, 1972: Definitions – Scope – Conditions and circumstances of payment- Wages for computing gratuity – Maximum gratuity – Nomination – Penalties – The Payment of Bonus Act: Applicability of the Act – Eligibility and rate of Bonus – Allocable surplus and available surplus - Set and set off – Offences and penalties.

4.7 Suggested Reading References

- *Minimum Wages Act (Act No. 11 of 1948)* by Universal Law Publishing
- *Industrial Relations and Labour Laws* by P.R.N. Sinha, Indu Bala Sinha, and Seema Priyadarshini Shekhar
- *Labour and Industrial Laws* by S.N. Mishra
- *Industrial Relations and Labour Laws* by Arun Monappa, Ranjeet Nambudiri, and Patturaja Selvaraj

The Provident Fund and Miscellaneous Provision Act, 1952, The Payment of Gratuity Act, 1972 and The Payment of Bonus Act, 1965

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Learning Objectives

- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, is a significant piece of social security legislation aimed at providing financial stability and security to employees post-retirement.
- Understand the differences between the Employees' Provident Fund (EPF), Employees' Pension Scheme (EPS), and Employees' Deposit Linked Insurance Scheme (EDLI).
- Understand the statutory compliance requirements for employers, including registration, contribution remittance, and maintenance of records.

- Learn about the inspection and enforcement mechanisms to ensure compliance with the Act.
- By achieving these learning outcomes, individuals will gain a comprehensive understanding of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. This knowledge will help them ensure compliance, maximize benefits, and effectively manage provident fund-related matters in their professional roles.

5.1 The Provident Fund and Miscellaneous Provision Act 1952

5.1.1. Introduction and Meaning

The Employee Provident Funds, 1952 is a beneficial legislation enacted for the betterment of the future of industrial worker:

1. On his retirement.
2. For his dependents in case of death of employment.

This Act is enacted as a social security measure which falls under the ground of “retirement benefit”, the object of this Act is to inculcate, non withdrawable financial benefit, the sum is payable normally on retirement or on the death of the employee. Administration of the scheme given under this act is done by the central board, state board, and regional committee, a chief executive committee appointed and constituted by the central government.

- Central board _ Section 5A
- Executive committee – Section 5AA
- State board – Section 5B □ Regional committee.

MEANING

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, is a piece of legislation enacted by the Indian parliament to provide social security benefits to employees. The act applies to any establishment that employs 20 or

more workers in India. It provides for the creation of a provident fund account where employers are required to deposit 12% of their employees' salary every month towards this fund. This money can be used by an employee upon retirement or if they become unemployed due to certain circumstances such as illness, injury, etc.

The act also provides for other benefits like gratuity payments at retirement based on years of service and pension funds for continuous employment exceeding 10 years. In addition, it allows for withdrawal from these accounts under special circumstances like marriage expenses or medical treatment costs.

5.1.2 Scope of The Act

The employer is under a statutory obligation to deduct a specified percentage of the contribution from the employee's salary for provident fund. The employer should also contribute such percentage for provident fund. An employee who gets more than 15,000 is eligible for getting the provident fund.

This Act contains nearly 20 sections and four schedules. Section 7E, F, G, H, M, N is omitted, section 20 is repealed.

Applicability of the Act – section 1 of this Act deals with the application of the Act.

This is applicable to “every factory engaged in any industry specified in schedule I”.

1. Every establishment in which 20 or more are employed.
2. Any establishment notified by the central government.
3. Any class of such establishment employing 20 or more. This Act is applicable to home workers held in the case Mangalore Gandhi Beedi workers V. U.O.I and P.M.Patel V. U.O.I.
4. This Act is applied when the establishment satisfies the two tests, namely:
 - Whether there is an establishment is a 'factory'?
 - Whether 20 or more person is employed which is held in the case Andhra University V. Regional Provident Fund Commissioner.

Some workers will not come under this Act. They are Casual, or temporary workers can't be considered as employee held in the case *Bikar cold storage co. Ltd. V. Regional PF Commissioner*.

5.1.3 Objectives of the EPF and MP Act 1952

- ◆ The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 aims to provide a kind of social security to the industrial workers. The Act mainly provides retirement or old age benefits, such as Provident Fund, Superannuation Pension, Invalidation Pension, Family Pension and Deposit-Linked Insurance.
- ◆ The Act provides for payment of terminal benefits on the happening of various contingencies such as retirement, closure, retirement on attainment of the age of superannuation, voluntary retirement and retirement due to factors which result in incapacity of the employee to work.

5.1.4 Nature of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952

1. Social Security Legislation:

The Act is fundamentally a social security measure aimed at ensuring financial stability for employees after retirement or in cases of contingencies such as disability or death. It provides a system of compulsory savings to help employees build a financial cushion for their future.

2. Mandatory Contributions:

The Act mandates both employers and employees to contribute a specified percentage of the employee's wages to the provident fund. These contributions are made regularly and accumulate over time, forming a substantial corpus for the employee.

3. **Comprehensive Coverage:**

The Act covers a wide range of establishments, including factories, industries, and other specified establishments employing a minimum number of employees (currently, this threshold is typically 20 employees). ◦ It applies to all employees earning below a certain wage threshold, although employers can voluntarily extend benefits to higher-earning employees as well.

4. **Regulatory Framework:**

The Act establishes a regulatory framework for the administration and management of provident fund schemes, including the Employees' Provident Fund (EPF), Employees' Pension Scheme (EPS), and Employees' Deposit Linked Insurance Scheme (EDLI). ◦ It sets forth rules and guidelines for the management of funds, including investment norms, fund transfer procedures, and audit requirements.

5. **Administrative Authority:**

- The Act is administered by the Employees' Provident Fund Organisation (EPFO), which is responsible for implementing the provisions of the Act, managing the funds, ensuring compliance, and handling grievances.
- The EPFO operates through a network of regional and sub-regional offices across the country.

6. **Defined Benefits and Withdrawals:**

The Act defines the benefits available to employees, including retirement benefits, pension, and insurance coverage. ◦ It specifies the conditions under which employees can withdraw their provident fund accumulations, such as retirement, resignation, or specific needs like housing, medical treatment, or higher education.

7. **Legal and Compliance Obligations:**

The Act imposes legal obligations on employers to register their establishments, maintain accurate records, and make timely contributions. ○ Employers are also required to file regular returns and comply with inspections and audits conducted by EPFO officials.

8. Penalties and Enforcement:

The Act provides for penalties and legal action against employers who fail to comply with its provisions, including fines and imprisonment for serious violations. ○ It ensures enforcement through inspections, audits, and the EPF Appellate Tribunal, which adjudicates disputes and grievances.

9. Dynamic and Evolving:

The Act has been amended several times to address changing economic conditions, inflation, and the evolving needs of the workforce. ○ It incorporates provisions for regular updates to contribution rates, wage ceilings, and benefit calculations.

10. Employee Welfare Focus:

- The central focus of the Act is employee welfare, aiming to improve the quality of life for workers and their dependents.
- It seeks to provide a safety net that enhances the social and economic security of employees, fostering a more stable and productive workforce.

Conclusion

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, is characterized by its focus on compulsory savings, comprehensive coverage, regulatory oversight, and commitment to employee welfare. It plays a crucial role in the social security landscape of India, ensuring that employees have access to financial resources in their post-employment years and during times of need.

SUMMARY

Meaning:

The Employees' Provident Fund (EPF) is a retirement benefits scheme for salaried employees in India, regulated by the Employees' Provident Fund Organisation (EPFO). Both employees and employers contribute a fixed percentage of the employee's salary towards the fund, which accumulates over time and provides financial security after retirement.

Objective:

The primary objective of the EPF is to ensure financial stability and security for employees after their retirement. It aims to:

- Provide a reliable source of income for employees post-retirement.
- Encourage savings among employees by mandating contributions from both employees and employers.
- Offer financial assistance in cases of emergencies, such as medical expenses, housing, or education.

Nature:

1. **Mandatory Contribution:** Both employees and employers are required to contribute a certain percentage of the employee's salary to the EPF. The standard contribution rate is 12% of the basic salary and dearness allowance.
2. **Long-term Savings:** The EPF scheme promotes long-term savings by providing interest on the accumulated funds, ensuring that employees have a substantial amount saved by the time they retire.
3. **Regulated by EPFO:** The scheme is managed and regulated by the Employees' Provident Fund Organisation (EPFO), which ensures

compliance with the rules and regulations and oversees the proper management of the funds.

4. **Withdrawal Rules:** While the primary purpose is retirement savings, the EPF allows for partial withdrawals under certain conditions such as buying a house, medical emergencies, higher education, or marriage of children. Full withdrawal is generally permitted at the age of 58 years or upon retirement.
5. **Universal Coverage:** The EPF covers all establishments employing 20 or more employees, ensuring that a large section of the workforce is protected under the scheme.

Conclusion

The Employees' Provident Fund (EPF) is a vital financial security measure for employees in India, mandating contributions from both employees and employers to create a substantial retirement corpus. Its objectives are to provide financial stability post-retirement and encourage savings. Managed by the EPFO, the EPF scheme is characterized by mandatory contributions, long-term savings, regulated management, specific withdrawal rules, and extensive coverage.



Check Your Progress



- QUIZ - 1

1. **Which organization manages the EPF in India?**
 - A. Reserve Bank of India
 - B. Employee Provident Fund Organization (EPFO)
 - C. State Bank of India
 - D. Ministry of Finance
2. **What is the primary objective of the EPF?**
 - A. To provide unemployment benefits
 - B. To offer financial security and stability to employees after retirement

C. To fund employees' medical expenses D. To provide educational loans to employees

3. The EPF is a type of:

- A. Tax deduction
- B. Savings scheme
- C. Loan scheme
- D. Health insurance

4. At what rate is the employee's contribution to the EPF typically set?

- A. 5% of basic salary
- B. 10% of basic salary
- C. 12% of basic salary
- D. 15% of basic salary

5. Which of the following is not a benefit provided by the EPF scheme?

- A. Retirement benefits
- B. Life insurance benefits
- C. Medical insurance benefits
- D. Pension after retirement

ANSWERS

1. B. Employee Provident Fund Organization (EPFO)
2. B. To offer financial security and stability to employees after retirement
3. B. Savings scheme
4. C. 12% of basic salary
5. C. Medical insurance benefits

5.2. Various Schemes Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952,

Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, various schemes are established to provide comprehensive social security benefits to employees. These schemes include the Employees' Provident Fund (EPF),

Employees' Pension Scheme (EPS), and Employees' Deposit Linked Insurance Scheme (EDLI). Here's an overview of each scheme:

5.2.1 Various Schemes under the Act

1. Employees' Provident Fund (EPF)

The EPF scheme is a retirement benefit scheme for employees in the organized sector. Both the employee and the employer contribute to the fund monthly.

Key Features:

- **Contributions:** Both the employee and employer contribute 12% of the employee's basic salary and dearness allowance to the EPF. For certain establishments, the contribution rate may be lower.
- **Interest:** The contributions earn interest, which is compounded annually. The interest rate is declared by the government each year.
- **Withdrawal:** Employees can withdraw the full amount on retirement, after a specified period of unemployment, or for specific purposes such as housing, medical treatment, or education.
- **Partial Withdrawals:** Allowed under specific circumstances like marriage, education, home purchase, and medical emergencies.

2. Employees' Pension Scheme (EPS)

The EPS provides pension benefits to employees after retirement or to their families in case of the employee's death

Key Features:

- **Contributions:** 8.33% of the employer's contribution goes to the EPS, with the government contributing 1.16% for employees earning up to ₹15,000 per month.
- **Eligibility:** To be eligible for pension benefits, the employee must have completed at least 10 years of service.
- **Pension Benefits:** Monthly pension on retirement at the age of 58 or on attaining the age of 50 (early pension with reduced benefits). Family pension is provided in case of the death of the member.
- **Commutation:** Part of the pension can be commuted into a lump-sum payment at retirement.

3. Employees' Deposit Linked Insurance Scheme (EDLI)

The EDLI scheme provides life insurance coverage to employees.

Key Features:

- **Contributions:** The employer contributes 0.5% of the employee's basic salary and dearness allowance to the EDLI. There is no contribution required from the employee.
- **Coverage:** Provides a lump-sum payment to the nominee or legal heir of the employee in case of the employee's death while in service.
- **Benefit Amount:** The benefit amount is 35 times the average monthly salary of the last 12 months, subject to a maximum limit, plus a bonus amount. As of recent updates, the maximum payout can go up to ₹7 lakhs.

4. Universal Account Number (UAN)

Though not a separate scheme, the introduction of the Universal Account Number (UAN) has streamlined the management of EPF accounts.

Key Features:

- **Portability:** UAN remains the same throughout the employee's career, regardless of job changes.
- **Simplified Management:** Enables employees to link multiple EPF accounts, check balances, transfer funds, and track contributions online.
- **Transparency:** Enhances transparency by providing easy access to account information and reducing dependency on employers for account management.

5. Employees' Enrolment Campaign, 2017

This was a special campaign to encourage the enrolment of employees who were not covered under the EPF scheme earlier.

Key Features:

- **Incentives:** Provided incentives to employers for enrolling their employees, including the waiver of administrative charges and penalties for past noncompliance.
- **Awareness:** Increased awareness among employers and employees about the benefits of being enrolled in the EPF scheme.

Conclusion

The various schemes under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, provide a robust social security framework for employees in India. They ensure financial stability post-retirement, offer life insurance coverage, and provide pension benefits, contributing to the overall welfare and security of the workforce.

SUMMARY

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, is a pivotal social security legislation in India aimed at providing financial security and stability to employees in the organized sector. This comprehensive Act encompasses several schemes designed to ensure post-retirement benefits, life insurance, and pension for employees. Here's a concise summary:

Key Objectives

- **Financial Security:** To ensure that employees have a financial cushion after retirement or in cases of contingencies such as disability or death.
- **Social Welfare:** To provide comprehensive social security benefits, including provident fund, pension, and life insurance.

Major Schemes

- Employees' Provident Fund (EPF)
- Employees' Pension Scheme (EPS)
- Employees' Deposit Linked Insurance Scheme (EDLI)



Check Your Progress



- QUIZ - 1

1. What is the primary objective of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952?
 - A. To regulate working hours
 - B. To provide social security and financial stability to employees
 - C. To ensure payment of minimum wages
 - D. To establish guidelines for employee promotions
2. Under the Employees' Provident Fund (EPF) scheme, what is the standard contribution rate for both employees and employers?
 - A. 10% of basic salary
 - B. 12% of basic salary and dearness allowance
 - C. 15% of basic salary
 - D. 5% of total wages

3. Which organization is responsible for administering the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952?
- A. Ministry of Labour and Employment
 - B. Employees' Provident Fund Organisation (EPFO)
 - C. Reserve Bank of India (RBI)
 - D. National Pension System (NPS)
4. The Employees' Pension Scheme (EPS) provides pension benefits after retirement. What is the minimum number of years of service required for an employee to be eligible for pension benefits?
- A. 5 years
 - B. 7 years
 - C. 10 years
 - D. 15 years
5. What is the purpose of the Employees' Deposit Linked Insurance Scheme (EDLI)?
- A. To provide medical insurance to employees
 - B. To offer insurance cover in the event of an employee's death while in service
 - C. To grant housing loans to employees
 - D. To manage employees' retirement funds

Answers

- 1. B. To provide social security and financial stability to employees
- 2. B. 12% of basic salary and dearness allowance
- 3. B. Employees' Provident Fund Organisation (EPFO)
- 4. C. 10 years
- 5. B. To offer insurance cover in the event of an employee's death while in service

5.3 The Payment of Gratuity Act 1972

Learning Outcomes

- Explain the objectives of the Payment of Gratuity Act, 1972, which include providing financial security to employees upon retirement, resignation, or death.
- Identify the establishments and employees covered under the Act, including eligibility criteria based on the number of employees.
- Calculate gratuity payments based on the formula prescribed under the Act, considering factors such as years of service and last drawn salary.
- Understand the maximum limit on gratuity payable under the Act and the conditions under which it can be paid out.
- By achieving these learning outcomes, individuals will gain a comprehensive understanding of the Payment of Gratuity Act, 1972, and its implications for both employers and employees. This knowledge is crucial for ensuring compliance, managing gratuity funds effectively, and promoting fair treatment of employees regarding retirement benefits.

5.3.1 Introduction and Meaning

We all must have heard the term 'gratuity' which means "a sum of money that is paid to an employee at the end of the service." Well, that doesn't imply that every employee who leaves employment will receive an amount like that. So, in order to be eligible for the payment of gratuity, the minimum term of employment must be 5 years. In India, this is all governed by [the Payment of Gratuity Act, 1972](#). The Payment of Gratuity Act is a genre of statutes in India like the [Minimum Wages Act of 1948](#), which is an extension of labour laws and it lays down the minimum benefits to be provided to the employees. It is a social security enactment providing

for the welfare benefits of employees working in industries, companies, and organisations. In this article, the authors have discussed the key provisions of the Act along with the latest amendments.

5.3.2 Scope of the Payment of Gratuity Act, 1972

- The Act lay out its objective to guarantee a standard pattern for gratuity payments to employees across the nation in order to prevent treating employees of organisations with branches in multiple states differently when they may be required to transfer from one state to another due to service requirements.
- On August 21, the Act was approved by Parliament, and it became operative on September 16 of that same year. All divisions of the central, state, and local governments, as well as the military and local governing bodies, are subject to the provisions of this Act. If certain requirements are met, private organisations may fall under its jurisdiction. It is a monetary reward given to an employee in appreciation of his work and devotion to the company.

The Payment of Gratuity Act, 1972, provides for the payment of gratuity to employees in recognition of their long and meritorious service. Here are the conditions and circumstances under which gratuity is payable according to the Act:

5.3.3 Conditions and Circumstances of the Payment of Gratuity Act, 1972

1. Eligibility Criteria:

- An employee is eligible for gratuity if they have completed a minimum of five years of continuous service with the same employer. For employees engaged in seasonal establishments, gratuity is payable if they have worked for at least 190 days in a year for the establishment.

2. Types of Gratuity:

- **Normal Gratuity:** Payable to employees upon retirement, resignation, or termination.
- **Death Gratuity:** Payable to the nominee or legal heir of an employee in the event of the employee's death while in service, regardless of completing five years of service.

3. Calculation of Gratuity:

- Gratuity is calculated based on a formula prescribed under the Act:
Gratuity=Last Drawn Salary×Number of Completed Years of Service×1

$$\text{Gratuity} = \frac{\text{Last Drawn Salary} \times \text{Number of Completed Years of Service}}{15}$$

Gratuity=26Last Drawn Salary×Number of Completed Years of Service×15 Here, 'last drawn salary' includes basic salary, dearness allowance, and commission on sales (if any).

4. Maximum Limit:

- The maximum amount of gratuity payable under the Act is currently capped at ₹20 lakhs, as per the latest amendment.

5. Circumstances Under Which Gratuity is Payable:

- **Superannuation:** On retirement after completing the age of superannuation or voluntarily retiring after attaining the age of 58 years.
- **Resignation or Termination:** Upon resignation or termination after completing five years of continuous service.
- **Death or Disablement:** In case of death or disablement due to accident or illness, even if the employee has not completed five years of service.
- **Layoff or Retrenchment:** If the employee is laid off or retrenched due to closure or any other reason beyond their control, resulting in the termination of their service.

6. Non-Eligibility:

- Gratuity is not payable in cases where the employee has been dismissed for misconduct causing financial loss to the employer, riotous or disorderly conduct, or any act of violence.

7. Tax Implications:

- Gratuity received by employees is eligible for tax exemptions under certain conditions, as specified in the Income Tax Act, 1961.
- The exemption limit is based on the type of establishment (government, non-government) and employee's eligibility.

8. Administration and Compliance:

- Employers are responsible for maintaining accurate records of gratuity payments, calculating gratuity correctly, and ensuring timely payment to eligible employees.
- Disputes related to gratuity payments are adjudicated by the Controlling Authority appointed under the Act.

Conclusion

The Payment of Gratuity Act, 1972, ensures that employees receive a financial benefit for their long and dedicated service to an organization. By understanding the conditions and circumstances under which gratuity is payable, both employers and employees can navigate retirement benefits effectively, ensuring compliance with legal requirements and promoting fairness in employment practices.

5.3.4 Wages for computing Gratuity

Under the Payment of Gratuity Act, 1972, the wages used for computing gratuity include the basic salary, dearness allowance (if it forms part of the terms

of employment), and commission received on sales. However, it excludes other allowances such as house rent allowance, overtime allowance, bonus, conveyance allowance, etc.

Components Included in Wages for Computing Gratuity:

1. Basic Salary:

- This is the core component of an employee's salary and forms the basis for various statutory calculations.

2. Dearness Allowance (DA):

- If DA is a part of the terms of employment and is paid to employees, it is included in the calculation of wages for gratuity.

3. Commission on Sales:

- Commission received on sales is also considered as part of wages for the purpose of computing gratuity.

Components Excluded from Wages for Computing Gratuity:

1. House Rent Allowance (HRA):

- Allowances like HRA, which are specifically meant for covering rental expenses, are not included in the calculation of wages for gratuity.

2. Overtime Allowance:

- Allowances paid for overtime work are excluded from the computation of wages for gratuity.

3. Bonus:

- Any type of bonus, whether annual or performance-based, is not considered part of wages for gratuity calculation.

4. Conveyance Allowance:

- Allowances provided to meet conveyance or travel expenses are not included in the wages for gratuity computation.

5.3.5 Calculation Formula for Gratuity:

The gratuity amount payable is calculated using the following formula:

$$\text{Gratuity} = \text{Last drawn salary}(\text{Basic} + \text{DA}) \times \text{years of Service} \times 15 / 26$$

- **Last Drawn Salary:** It includes basic salary, dearness allowance (if applicable), and commission on sales.
- **Number of Completed Years of Service:** The total number of years and months of continuous service rendered by the employee.
- **15/26:** This fraction represents 15 days of wages for each completed year of service, considering a month as 26 working days.

Example:

If an employee's last drawn salary (basic salary + DA) is ₹50,000 and they have completed 10 years and 7 months of service, the gratuity calculation would be:

$$\begin{aligned}\text{Gratuity} &= 50,000 \times 11 \times 15 / 26 \\ &= 8250000 / 26 \\ &= \mathbf{317307.69}\end{aligned}$$

Here, 11 years (10 years + 7 months rounded up) is used for calculation purposes.

Conclusion

Understanding which components of wages are included and excluded for computing gratuity is essential for both employers and employees to ensure accurate and fair calculations. This knowledge helps in complying with the provisions of the Payment of Gratuity Act, 1972, and ensuring that employees receive their rightful benefits upon retirement, resignation, or in the event of death or disablement.

5.3.6 Maximum Gratuity , nomination and penalties

Maximum Gratuity Amount:

As per the latest amendment, the maximum amount of gratuity payable under the Payment of Gratuity Act, 1972, is ₹20 lakhs. This maximum limit applies to all employees covered under the Act, irrespective of their salary or years of service.

Even if an employee's gratuity amount exceeds ₹20 lakhs based on the formula calculation, the employer is only liable to pay a maximum of ₹20 lakhs as gratuity.

Nomination:

Under the Payment of Gratuity Act, 1972, employees have the right to nominate a person or persons to receive the gratuity amount in case of their death. Here are the key points regarding nomination:

- **Employee's Right:** Every employee who is eligible for gratuity can make a nomination by filling out Form F with their employer.
- **Nominee:** The employee can nominate one or more family members as nominees.
- **Revocation and Change:** The employee can revoke or change the nomination at any time by submitting a new nomination in Form G to the employer.
- **Effect of Nomination:** If a valid nomination is made, the gratuity amount will be paid to the nominee(s) upon the employee's death.

Penalties:

The Payment of Gratuity Act, 1972, stipulates penalties for non-compliance with its provisions. These penalties are aimed at ensuring timely payment of gratuity and adherence to the Act's requirements:

- **Delay in Payment:** If an employer fails to pay gratuity within the prescribed time (within 30 days from the date it becomes payable), the employer is liable to pay interest on the gratuity amount at a rate determined by the government.
- **Fine:** In case of any offense under the Act, such as failure to pay gratuity or contravention of any provision, the employer may face fines imposed by the Controlling Authority.
- **Legal Proceedings:** Non-compliance with the Act may also lead to legal proceedings and penalties, including imprisonment in certain cases of willful withholding of gratuity.

Conclusion:

Understanding the maximum gratuity amount, nomination rules, and penalties under the Payment of Gratuity Act, 1972, is crucial for both employers and employees. Employers must ensure timely payment of gratuity to eligible employees and comply with nomination procedures to avoid legal liabilities and penalties. Employees, on the other hand, should be aware of their rights regarding nomination and ensure that their nominations are updated as per their preferences.

Summary

The Payment of Gratuity Act, 1972, is a key legislation in India that ensures employees receive a gratuity payment as a reward for their long-term service upon retirement or termination. Here is a summary of the Gratuity Act:

Objective

The primary objective of the Payment of Gratuity Act, 1972, is to provide financial security and a lump-sum payment to employees in recognition of their service tenure, thereby aiding in their retirement planning or supporting them during transitions such as job change or retrenchment.

Applicability

- The Act applies to establishments with ten or more employees.
- It covers employees in factories, mines, oilfields, plantations, ports, railway companies, shops, or other establishments.
- Employees working in government or private sectors, and those drawing wages up to a specified limit, are eligible.

Eligibility

- An employee must have completed at least five years of continuous service with the same employer.
- Gratuity is payable upon retirement, resignation, or termination (excluding dismissal due to misconduct).
- In the event of the employee's death or disablement, the five-year rule is waived, and gratuity is payable to the nominee or legal heir.

Calculation of Gratuity

Gratuity is calculated based on the formula:

$$\text{Gratuity} = \text{Last drawn salary (Basic + DA)} \times \text{years of Service} \times 15 / 26$$

- **Last Drawn Salary:** Includes basic salary plus dearness allowance.
- **Number of Years of Service:** Any period in excess of six months is rounded off to the next higher year.

Maximum Limit

- The maximum gratuity payable under the Act is capped at ₹20 lakhs. This limit may be revised by the government from time to time.

Taxation

- Gratuity received by an employee is tax-exempt up to the specified limit under the Income Tax Act, 1961.
- Any amount exceeding the tax-free limit is subject to tax as per the prevailing tax laws.

Payment and Nomination

- Gratuity must be paid within 30 days from the date it becomes payable.
- Employees are required to nominate one or more family members and can change the nomination at any time.

Forfeiture of Gratuity

- Gratuity can be forfeited wholly or partially if the employee is terminated for proven misconduct, riotous or disorderly conduct, or any act involving moral turpitude.

Amendments and Updates

- The Act has undergone several amendments to increase the gratuity limit and make provisions more employee-friendly.
- Recent amendments also include provisions for including female employees' maternity leave as part of continuous service.

Conclusion

The Payment of Gratuity Act, 1972, ensures that employees receive a financial benefit for their long-term service. It serves as an essential tool for employee welfare, providing them with a lump-sum payment that can help in their retirement or during other critical life events. The Act's provisions protect employees' rights while balancing the responsibilities of employers, contributing to the overall goal of financial security for the workforce.



Check Your Progress



- QUIZ - 1

1. What is the maximum amount of gratuity payable under the Payment of Gratuity Act, 1972?
 - A. ₹10 lakhs
 - B. ₹15 lakhs
 - C. ₹20 lakhs
 - D. ₹25 lakhs
2. How many years of continuous service are required for an employee to be eligible for gratuity under the Act?
 - A. 1 year
 - B. 3 years
 - C. 5 years
 - D. 7 years
 - E.
3. Who has the right to make a nomination under the Payment of Gratuity Act, 1972?
 - A. Only married employees
 - B. Only employees with children
 - C. Any eligible employee
 - D. Only senior employees
4. What form should an employee use to make a nomination for gratuity?
 - A. Form A
 - B. Form B
 - C. Form F
 - D. Form G
5. What penalty can an employer face for delayed payment of gratuity under the Act?
 - A. Fine imposed by the Controlling Authority
 - B. Written warning
 - C. Verbal warning
 - D. No penalty

Answers

1. C. ₹20 lakhs
2. C. 5 years
3. C. Any eligible employee

4. C. Form F
5. A. Fine imposed by the Controlling Authority

5.4 THE PAYMENT OF BONUS ACT 1965

LEARNING OUTCOMES

- Individuals gain a comprehensive understanding of the Payment of Bonus Act, 1965, its application in various organizational settings, and its significance in ensuring equitable distribution of profits among employees.
- This knowledge is essential for HR professionals, employers, and employees alike to uphold legal standards, promote fair labor practices, and foster harmonious workplace relations.

5.4.1 Introduction

The Payment of Bonus Act, 1965, is an Indian legislation that mandates the payment of bonuses to employees based on the profits or productivity of an organization. The act applies to factories and establishments with 20 or more employees and outlines the framework for calculating and distributing bonuses. Here are some key points about the act:

1. **Eligibility:** Employees drawing a salary or wage of up to ₹21,000 per month are eligible for bonuses under the act.
2. **Bonus Calculation:** The act specifies a minimum bonus of 8.33% of the salary or wage earned by the employee during the accounting year, irrespective of whether the employer has any allocable surplus in the financial year. The maximum bonus is capped at 20% of the salary or wage.
3. **Allocable Surplus:** The act defines allocable surplus as 67% of the available surplus in case of a company that has not made any tax provision and 60% of the available surplus in other cases.
4. **Disqualification:** Employees who have been dismissed for fraud, violent conduct, theft, or other similar reasons are disqualified from receiving a bonus.

5. **Accounting Year:** The bonus must be paid within eight months from the close of the accounting year.
6. **Dispute Resolution:** Any disputes regarding the bonus payment can be referred to the appropriate authorities such as the Labor Commissioner or the Industrial Tribunal.

The Payment of Bonus Act aims to ensure that employees share in the prosperity of the organization they work for, thereby promoting industrial harmony and improving productivity.

5.4.2 Applicability of the Payment of Bonus Act, 1965

1. Types of Establishments:

- The Act applies to every factory (including factories belonging to the government) and establishments employing 20 or more persons on any day during the accounting year.
- It also extends to other establishments specified by the Central Government through notification, such as mines, plantations, ports, and companies engaged in any industry specified in Schedule I of the Act.

2. Employees Covered:

- Every employee who has worked for at least 30 days in an accounting year is eligible for bonus under the Act.
- Employees in managerial or administrative positions earning a salary above a certain threshold (currently ₹21,000 per month) are excluded from the Act's purview.

3. Exemptions:

- The Act does not apply to certain categories of employees, including those employed by the government (central or state), employees of LIC, employees of universities and educational institutions, and employees engaged in any industry whose profits are determined in accordance with the Insurance Act or the Banking Companies Act.

4. Calculation of Bonus:

- Bonus under the Act is calculated based on the salary or wage earned by the employee during the accounting year, subject to a minimum of 8.33% and a maximum of 20% of such salary or wage.

5. Administrative Requirements:

- Employers covered under the Act must maintain necessary records, submit annual returns, and comply with the timelines for payment of bonus as prescribed.

6. Dispute Resolution:

- Disputes arising under the Act related to bonus payments are settled through conciliation and arbitration proceedings conducted by designated authorities.

Conclusion

Understanding the applicability of the Payment of Bonus Act, 1965, is crucial for employers to ensure compliance with its provisions and for employees to understand their entitlement to bonus payments. This Act plays a significant role in promoting fairness in the distribution of profits and in maintaining harmonious industrial relations within covered establishments. Therefore, employers and HR professionals must adhere to the Act's requirements to avoid legal liabilities and promote a conducive work environment.

5.4.3 Eligibility for Bonus:

1. Employees Covered:

- Every employee who has worked for at least 30 days in an accounting year is eligible to receive bonus under the Payment of Bonus Act, 1965.

2. Types of Establishments:

The Act applies to every factory (including factories belonging to the government) and other establishments employing 20 or more persons on any day during the accounting year. ○ It also applies to other

establishments notified by the Central Government, such as mines, plantations, ports, and companies engaged in specified industries.

3. Exclusions:

o Employees in managerial or administrative positions earning a salary above ₹21,000 per month (as per the latest amendment) are excluded from the Act's purview. o Certain categories of employees, such as those employed by the government (central or state), employees of LIC, universities, and educational institutions, are also excluded.

5.4.4 Rate of Bonus

1. Minimum Bonus:

o The minimum bonus payable under the Act is 8.33% of the salary or wage earned by the employee during the accounting year, irrespective of the profit earned by the establishment.

2. Maximum Bonus:

o The maximum bonus payable is capped at 20% of the salary or wage, subject to fulfillment of certain conditions. o If the allocable surplus (computed as per the Act) is insufficient to pay the minimum bonus of 8.33%, the employer is still required to pay a minimum bonus of 8.33%.

3. Calculation Basis:

o Bonus is calculated based on the salary or wage earned by the employee during the accounting year. o Salary or wage includes basic pay, dearness allowance, and other allowances, but excludes overtime earnings and bonus. o The

allocable surplus is computed after making certain deductions as per the Act.

5.4.5 Special Provisions

1. **Set-off and Set-on:**

- Set-off and set-on provisions allow the employer to adjust excess or deficit bonus paid in previous years against the current year's liability, subject to conditions specified in the Act.

2. **Administrative Requirements:**

- Employers covered under the Act are required to maintain necessary records, submit annual returns, and ensure timely payment of bonus to eligible employees.

Conclusion:

Understanding the eligibility criteria and rate of bonus under the Payment of Bonus Act, 1965, is essential for both employers and employees to ensure compliance and fairness in bonus payments. Employers must adhere to the statutory provisions while calculating and disbursing bonus amounts, thereby promoting harmonious industrial relations and employee satisfaction within the organization.

5.4.6 ALLOCABLE SURPLUS AND AVAILABLE SURPLUS

Under the Payment of Bonus Act, 1965, the terms "allocable surplus" and "available surplus" are crucial concepts used to determine the amount of bonus payable to employees. Here's an explanation of these terms:

Allocable Surplus:

1. Definition:

- o Allocable surplus refers to the surplus profits earned by an establishment during the accounting year after making certain statutory deductions and allocations as specified under the Act.

2. Calculation:

o The allocable surplus is calculated by deducting the following from the gross profits of the establishment:

- Direct taxes and depreciation as per the Income Tax Act.
- Development rebate or development allowance, if any, under the Income Tax Act.
- Other permissible deductions specified under the Act.

3. Purpose:

- o The purpose of computing the allocable surplus is to determine the amount of profits available for distribution as bonus among eligible employees.

Available Surplus:

1. Definition:

- o Available surplus is the amount of surplus profits available for distribution as bonus after providing for the minimum statutory bonus payable (8.33% of the salary or wage earned by the employee during the accounting year).

2. Calculation:

- o Available surplus is computed by deducting the minimum statutory bonus payable from the allocable surplus.
- o If the allocable surplus is less than the minimum bonus payable (8.33%), the available surplus will be zero, but the minimum bonus still needs to be paid.

3. Importance:

- o Available surplus determines the actual amount of bonus that an employer can distribute among employees after fulfilling the statutory minimum requirement.
- o It ensures that employees receive a fair share of the profits earned by the establishment, taking into account the financial capacity of the employer.

Example:

If an establishment's gross profits for the accounting year amount to ₹1,00,000 and after deducting taxes, depreciation, and other permissible deductions, the allocable surplus is determined to be ₹70,000. Assuming the minimum statutory bonus payable is ₹8,333 (8.33% of ₹1,00,000), the available surplus would be ₹61,667 (₹70,000 - ₹8,333).

Conclusion:

Understanding the concepts of allocable surplus and available surplus under the Payment of Bonus Act, 1965, is essential for employers to calculate and distribute bonus payments accurately. These concepts ensure transparency and fairness in the distribution of profits as bonuses to eligible employees, thereby fostering good industrial relations and employee satisfaction within the organization.

5.4.7 SET ON AND SET OFF

In the context of the Payment of Bonus Act, 1965, "set-on" and "set-off" are provisions that allow employers to adjust excess or deficit bonus payments from previous years against the current year's liability. These provisions help in managing fluctuations in profits and ensuring fairness in bonus payments. Here's an explanation of set-on and set-off:

Set-on:**1. Definition:**

- Set-on refers to the situation where an employer has paid less bonus than the amount due in any accounting year, either by oversight or due to financial constraints.

2. Application:

- In subsequent years, when the financial condition of the establishment improves and there is sufficient allocable surplus, the employer can "set-on" the previously unpaid bonus amount against the current year's liability.

3. Purpose:

- The set-on provision allows employers to make up for deficits in bonus payments from previous years, ensuring that employees receive their rightful share of profits over time.

Set-off:**1. Definition:**

- Set-off refers to the situation where an employer has paid more bonus than the amount due in any accounting year, typically due to overestimation of profits or miscalculation.

2. Application:

- When calculating the bonus payable for the current year, the employer can "set-off" the excess amount paid in previous years against the current year's liability.

3. Purpose:

- The set-off provision helps in adjusting excess bonus payments made in the past, thereby reducing the financial burden on the employer in the current accounting year.

Key Points:

- **Legal Framework:** The set-on and set-off provisions are legally permissible under the Payment of Bonus Act, 1965, and provide flexibility to employers in managing bonus payments based on the financial performance of the establishment.
- **Conditions:** The employer must adhere to the conditions specified under the Act while applying set-on and set-off, ensuring compliance with statutory requirements and fairness in bonus distributions.
- **Employee Rights:** Employees have the right to challenge any discrepancies or unfair practices related to set-on and set-off through grievance redressal mechanisms provided under the Act.

Example:

- Suppose an employer paid a bonus of ₹10,000 in excess of the actual liability in the previous accounting year. In the current year, when calculating the bonus payable, the employer can set-off this excess amount against the current year's liability, thereby reducing the amount of bonus payable in the current year.

Conclusion:

Understanding the set-on and set-off provisions under the Payment of Bonus Act, 1965, is crucial for employers to manage bonus payments effectively while ensuring fairness and compliance with statutory requirements. These provisions enable employers to adjust bonus liabilities based on actual financial performance, contributing to harmonious industrial relations and employee satisfaction within the organization.

5.4.8 OFFENCES AND PENALTIES

Under the Payment of Bonus Act, 1965, there are provisions for offences and penalties that address non-compliance with the Act's requirements. These

penalties are designed to ensure adherence to the statutory provisions and fair treatment of employees regarding bonus payments. Here's an overview of offences and penalties under the Act:

Offences:

1. Non-payment of Bonus:

- Failure to pay bonus to eligible employees within the prescribed time frame (typically within 8 months from the close of the accounting year) constitutes an offence under the Act.

2. Underpayment of Bonus:

- Paying bonus amounts that are less than the statutory minimum required (8.33% of the salary or wage earned by the employee) is considered an offence.

3. Non-compliance with Record-Keeping Requirements:

- Failure to maintain necessary records related to bonus payments, including accounting records and employee details, as required under the Act.

4. Obstruction of Inspections:

- Obstructing or failing to cooperate with authorized inspectors or authorities conducting inspections related to bonus payments and compliance with the Act.

5. Other Violations:

- Any other violation of the provisions of the Payment of Bonus Act, 1965, or rules and regulations issued under it.

Penalties:

1. Fines:

- Employers found guilty of offences under the Act may be liable to pay fines as prescribed. The fines can vary depending on the nature and severity of the offence.

2. Imprisonment:

- In certain cases of willful non-compliance or repeated offences, the Act provides for imprisonment of the employer or responsible persons involved.

3. Compensation:

- Employees who have not received their due bonus can claim compensation through legal proceedings to recover the unpaid amounts along with interest.

Enforcement and Adjudication:

1. Controlling Authorities:

- The Act designates Controlling Authorities at the state and central levels to oversee the implementation and enforcement of its provisions.

2. Grievance Redressal:

- Disputes related to bonus payments and offences under the Act are settled through conciliation and arbitration mechanisms under the supervision of the Controlling Authority.

Example:

- If an employer fails to pay the minimum statutory bonus within the stipulated timeframe, they may be fined by the Controlling Authority. For repeated or deliberate non-compliance, the employer could face imprisonment in addition to fines.

Conclusion:

Understanding offences and penalties under the Payment of Bonus Act, 1965, is essential for employers to ensure compliance with statutory requirements and avoid legal liabilities. It also underscores the importance of fair treatment of

employees and maintaining industrial harmony through proper bonus payments and adherence to the Act's provisions. Employers should prioritize transparency, accuracy in calculations, and timely payment of bonuses to foster positive employee relations and regulatory compliance.

SUMMARY

The Payment of Bonus Act, 1965, is a legislation enacted in India to provide for the payment of bonus to employees in certain establishments. Key points of the Act include:

1. **Applicability:** The Act applies to every factory and establishments employing 20 or more persons during the accounting year. It also extends to other establishments notified by the Central Government.
2. **Eligibility:** Every employee who has worked for at least 30 days in an accounting year is eligible for bonus under the Act.
3. **Calculation of Bonus:** Bonus is calculated as a percentage of the salary or wage earned by the employee during the accounting year, subject to a minimum of 8.33% and a maximum of 20% of such salary or wage.
4. **Payment:** Bonus must be paid within 8 months from the close of the accounting year. If not paid within this period, it must be deposited in a specified bank account.
5. **Dispute Resolution:** Disputes related to bonus payments are settled through conciliation and arbitration under the Act.
6. **Exclusions:** Certain categories of employees, such as those employed by the government, universities, and LIC, are excluded from the Act's purview.
7. **Penalties:** Non-compliance with the Act may lead to fines and imprisonment for employers, along with liabilities to pay the due bonus with interest.
8. **Set-on and Set-off:** Provisions allow employers to adjust excess or deficit bonus payments from previous years against the current year's liability, subject to specified conditions.

Conclusion

The Payment of Bonus Act, 1965, aims to ensure fair distribution of profits among employees, promote industrial harmony, and provide statutory guidelines for bonus payments in covered establishments. Understanding its provisions is essential for employers to comply with legal requirements and for employees to know their rights regarding bonus entitlements. This Act plays a crucial role in regulating bonus payments, fostering employee satisfaction, and maintaining equitable labor practices across industries in India.



Check Your Progress



- QUIZ - 1

1. What is the minimum percentage of bonus that must be paid to eligible employees under the Payment of Bonus Act, 1965?
 - A. 5%
 - B. 8.33%
 - C. 10%
 - D. 15%
2. Which establishments are covered under the Payment of Bonus Act, 1965?
 - A. Establishments employing 15 or more persons
 - B. Establishments employing 10 or more persons
 - C. Establishments employing 20 or more persons
 - D. All establishments, regardless of size
3. What is the maximum percentage of bonus that can be paid under the Payment of Bonus Act, 1965?
 - A. 12%
 - B. 15%
 - C. 18%
 - D. 20%
4. When should bonus be paid to eligible employees under the Payment of Bonus Act, 1965?
 - A. Within 6 months from the close of the accounting year
 - B. Within 8 months from the close of the accounting year

- C. Within 10 months from the close of the accounting year
 D. Within 12 months from the close of the accounting year
5. Who has the authority to settle disputes related to bonus payments under the Payment of Bonus Act, 1965?
- A. Labor Court
 B. High Court
 C. Conciliation Officer
 D. Supreme Court

Answers

1. B. 8.33%
2. C. Establishments employing 20 or more persons
3. D. 20%
4. B. Within 8 months from the close of the accounting year
5. C. Conciliation Officer

5.5 Glossary

GRIEVANCE	A cause of distress felt to afford reason for complaint or resistance.
ALLOCABLE	Capable of being allocated or assigned
AMENDMENTS	A part that is added or a small change that is made to a piece of writing.
ENFORCEMENT	The process of making people obey a law or rule
DYNAMIC	Continuously changing or developing
MISCELLANEOUS	Consisting of members or elements of different kinds.

5.6 Self Assessment

Short Answers: (5 Marks) K3/K4 Level Questions

Sl.no	Questions	Level
1.	Write a short note provident fund and miscellaneous provision act.	K3

2.	Explain any two schemes under provident fund and miscellaneous provision act in detail.	K3
3.	Describe the scope of payment of Gratuity Act 1972.	K3
4.	How do you calculate the Gratuity fund? Explain with example.	K3
5.	Describe the offences and penalties under Gratuity fund.	K3
6.	Discuss the applicability of payment of Bonus Act.	K4
7.	Explain the eligibility of Bonus.	K4
8.	Write a short note on a. allocable surplus. B. available surplus	K4
9.	Write a detailed note on special provision of payment of bonus act.	K4
10.	Explain the set on and set off under payment of Bonus act	K4

Essay Type Answers: (8 Marks) K5/KS Level Questions

Sl.no	Questions	Level
1.	Explain the various schemes under provident fund and miscellaneous provision act.	K5
2.	Explain the conditions and circumstances for the payment of Gratuity act.	K5
3.	Explain the payment of Bonus act in detail.	K5
4.	Describe provident fund and miscellaneous provision act in detail.	K5
5.	Discuss the salient features of payment of gratuity act.	K5
6.	Explain the disqualification of Bonus under payment of Bonus act	K6
7.	Who is an employer under gratuity act? List out the rights and obligations of employees and employer.	K6
8.	What is gratuity? When s Gratuity payable and to whom is payable	K6
9.	Describe the maximum gratuity, nomination and penalty.	K6
10.	Describe the wages for computing gratuity.	K6

UNIT – 5 – ASSIGNMENTS – Quadrant 3

5.7 Activities - Assignment



Activities

1.Objective: Analyze a real-life case where the Employees' Provident Fund (EPF) provisions were either upheld or violated.

Guidelines: Summarize the case, the legal proceedings, the judgment, and its implications for employers and employees.

2.Objective: Compare the Employees' Provident Fund Scheme in India with similar schemes in other countries.

Guidelines: Discuss the key features, benefits, contribution rates, and differences in administration between the countries selected.

3.Objective: Write a detailed research paper on the historical background and objectives of the Payment of Bonus Act, 1965.

Guidelines: Include the socio-economic conditions that led to the enactment of the Act, its objectives, and its significance for industrial workers in India.

4.Objective: Analyze a landmark case related to the Payment of Gratuity Act.

Guidelines: Summarize the case facts, legal issues, court decision, and its implications for employers and employees. Discuss how this case has influenced the interpretation and implementation of the Act.

Topics for Discussion (Quadrant – 4)

1. Who is eligible for bonus payments under the Act?
2. Discuss the salary limit and employment conditions for eligibility.
3. Discuss the key features of the EPF Scheme.
4. How are contributions made by employees and employers?.
5. How is the gratuity amount calculated?
6. Explain the formula for calculating gratuity based on years of service and last drawn salary.
7. How does the Payment of Gratuity Act contribute to employee financial security post-retirement?
8. Discuss the Act's role in employee retention and job satisfaction.

5.8 REFERENCES

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3. "Labour and Industrial Laws" by P.K. Padhi.
4. "Employment Law in India" by S.C. Srivastava.