

**USEFUL TIPS
ON
LABOUR LAWS**

**Composed
By**

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ARANI AGRO OIL INDUSTRIES LIMITED

KAKINADA-533003

East Godavari, (A.P.)

APPRENTICES ACT, 1961

CHECKLIST

Object of the Act

Promotion of new manpower at skills.
Improvement/refinement of old skills through theoretical and practical training in number of trades and occupation

Applicability of the Act

Areas and industries as notified by the Central Government

Sec. 1

Apprenticeship Advisor

Central Apprenticeship Advisor – when appointed by Central Government.

Sec. 2(b)

Industry

Industry means any industry, or business or in which any trade, occupation or subject/field in engineering or technology or any vocational course may be specified as a designated trade

Sec. 2(k)

Qualification for being trained as an Apprentice

A person cannot be an apprentice in any designated trade unless

- He is not more than 14 years of age;
- He satisfies such standard of education

And physical fitness as

May be prescribed.

Sec. 3

Contract of Apprenticeship

To contain such terms and conditions as may be agreed to by the apprentice, or his guardian (in case he is a minor) and employers.

Sec. 4

Conditions for Novation of Contract of Apprenticeship

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

- Agreement must be registered with the Apprenticeship Advisor.

Sec. 5

Period of Apprenticeship

Training to be Determined by the National Council

Termination of Apprenticeship

On the expiry of the period of Apprenticeship training.
On the application by either of the parties to the contract to the Apprenticeship Advisor

Sec. 6

Obligations of employers

- To Provide the apprentice with the training in his trade.
- To ensure that a person duly qualified is placed in charge of the training of the apprentice.
- To carry out contractual obligations.

Sec. 11

Payment to Apprentices

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

Sec. 6

Number of Apprentices in Designated Trade

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

Sec.8

Obligations of Apprentice

- To learn his trade conscientiously, diligently.
- To attend practical and instructional classes regularly.
- To carry out all lawful orders.
- To carry out his contractual obligations.

Health safety & Welfare measures for Apprentices

As per Factories Act or Mines Act as the case may be when undergoing training.

Hours of work

- 42 to 48 in a week while on theoretical training.
- 42 in a week while on basic training.
- 42 to 45 in a week in second year of training.
- As per other workers (in the third year).
- Not allowed to work between 10 PM to 4 AM unless approved by Apprenticeship Advisor.

Leave and Holidays

- Casual leave for the maximum period of 12 days in a year.
- Medical leave for the maximum period of 15 days and the accumulated leave upto 40 days in a year.
- Extraordinary leave upto a maximum period of 10 days in a year.

Sec. 15

Employer's liability to pay compensation for injury

As per provisions of Workmen's Compensation Act.

Sec. 16

Offences & Punishment

Imprisonment of a term upto 6 months or with fine when employer (I) engages as an apprentice a person who is not qualified for being so engaged or (ii) fails to carry out the terms and conditions of a contract of apprenticeship, or (iii) contravenes the provisions of the Act relating to the number of apprentices which he is required to engage under those provisions

Secs. 30 & 31

CONTRACT LABOUR (REGULARATION & ABOLITION) ACT, 1970

& THE RULES

CHECKLIST

Object of the Act

To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

Applicability

- Every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour.
- Every contractor who employs or who employed on any day of the preceding twelve months 20 or more workmen.

Sec. 1

Registration of Establishment

Principal employer employing 20 or more workers through the contractor or the contractor(s) on deposit of required fee in Form 1

Sec. 7

Prohibition of Employment of Contract Labour

Only by the appropriate Government through issue of notification after consultation with the Board (and not Courts) can order the prohibition of employment of contract labour.

Sec. 10

Revocation of Registration

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

Sec. 9

Licensing of Contractor

- Engaging 20 or more than 20 workers and on deposit of required fee in Form IV.
- Valid for specified period. **Sec.12, Rule 21**

Revocation or Suspension & Amendment of Licences

- When obtained by misrepresentation or suppression of material facts.
- Failure of the contractor to comply with the conditions or contravention of Act or the Rules. **Sec. 14**

Welfare measures to be taken by the Contractor

- Contract labour either one hundred or more employed by a contractor for one or more canteens shall be provided and maintained.
- First Aid facilities.
- Number of rest-rooms as required under the Act.
- Drinking water, latrines and washing facilities. **Sec. 16 & 17**

Laws, Agreement or standing orders inconsistent with the Act- Not Permissible

Unless the privileges in the contract between the parties or more favourable than the prescribed in the Act, such contract will be invalid and the workers will continue to get more favourable benefits.

Sec. 20

Liability of Principal Employer

- To ensure provision for canteen, restrooms, sufficient supply of drinking water, latrines and urinals, washing facilities.
- Principal employer entitled to recover from the contractor for providing such amenities or to make deductions from amount payable. **Sec. 20**

Registers of Contractors

- **Principal employer**
 - To maintain a register of contractor in respect of every establishment in Form XII. **Rule 74**
- **Contractor**
 - To maintain register of workers for each registered establishment in Form XIII.
 - To issue an employment card to each worker in Form XIV.
 - To issue service certificate to every workman on his termination in Form XV. **Rules 75, 76 and 77**

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

- Every contractor shall
- Maintain Muster Roll and a Register of Wages in Form XVI and Form XVII respectively when combined.
- Register or wage-cum-Muster Roll in Form XVII where the wage period is a fortnight or less.
- Maintain a Register of Deductions for damage or loss, Register or Fines and Register of Advances in Form XX, from XXI and Form XXII respectively.
- Maintain a Register of Overtime in Form XXIII.
- To issue wage slips in Form XIX, to the workmen at least a day prior to the disbursement of wages.
- Obtain the signature or thumb impression of the worker concerned against the entries relating to him on the Register of wages or Muster Roll-Cum-Wages Register.
- When covered by Payment of Wages Act, register and records to be maintained under the rules
- Muster Roll, Register of wages, Register of Deductions, Register of Overtime, Register of Fines, Register of Advances, Wage slip. **Rule 79**
- To display an abstract of the act and Rules in English and Hindi and in the language spoken by the Majority of workers in such forms as may be approved by appropriate authority **Rule 80**
- To display notices showing rates of wages, hours of work, wage period, dates of payment, names and addresses of the inspector and to send copy to the inspector and any change forthwith **Rule 81**

PENALTIES

Sec.	Offence	Punishment
Sec. 22	Obstructions	For obstructing the inspector or failing to produce registers etc. - 3 months' imprisonment or fine upto Rs.500, or both.
Sec.23	Violation	For violation of the provisions of Act or the Rules, imprisonment of 3 Months or fine upto Rs.1000. On continuing contravention, additional fine upto Rs.100 per day

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

CHECKLIST

Eligibility

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment.

Payment of Contribution

- The employer shall pay the contribution payable to the EPF, DLI and Employees' Pension Fund in respect of the member of the Employees' Pension Fund employed by him directly by or through a contractor.
- It shall be the responsibility of the principal employer to pay the contributions payable to the EPF, DLI and Employees' Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

Clarification about Contribution

After revision in wage ceiling from Rs.5000 to **Rs.6500** w.e.f. 1.6.2001 per month, the government will continue to contribute **1.16%** upto the actual wage of maximum Rs.6500 per month towards Employees' Pension Scheme. The employer's share in the Pension Scheme will be Rs.541 w.e.f. 1.6.2001. Under Employees' Deposit-Linked Insurance Scheme the contribution @ **0.50%** is required to be paid upto a maximum limit of Rs.6500.

The employer also will pay administrative charges @ **0.01%** on maximum limit of Rs.6500 whereas an exempted establishment will pay inspection charges @ **0.005%** on the total wages paid.

Notes:

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

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

Applicability

- Every establishment which is factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed.
- Any other establishment employing 20 or more persons which Central Government may, by notification, specify in this behalf.
- Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

Benefits

Employees covered enjoy a benefit of Social Security in the form of an unattachable and unwithdrawable (except in severely restricted circumstances like buying house, marriage/education, etc.) financial nest egg to which employees and employers contribute equally throughout the covered persons' employment.

This sum is payable normally on retirement or death. Other Benefits include Employees' Pension Scheme and Employees' Deposit Linked Insurance Scheme.

Rates of Contribution

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

Damages

- Less than 2 months@ 17% per annum
- Two months and above but less than upto four months@22% per annum
- Four months and above but less than upto six months@ 27% per annum
- Six months and above

Penal Provision

Liable to be arrested without warrant being a cognisable offence.

Defaults by employer in paying contributions or inspection/administrative charges attract imprisonment upto 3 years and fines upto Rs.10,000 (S.14). For any retrospective application, all dues have to be paid by employer with damages upto 100% of arrears.

EMPLOYEES' STATE INSURANCE

ACT, 1948 & the SCHEME

CHECK LIST

Applicability of the Act & Scheme

Is extended in area-wise to factories using power and employing 10 or more persons and to non-power using manufacturing units and establishments employing 20 or more person upto Rs.7500/- per month w.e.f. 1.4.2004. It has also been extended upon shops, hotels, restaurants, roads motor transport undertakings, equipment maintenance staff in the hospitals.

Coverage

of employees
Drawing wages
upto
Rs.10,000/- per month engaged either directly or thru' contractor

Rate of Contribution of the wages

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

THE ESI SCHEME TODAY

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

Manner and Time Limit for making Payment of contribution

The total amount of contribution (employee's share and employer's share) is to be deposited with the authorised bank through a challan in the prescribed form in quadruplicate on ore before 21st of month following the calendar month in which the wages fall due.

Benefits

To the employees under the Act

Medical, sickness, extended sickness for certain diseases, enhanced sickness, dependents maternity, besides funeral expenses, rehabilitation allowance, medical benefit to insured person and his or her spouse.

WAGES FOR ESI CONTRIBUTIONS

Registers/files to be maintained by the employers

To be deemed as wages

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

NOT to be deemed as wages

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

Contribution period

1st April to 30th September.

1st October to 31st March

Contribution period

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

Penalties

Different punishment have been prescribed for different types of offences in terms of Section 85: (I) (six months imprisonment and fine Rs.5000), (ii) (one year imprisonment and fine), and 85-A: (five years imprisonment and not less to 2 years) and 85-C(2) of the ESI Act, which are self explanatory. Besides these provisions, action also can be taken under section 406 of the IPC in cases where an employer deducts contributions from the wages of his employees but does not pay the same to the corporation which amounts to criminal breach of trust.