

FACTORIES ACT, 1948

CHECK LIST

Applicability of the Act

Any premises whereon 10 or more persons with the aid of power or 20 or more workers are/were without aid of power working on any day preceding 12 months, wherein Manufacturing process is being carried on.

Sec.2(ii)

Employer to ensure health of workers pertaining to

- Cleanliness Disposal of wastes and effluents
- Ventilation and temperature dust and fume
- Overcrowding Artificial humidification Lighting
- Drinking water Spittons.

Secs. 11 to 20

Registration & Renewal of Factories

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

Secs. 6

Safety Measures

- Facing of machinery
- Work on near machinery in motion.
- Employment prohibition of young persons on dangerous machines.
- Striking gear and devices for cutting off power.
- Self-acting machines.
- Casing of new machinery.
- Prohibition of employment of women and children near cotton-openers.
 - Hoists and lifts.

Welfare Measures

- Washing facilities
- Facilities for storing and drying clothing
- Facilities for sitting
- First-aid appliances – one first aid box not less than one for every 150 workers.
- Canteens when there are 250 or more workers.
- Shelters, rest rooms and lunch rooms when there are 150 or more workers.
- Creches when there are 30 or more women workers.
- Welfare office when there are 500 or more workers.

Working Hours, Spread Over & Overtime of Adults

Weekly hours not more than 48.
 Daily hours, not more than 9 hours.
 Intervals for rest at least ½ hour on working for 5 hours.
 Spreadover not more than 10½ hours.
 Overlapping shifts prohibited.
 Extra wages for overtime double than normal rate of wages.
 Restrictions on employment of women before 6AM and beyond 7 PM.

Secs. 51, 54 to 56, 59 & 60

Employment of Young Persons

- Prohibition of employment of young children e.g. 14 years.
- Non-adult workers to carry tokens e.g. certificate of fitness.
- Working hours for children not more than 4 ½ hrs. and not permitted to work during night shift.

Secs. 51, 54 to 56, 59 & 60

Annual Leave with Wages

A worker having worked for 240 days @ one day for every 20 days and for a child one day for working of 15 days.
 Accumulation of leave for 30 days.

Secs. 79

OFFENCE	PENALTIES	Sec.92 to
• For contravention of the Provisions of the Act or Rules	• Imprisonment upto 2 years or fine upto Rs.1,00,000 or both	
• On Continuation of contravention	• Rs.1000 per day	
• On contravention of Chapter IV pertaining to safety or dangerous operations.	• Not less than Rs.25000 in case of death. • Not less than Rs.5000 in case of serious injuries.	
• Subsequent contravention of some provisions	• Imprisonment upto 3 years or fine not less than Rs.10,000 which may extend to Rs.2,00,000.	
• Obstructing Inspectors	• Imprisonment upto 6 months or fine upto Rs.10,000 or both.	
• Wrongful disclosing result pertaining to results of analysis.	• Imprisonment upto 6 months or fine upto Rs.10,000 or both.	
• For contravention of the provisions of Sec.41B, 41C and 41H pertaining to compulsory disclosure of information by occupier, specific responsibility of occupier or right of workers to work imminent danger.	• Imprisonment upto 7 years with fine upto Rs.2,00,000 and on continuation fine @ Rs.5,000 per day. • Imprisonment of 10 years when contravention continues for one year.	

EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) ACT, 1959 & THE RULES

CHECK LIST

Object of the Act

To provide for the compulsory notification of vacancies to employment exchanges.

Applicability of the Act

By notification in the Official Gazette, appoint in this behalf for such State and different dates may be appointed for different states or for different areas of a State.

When Act is not applicable

- **Any employment in agriculture, horticulture etc.**
- Any employment in domestic service.
- Any employment, the total duration of which is less than three months.
- Any employment to do unskilled office work.
- Any employment connected with the staff of Parliament.

Sec. 3

Notification of vacancies to Employment Exchanges

Before filling up any vacancy as prescribed. Employer not obliged to recruit the person through employment exchange. To notify the vacancies to such employment exchanges as may be prescribed.

Secs. 4

Furnishing information and returns

The employer in every establishment in public sector in that State or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment, to such employment exchanges as may be prescribed.

Secs. 5

Time limit for notification of vacancies & selection

- Atleast 15 days before the applicants will be interviewed or tested.
- Employer to furnish the result of selection within 15 days.

Rules 5

Submission of Returns

- **Quarterly** in Form ER-I
- **BIENNIAL** Return Form ER-II
- Within 30 days by 30th **June**, 31st **March**, 30th **September** & 31st **December**.

Rule 6

PENALTIES

- An employer contravening the provisions of Sec.4(1) or (2).
- Fine upto Rs.500 for first offence and for every subsequent offence fine Rs.1000.
- If any person –
 - Required to furnish any information or return –
 - Refuses or neglects to furnish such information or return, or
 - Furnishes or causes to be furnished any information or return which he knows to be false, or
 - Refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished under section 5; or
- Impedes the right of access to relevant records or documents or the right of entry conferred by section 6; he shall be punishable for the first offence with fine upto Rs.250 and for every subsequent offence with fine upto Rs.500 and for every subsequent offence with fine upto Rs.500.

Rules 7

INDUSTRIAL DISPUTES ACT, 1947

Object of the Act

Provisions for investigation and settlement of industrial disputes and for certain other purposes.

Important Clarifications

Industry – has attained wider meaning than defined except for domestic employment, covers from barber shops to big steel companies. **Sec.2(I)**

Works Committee–Joint Committee with equal number of employers and employees' representatives for discussion of certain common problems. **Sec.3**

Conciliation–is an attempt by a third party in helping to settle the disputes **Sec.4**

Adjudication – Labour Court, Industrial Tribunal or National Tribunal to hear and decide the dispute. **Secs.7,7A & 7B**

Power of Labour Court to give Appropriate Relief

Labour Court/Industrial Tribunal can Modify the punishment of dismissal or discharge of workmen and give appropriate relief including reinstatement. **Sec.11A**

Right of a Workman during Pendency of Proceedings in High Court

Employer to pay last drawn wages to reinstated workman when proceedings challenging the award of his reinstatement are pending in the higher Courts. **Sec.17B**

Persons Bound by Settlement

- When in the course of conciliation proceedings etc., all persons working or joining subsequently.
- Otherwise than in course of settlement upon the parties to the settlement. **Sec.18**

Period of Operation of Settlements and Awards

- A settlement for a period as agreed by the parties, or
- Period of six months on signing of settlement.
- An award for one year after its enforcement. **Sec.19**

Lay off & Payment of Compensation – Conditions for Laying off

Failure, refusal or inability of an employer to provide work due to

- Shortage of coal, power or raw material.
- Accumulation of stocks.
- Breakdown of machinery.
- Natural calamity. **Sec.25-C**

Notice of Change

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

Prior Permission for Lay off

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

Lay off Compensation

Payment of wages except for intervening weekly holiday compensation 50% of total or basic wages and DA for a period of lay off upto maximum 45 days in a year. **Sec.25-C**

Prohibition of Strikes & Lock Outs

- Without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking.
- Within fourteen days of giving such notice.
- Before the expiry of the date of strike specified in any such notice as aforesaid.
- During the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- During the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings.
- During the pendency of proceedings before a Labour Court, Tribunal or National Tribunal and two months, after the conclusion of such proceedings.
- During the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under Sub-Section(3A) of section 10A
- During any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award. **Secs.22&23**

Prior Permission by the Government for Retrenchment

- When there are more than 100 (in UP 300 or more) workmen during preceding 12 months.
- Three months' notice or wages thereto.
- Form QA
- Compensation @ 15 days' wages. **Sec. 25-N**

Conditions of service etc. to remain unchanged under certain circumstances during pendency of proceedings

- Not to alter to the prejudice of workmen concerned the condition of service.
- To seek Express permission of the concerned authority by paying one month's wages on dismissal, discharge or punish a protected workman connected with the dispute.
- To seek approval of the authority by paying one month's wages before altering condition of service, dismissing or discharging or punishing a workman. **Sec.33**

Prohibition of unfair labour practice either by employer or workman or a trade union as stipulated in fifth schedule

Both the employer and the Union can be punished. **Sec.25-T**

Retrenchment of Workmen Compensation & Conditions

- Workman must have worked for 240 days.
- Retrenchment compensation @ 15 days' wages for every completed year to be calculated at last drawn wages
- One month's notice or wages in lieu thereof.
- Reasons for retrenchment
- Complying with principle of 'last come first go'.
- Sending Form P to Labour Authorities.

Closure of an Undertaking

60 days' notice to the labour authorities for intended closure in Form QA. **Sec.25FFA**
Prior permission atleast 90 days before in Form O by the Government when there are 100 ore more workmen during preceding 12 months (in UP 300 or more workmen) **Sec.25-O**

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- Not to alter to the prejudice of workmen concerned the condition of service.
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- To seek approval of the authority by paying one month's wages before altering condition of service, dismissing or discharging or punishing a workman. **Sec.33**

PENALTIES

Sec.25-U
26
27
28
29
30
31A

31

Offence

Committing unfair labour practices
Illegal strike and lock-outs
Instigation etc. for illegal strike or lock-outs.
Giving financial aid to illegal strikes and lock-outs.
Breach of settlement or award
Disclosing confidential information pertaining to Sec.21
Closure without 60 days' notice under Sec.25 FFA
Contravention of Sec.33 pertaining to change of conditions of Service during pendency of dispute etc.
When no penalty is provided for contravention

<Punishment

Imprisonment of upto 6 months or with fine upto Rs.3,000.
Imprisonment upto one month or with fine upto Rs.50(Rs.1000 for lock-out) or with both.
Imprisonment upto 6 months or with fine upto Rs.1,000
Imprisonment for 6 months or with fine upto Rs.1,000
Imprisonment upto 6 months or with fine.On continuity of offence fine uptoRs.200 per day
Imprisonment upto 6 months or with fine upto Rs.1,000
Imprisonment upto 6 months or with fine upto Rs.5,000
Imprisonment upto 6 months or fine upto Rs.1,000. Fine upto Rs.100

INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 & THE RULES

CHECK-LIST

Applicability of the Act

Every industrial establishment wherein 100 or more (in many States it is 50 or more). Any industry covered by Bombay Industrial Relations Act, 1946. Industrial establishment covered by M.P. Industrial Employment (Standing Orders) Act, 1961.

Sec. 1

Conditions for Certification of Standing Orders

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

Submissions of Draft Standing Orders

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

Sec.3

Matters to be provided in Standing orders

- Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.
- Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
- Shift working.
- Attendance and late coming.
- Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.
- Requirement to enter premises by certain gates, and liability to search.
- Closing and re-opening of sections of the industrial establishments, and temporary stoppages of work and the right and liabilities of the employer and workmen arising therefrom.
- Termination of employment, and the notice thereof to be given by employer and workmen.
- Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
- Means of redressal for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.

Additional Matters

Service Record – Matters relating to service card, token tickets, certification of service, change of residential address of workers and record of age Confirmation Age of retirement Transfer Medical aid in case of Accident Medical Examination Secrecy Exclusive service.

Secs.2(g), 3(2) and Rule 2A

Procedure for Certification of Standing Orders

Certifying Officer to forward a copy of draft standing orders to the trade union or in the absence of union, to the workmen of the industry. The trade union or the other representatives, as the case may be, are to be heard.

Sec.5

Date of Operation of Standing Orders

On the date of expiry of 30 days from certification or on the expiry of 7 days from authentication of Standing Orders.

Sec. 7

Posting of Standing Orders

The text of the standing orders as finally certified shall prominently be posted in English or in the language understood by majority of workmen on special board at or near the entrance for majority of workers.

Sec. 9

Temporary application of Model Standing Orders

Temporary application of mod standing orders shall be deemed to be adopted till the standing orders as submitted are certified.

Sec.12-A

Payment of Subsistence Allowance to the Suspended Workers

At the rate of fifty per cent, of the wages which the workman was entitled to immediately proceeding the date of such suspension, for the first ninety days of suspension. At the rate of seventy-five percent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct such workman. **Sec.10-A**

PENALTIES

- Failure of employer to submit draft Standing Orders fine of Rs.5000 and Rs.200 for every day on continuation of offence.
- Fine of Rs.100 on contravention and on continuation of offence Rs.25 for every day.

MATERNITY BENEFIT ACT, 1961

CHECK LIST

Object of the Act

To protect the dignity of motherhood and the dignity of a new person's birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working.

Coverage of the Act

Upon all women employees either employed directly or through contractor except domestic women employees employed in mines, factories, plantations and also in other establishments if the State Government so decides. Therefore, if the State Government decides to apply this Act to women employees in shops and commercial establishments, they also will get the benefit of this Act. Bihar, Punjab Haryana, West Bengal, U.P., Orissa and Andhra have done so.

Conditions for eligibility of benefits

Women indulging temporary of unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 12 months immediately preceding the date of her expected delivery

Cash Benefits

- Leave with average pay for six weeks before the delivery.
- Leave with average pay for six weeks after the delivery.
- A medical bonus of Rs.25 if the employer does not provide free medical care to the woman.
- An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth.
- In case of miscarriage, six weeks leave with average pay from the date of miscarriage.

Non Cash Benefits/Privilege

- Light work for ten weeks (six weeks plus one month) before the date of her expected delivery, if she asks for it.
- Two nursing breaks in the course of her daily work until the child is 15 months old.
- No discharge or dismissal while she is on maternity leave.
- No change to her disadvantage in any of the conditions of her employment while on maternity leave.
- Pregnant women discharged or dismissed may still claim maternity benefit from the employer.

Exception : Women dismissed for gross misconduct lose their right under the Act for Maternity Benefit

Conditions for eligibility of benefits

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

Sec. 5.

Leave for Miscarriage & Tubectomy Operation

- Leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage or her medical termination of pregnancy.
- Entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation.

Leave for illness arising out of pregnancy etc. etc.

A woman suffering from illness arising out of pregnancy, delivery, premature birth of child (Miscarriage, medical termination of pregnancy or tubectomy operation) be entitled, in addition to the period of absence allowed to her leave with wages at the rate of maternity benefit for a maximum period of one month.

Sec. 10

Prohibition of dismissal during absence of pregnancy

- Discharge or dismissal of a woman employed during or on account of such absence or to give notice or discharge or dismissal on such a day that the notice will expire during such absence or to vary her disadvantage.
- Discharge or dismissal during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.
- At the time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus, etc.
- Not barred in case of dismissal for gross misconduct.

Sec.

Failure to Display Extract of Act

Imprisonment may extend to one year or fine.

Forfeiture of maternity benefit

If permitted by her employer to absent herself under the provisions of section 6 for any period during such authorized absence, she shall forfeit her claim to the maternity benefit for such period.

For discharging or dismissing such a woman during or on account of her absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will fine, but not exceeding Rs.5,000.

Sec. 18