

WAGE ADMINISTRATION

- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948

Rules for Payment of Wages (secs 3 to 6)

Responsibility for payment of wages (sec. 3)

Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under the payment of wages act (sec.3). but in the case of persons employed (otherwise than by a contractor) in factories, industrial establishments or upon railways, the following persons shall also be responsible for the payment of wages:

- A) In factories, the person named as the manager;
- B) In industrial or other establishment, the person, if any, who is responsible to the employer for the supervision and control of the industry or other establishment.
- C) Upon railways (otherwise than in factories), the person nominated by the railway administration in this behalf for the local area concerned.
- D) In case of a contractor, a person designed by such contractor.
- E) In any other case, a person designated as responsible for complying with the provisions of the act.

Fixation on wage-periods (sec.4):

Every person responsible for the payment of wages under sec 3 shall fix periods, known as wage-periods, in respect of which such wages shall be payable [sec .4 (1)]. A wage-period shall not exceed one month [sec 4 (2)].

Time of payments of wages (sec 5):

The rules relating to time of payment of wages are as follow:

- 1) Wages to be paid before 7th or 10th day:

The wages of every person employed upon or in any railway, factory or industrial or other establishment upon or in which less than 1,000 person are employed, shall be paid before the expiry of 7th day of the following wage-period.

- 2) Wages in case of termination of employment:

When the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the 2nd working day from the day in which his employment is terminated.

- 3) Exemption: he appropriate government may, by general or special order, exempt the person responsible for the payment of wages from the operation of the above provisions in certain cases [sec .5 (3)].
- 4) wages to be paid on a working day: All payment of wages shall be made on a working day [sec. 5 (4)].

Medium of payment of wages (sec .6):

In order to obviate these difficulties and save the worker from carrying cash on the pay day and mispending it, a proviso has been added to sec. 6 by the written authorization of the employed person, pay him the wages either by cheque or by crediting the wages in bank account.

Deductions from wages

Sec. 7 provides that the wages of an employed person shall be paid to him without deductions of any kind except those authorized by or under the Payment of wages Act, 1936[sec.7(1)].

Deductions For Fines [7(2)(A) And 8]

1. No fine shall be imposed on any employed person save in respect to such act or omissions on his part as the employer, with the previous approval of the appropriate Government or of the prescribed authority, may have specified by a notice [sec.8(1)].
2. No fine shall be imposed on an employed person until he has been given an opportunity of showing cause against the fine and has completed the age of 15 year [8(3) and (5)].
3. The total amount of fine which may be imposed in any one wage period on any employed person shall not exceed 3 per cent of the wages payment to him in respect of that wage-period [sec. 8(4)]. Such a fine shall not be recovered from the employed person by instalments or after the expiry of 90 days from the day on which it was imposed [sec.8(6)].
4. Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed [sec. 8 (7)].
5. All fines and all realizations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages, in such form as may be prescribed.

Deductions for absence from duty [secs. 7 (2)(b) and 9]

Deductions may be made on account of the absence of an employed person from duty [sec. 7(2)] from the or places where by the term of an employment, he is required to work. The absence may be for the whole or any part of the period during which he is so required to work [sec.9 (1)]

Deductions for damage or loss [secs. 7 (2)(c), (m), (n) and (o) and 10]

A deduction for damage to or loss of goods expressly entrusted to the employed person for custody or for loss of memory for which he is required to account shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.

Deductions For Services [Sec 7 (2) (D), (E) And 11]

A deduction for house accommodation [sec. 7 (2) (d)] and such amenities and services supplied by the employer as have been authorized by the appropriate Government [sec. 7 (2) (e)] shall not be made from the wages of an employee's person, unless such services have been accepted by him as a term of employment or otherwise.

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

Deductions for recovery of an advance given to an employed person is subject to the following conditions, viz.,

1. Recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of complete wage-period, but no recovery can be made of such advance given for travelling expenses;
2. Recovery of an advance of money given after employment began shall be subject to such conditions as the appropriate Government may impose;
3. Recovery of advances of wages not already earned shall be subject to any rules made by the appropriate Government in this regards.

Deductions for recovery of loans [secs. 7 (2) (fff) and 12-a]

Deductions for loans granted for house-building or other purpose and the interest due in respect thereof [sec. 7 (2) (fff)] approved by the appropriate Government shall be subject to any rules made by the appropriate Government regulating the extent to which such loans may be granted and the rate of interest payable thereon (sec. 12-A).

Deductions for payments to co-operative societies and insurance schemes [secs. 7(2) (i) and (k) and 13]

These deductions shall include :-

- a) Deductions for payment to co-operative societies appropriate Government or to a scheme of insurance maintained by the Indian post office [sec. 7 (2) (j)] ; and
- b) Deductions made with the written authorization of the person employed for the payment of any premium on life insurance policy to the life insurance Corporation of India or for the purchase of securities of the Government of India or of any appropriate Government or for being deposited in any post office saving bank in furtherance of any saving scheme of any such Government [sec. 7(2) (k)].

Other Deductions

The following deductions shall also be permitted under the Act:

- 1) Deductions of income-tax payable by the employed person [sec. 7 (2) (g)];
- 2) Deductions required to be made by order of a Court or other authority competent to make such order [sec. 7 (2) (h)].
- 3) Deductions for payments to co-operative societies of advance from any provident funds to which the Provident Fund Act, 1925 applies or any recognized provident fund (as defined in sec.58-A of the Indian house-tax Act, 1922) or any provident fund approved in this behalf by the appropriate Government [sec. 7 (2) (i)];
- 4) Deductions for payment of insurance premia on fidelity Guarantee Bonds [sec. 7 (2) (l)];
- 5) Deductions for recovery of losses sustained by a railway administration on account of any default by the employed person. The default may consist of acceptance of counterfeit or base coins or forged currency notes, or allowing of excess rebates or refunds [sec. 7 (2) (m)].
- 6) Deductions made, with the written authorization of the employed person, for contribution to the prime Minister's National Relief Fund or to such other fund as may be specified by the appropriate Government [SEC. 7 (2) (p)]. [This Clause was added by the Payment of Wages (Amendment) Act, 1976].
- 7) Deductions for contributions to any insurance scheme framed by the appropriate Government for the benefit of its employees [sec. 7 (2) (q). This Clause was added by the Payment of Wages (Amendment) Act, 1977].

Limit on deductions [sec. 7 (3)]

The total amount of deductions which may be made under the above head [sec. 7 (2)] in a wage-period from the wages of any employed person shall not exceed 75 per cent of such wages in cases where such deductions are wholly or partly made for payments to co-operative societies under sec. 7(2)(j). in any other case, they shall not exceed 50 per cent of such wages [sec. 7 (3)]. Where the total deductions authorised under sec. 7 (2) exceed 75 per cent, or as the case may be, 50 per cent of the wages, the excess may be recovered in such manner as be prescribed [Proviso to sec. 7 (3)].

Maintenance of registers and records (sec 13-A)

Every employer shall maintain registers and records giving the following particular of the persons employed by him:

- a) The work performed by them;
- b) The wages paid to them;
- c) The deductions made from their wages ; and

d) The receipts given by them [sec 13-A (1)].

The register and records shall be in such form as may be prescribed. They shall be presented for a period of 3 years after the date of the last entry made therein [sec 13-A (2)].

Penalty for offences under the act (SEC. 20)

Penalty for delaying payment of wages within the prescribed period or making unauthorized deductions: Whoever being responsible for the payment of wages to an employed person delays payment of wages within the period laid down under the act or makes unauthorized deductions shall be punishable with fine which shall not be less than Rs. 200 but which may extend to Rs 1,000 [sec 20 (1)].

Penalty for not paying wages on a working day or in current coin or not recording fines or not displaying the abstracts of the Act; Not paying the wages on a working day, or not paying wages in current coin or currency or both, or not recording the fines or amounts realized for damage or loss in a register, or not displaying by notice abstracts of the Act and rules, are also offences punishable with a fine which may extend to Rs. 500 for each offence[Sec. 20 (2)].

Penalty for failure to maintain, furnish records and returns. Whoever being required under the Act to maintain any records or registers or to furnish any information or return-

- (a) Fails to maintain such register or record ; or
- (b) Willfully refuses or without lawful excuse neglects to furnish such information or return ; or
- (c) Willfully furnishes or causes to be furnished any information or return which he knows to be false ; or
- (d) Refuses to answer or willfully gives a false answer to any question necessary for obtaining any information required to be furnished under the Act; shall, for each such offence, be punishable with fine which shall not be less than Rs.200 but which may extend to Rs. 1,000 [Sec. 20 (3)].

Penalty for obstructing, etc. Inspector. Whoever-

- (a) Wilfully obstructs an Inspector in the discharge of his duties under the Act ; or
- (b) Refuses or wilfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorized by or under the Act in relation to any railway, factory or industrial or other establishment ; or
- (c) Wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of the Act ; or
- (d) Prevents or attempts to prevent any person from appearing before an inspected acting in pursuance of his duties under the act; shall be punishable with fine which shall not be less than Rs. 200 but which may extend to Rs. 1,000 [sec. 20(4)]

Subsequent offence:

If any person who has been convicted of any offence punishable under the Act is again guilty of an offence involving contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term which shall not be less than 1 month but which may extend to 3 month, or with fine which shall not be less than Rs. 500 but which may extend to Rs. 3,000 or with both [sec.20 (5)]. But no cognizance shall be taken of an earlier conviction made more than 2 years before the date of the commission of the present offence [Proviso to sec. 20 (5)].