

THE PAYMENT OF WAGES ACT, 1936 & RULES FRAMED THERE UNDER

It applies in the first instance to the payment of wages to persons employed in any [factory, to persons] employed (otherwise than in a factory upon any railway by a railway administration or, either directly or through a subcontractor, by a person fulfilling a contract with a railway administration, [and to persons employed in an industrial or other establishment specified in sub-clauses (a) to (g) of Cl. (ii) of Sec. 2].

DEFINITIONS- Under THE PAYMENT OF WAGES ACT, 1936, unless there is anything repugnant in the subject or context,-

"Employed person" includes the legal representative of deceased employed person;

"Employer" includes the legal representative of a deceased employer;

"Factory" means a factory as defined in Cl. (m) of Sec. 2 of the Factories Act, 1948 (63 of 1948) and includes any place to which the provisions of this Act have been applied under sub-section (1) of Sec. 85 thereof,-

["Industrial or other establishment"] mean 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 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 establishment in which any work relating to the construction, development or maintenance or buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation, or the supply of water, or relating to the generation, transmission and distribution of electricity or any other form or power is being carried on;]

(h) Any other establishment or class of establishments which the Central Government or a State Government may having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances specify by notification in the Official Gazette.

"Mine" has the meaning assigned to it in Cl. (i) of sub-section (1) of Sec. 2 of the Mines Act, 1952 (35 of 1952);

"Plantation" has the meaning assigned to it in Cl. (f) of Sec. of the Plantations Labour Act, 1951 (69 of 1951);

"Prescribed" means prescribed by rules made under this Act;

"Railway administration" has the meaning assigned to it in Cl. (6) Of Sec. 3 of the Indian Railways Act, 1890 (9 of 1890); and

"Wages" means all remunerations (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes-

- (a) Any remuneration payable under any award or settlement between the parties or order of a court;
- (b) Any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) Any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (d) Any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- (e) Any sum to which the person employed is entitled under any scheme framed under any law for the time being in force; but does not include-
 - (1) Any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of Court;
 - (2) The value of any house accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by general or special order of the State Government;
 - (3) Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued therein,
 - (4) Any traveling allowance or the value of any traveling concession;
 - (5) Any sum paid to the employed person to defray special expenses entailed on him by nature of this employment; or
 - (6) Any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).]

"the Act" means the Payment of Wages Act (IV of 1936);

"the Authority" means the authority appointed under sub-section (1) of section 15 of the Act ;

"the Chief Inspector of Factories" means the Chief Inspector of Factories appointed under sub-section (2) of * section 8 of the Factories Act (LXIII of 1948);

(cc) **"Chief officer"** means a Chief Officer of a municipality appointed under the Bombay Municipal Boroughs Act, 1925 *or the said act as adapted and applied to the Saurashtra area of the State of Gujarat and as applied to the Catch area of the State of Gujarat;"

"the Court" means the Court mentioned in sub-section (1) of section 17 of the Act;

"deduction of breach of contract" means a deduction made in accordance with the provisions of the proviso to sub-section (2) of section 9;

"deduction for damage or loss" means a deduction made in accordance with the provisions of clause © of sub-section (2) of section 7;

"establishment" means except in the expression 'industrial establishment' an establishment as defined

by the Bombay shop and Establishments Act, 1948, and in respect of which the provisions of the Payment of Wages Act, 1936, have been, or may be applied by the State Government by notification under section 38 of the former Act ;

"Form" means a form appended to these rules;

"industrial establishment" includes an establishment;

"Inspector" means the inspector authorized by or under section 14 of the Act;

"Municipal commissioner" means the Municipal Commissioner appointed under the Bombay Provincial Municipal Corporations Act, 1949;

"person employed" excludes all persons to the payment of whose wages the Act does not apply ;

"Secretary" ,means a Secretary of a Municipality governed by the provisions of the Bombay District Municipal Act, 1901; *or the said Act as adapted and applied to the Saurashtra area of the State of Gujarat.

"Section" means a section of the Act;

"paymaster" means a employer or other person responsible under section 3 of the Act for the payment of wages ;

words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

INSPECTORS

- An Inspector of Factories appointed under sub-section (1) of Sec. 8 of the Factories Act, 1948 shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.
- The State Government may appoint Inspectors for the purpose of this Act in respect of all, persons employed upon a railway (otherwise than in a factory) to whom this Act applies.
- The State Government may, by notification in the Official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and [industrial or other establishments] in respect of which they shall exercise their functions.

PENALTY FOR offense UNDER THE ACT(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, [Sec. 5 except sub-section (4) thereof, Sec. 7, Sec. 8 except sub-section (8) thereof, Sec. 9, Sec. 10 except sub-section (2) thereof, and Sec. 12 to 131, both inclusive, shall be punishable with fine [which shall not be less than two hundred rupees but which may extend to one thousand rupees].

(2) Whoever contravenes the provisions of Sec. 4 [sub-section (4) or Sec. 5, Sec. 6, sub-section (8) of Sec. 8, sub-section (2) of Sec. 10] or Sec. 25 shall be punishable with fine which may extend to [five hundred rupees.]

(3) Whoever being required under this 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 this Act:

Shall for each such offense, be punishable with fine [which shall not be less than two hundred rupees but which may extend to one thousand rupees].

(4) Whoever-

(a) Willfully obstructs an Inspector in the discharge of his duties under this Act, or

(b) Refuses or willfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorised by or under this Act in relation to any railway factory or [industrial or other establishment]; or

(c) Willfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act: or

(d) Prevents or attempts to prevent or does anything which he has any reason to believe is likely to prevent any person from appearing before or being examined by an Inspector acting in pursuance of his duties under this Act;

Shall be punishable with fine [which shall not be less than two hundred rupees but which may extend to one thousand rupees].

(5) If any person who has been convicted of any offense punishable under this Act is again guilty of an offense 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 one month but which may extend to six months and with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees]:

Provided that for the purpose of this sub-section, no cognizance shall be taken of any conviction made more than two years before the date on which the commission of the offense, which is being punished, came to the knowledge of the Inspector.

(6) If any person fails or willfully neglects to pay the wages of any employed person by the date fixed by the authority in this behalf, he shall, without prejudice to any other action that may be taken against him, be punishable with an additional fine which may extend to 7[one hundred rupees] for each day for which such failure or neglect continues.