



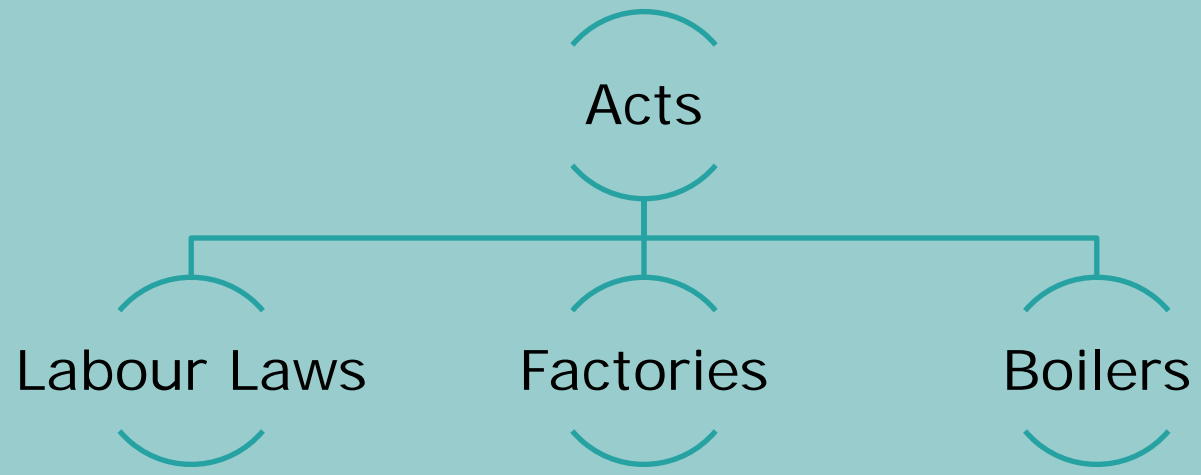
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# Labour Laws

# Labour Laws

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- The laws has been formulated in order to govern relationship between **workers, employing entities, trade unions** and **the government**.
- They concern to employees' rights at work following employment standards and mediate **Rights and Obligations** of the "Employee and Employer" through the **Contract of Employment**.



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## Labour laws enacted and enforced by the Centre

The Employees- State Insurance Act 1948

The Employees- State Insurance Rule

The Employees- Provident Fund and Miscellaneous Provisions Act 1952

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## Labour laws enacted and enforced by the State

The Shops & Establishment Act

The Shops & Establishment Rules

The Labour Welfare fund Act

The Labour Welfare fund Rule

## Labour laws enacted by the Centre and enforced by the State

### The Factories Act 1948

The Uttarakhand Factory Rules ( adopted as U.P Factory Rules)

Welfare officer Rules, ( adopted as UP. Welfare Rules)

Uttarakhand Factories ( U.P. Factory (Safety Officer Rules))

Uttarakhand (Uttar Pradesh Factories ( Control of Industrial Major Accident Hazards) Rules)

Manufacture, Storage, and Import of Hazardous Chemical Rules( Ministry of Environment and Forest)

The Chemical Accidents ( Emergency Planning, Preparedness, and response) Rules

### The Indian Boilers Act

Indian Boiler regulation

Uttarakhand ( U.P. Boiler Inspection Rules)

Uttarakhand ( U.P Economizer Rules)

Boiler Attendant's Rules

Uttarakhand( U.P. Boiler Operation Engineers Rules)

## Labour laws enacted by the Centre and enforced by the State

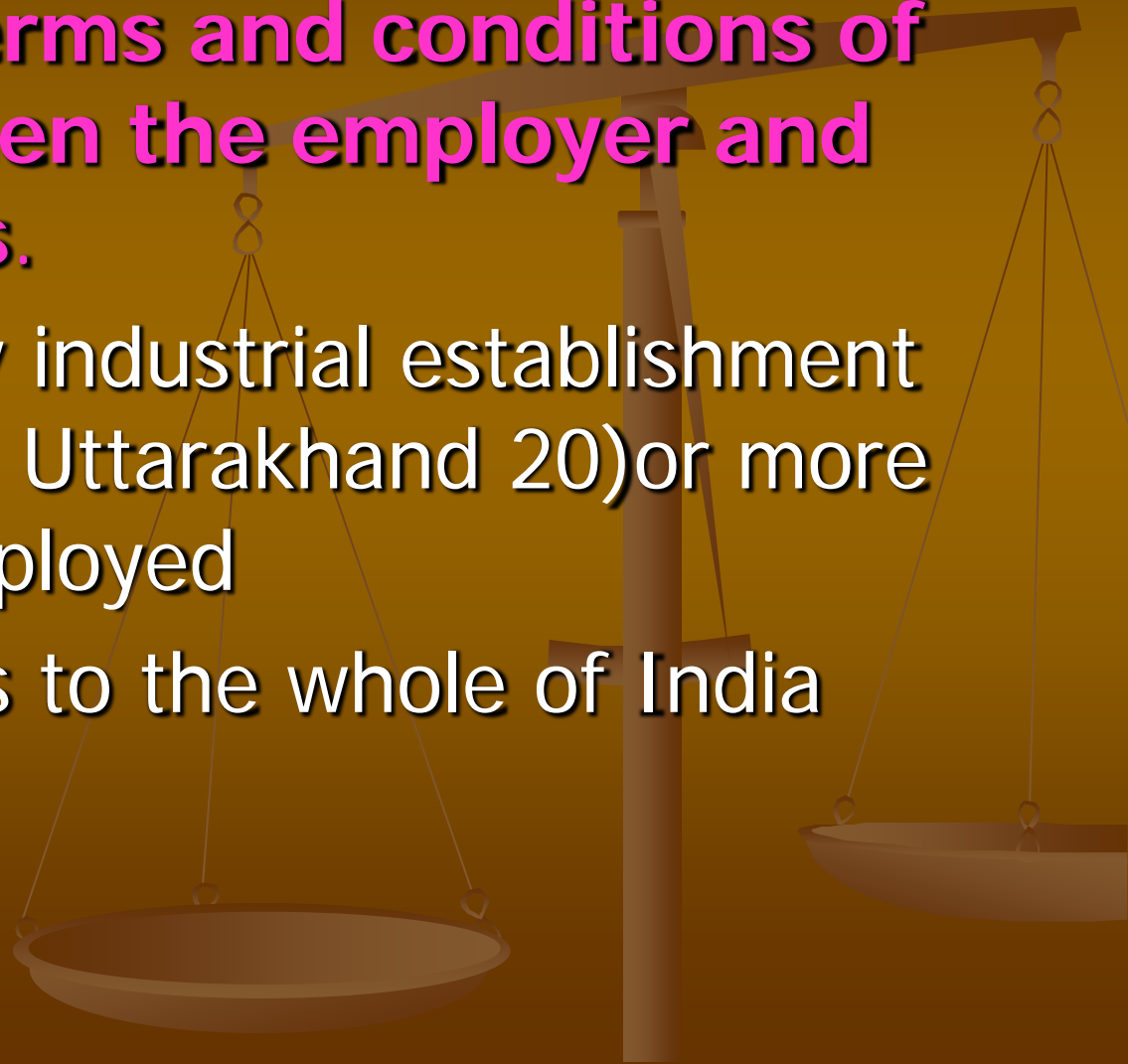
The Weekly Holidays Act 1942	-
The Motor Transport Workers Act 1961	The Motor Transport Workers Rules
The Unorganized Workers- Social Security Act 2008	The Unorganized Workers- Social Security Rules
The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act 1955	The Working Journalists(Conditions of Service) and Miscellaneous Provisions Rules
The Plantation Labour Act 1951	The Plantation Labour Rules
The Employees Compensation Act 1923	The Employees Compensation Rules
The Children Act 1960	The Children Rules
The Bonded Labour System (Abolition) Act 1976	The Bonded Labour System (Abolition)Rules
The Sales Promotion Employees Act 1976	The Sales Promotion Employees (Conditions of Service) Rules
The Trade Unions Act 1926	The Trade Unions Regulations Rules

## Labour laws enacted by Centre and enforced by both the Centre and the State

The Child Labour (Prohibition and Regulation) Act 1986	The Child Labour(Prohibition and Regulation )Rules
The Building and Other Constructions workers Act 1996	The Building and Other Constructions Workers- ( Regulation of Employment and Conditions of Service) Rules
The Maternity Benefit Act 1961	The Maternity Benefit( Mines and Circus ) Rules
The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act	-
The Minimum Wages Act 1948	The Minimum Wages Rules
The Contract Labour (Regulation and Abolition) Act 1970	The Contract Labour(Regulation and Abolition) Rules
The Payment of Gratuity Act 1972	The Payment of Gratuity Rules
The Payment of Bonus Act 1965	The Payment of Bonus Rules
The Equal Remuneration Act 1976	The Equal Remuneration Rules
The Industrial Disputes Act 1947	The Industrial Disputes Rules
The Payment of Wages Act 1936	The Payment of Wages Rules
The Industrial Employment (Standing Orders) Act 1946	The Industrial Employment (Standing Orders) Rules The Industrial Employment (Standing Orders) Rules, (State Rules)
The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act 1981	The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Rules
The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979	The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Rules (State Rules) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Rules

# THE INDUSTRIAL EMPLOYMENT (STANDING ORDER) ACT, 1946

- Defines the terms and conditions of service between the employer and his employees.
- Applies to every industrial establishment wherein 100 (in Uttarakhand 20) or more workers are employed
- The Act extends to the whole of India





# SIGNIFICANCE

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- Terms of appointment order issued to an employee cannot circumvent the provisions of certified standing order.

Therefore, it is always desirable to get standing orders drafted and certified as it regulates the relationship between the employer and the employee.



## Standing Order drafted shall provide for

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- Date on which the standing orders shall come in to force and shall remain in force
- Definitions
- Classification of workmen as Permanent, Probationer, Badlis, Casual and Trainees

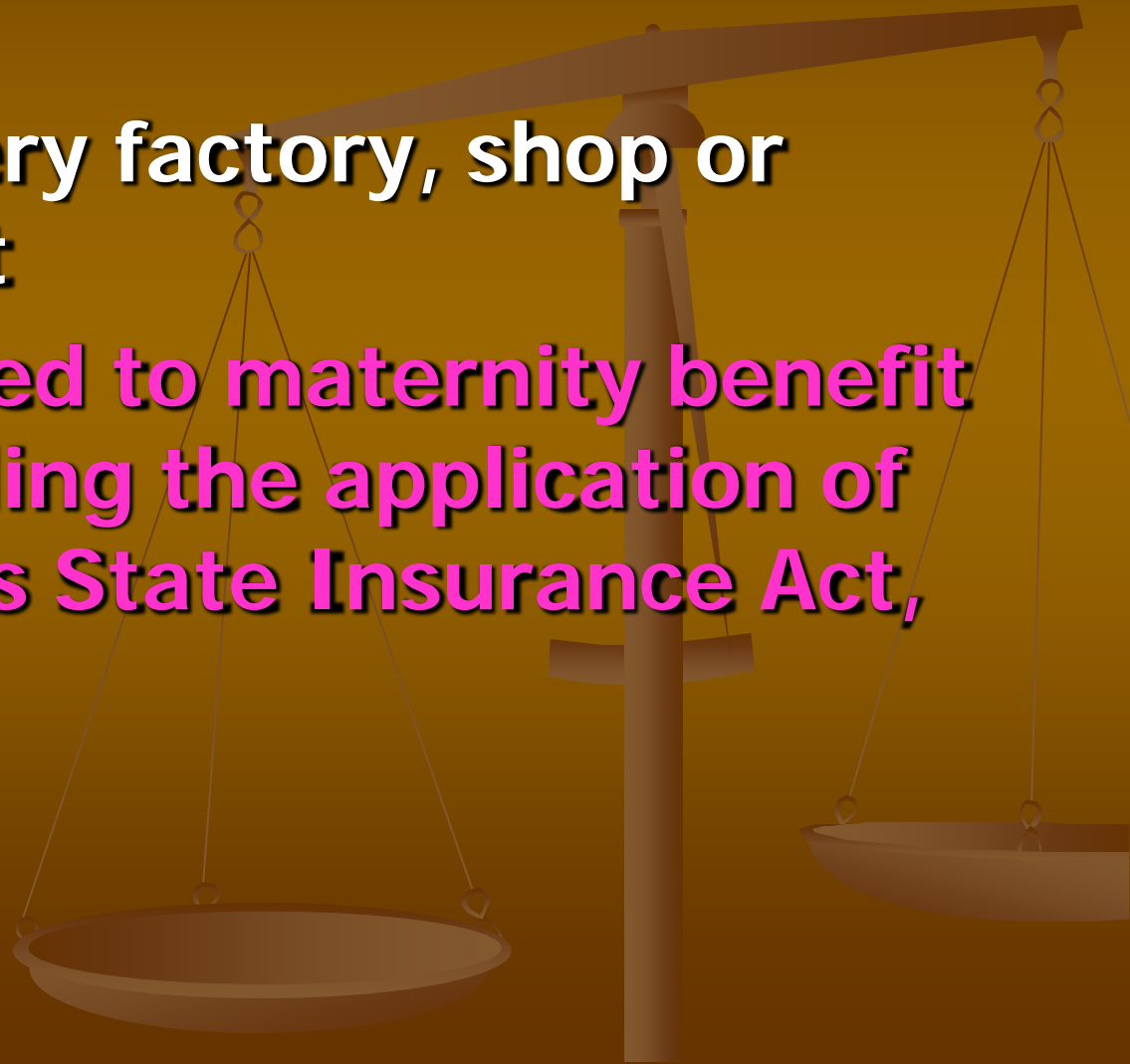
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## PENALTIES

- 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.

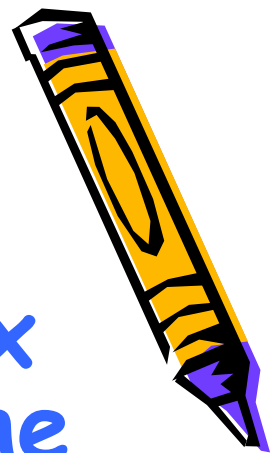
# THE MATERNITY BENEFIT ACT, 1961

- Applies to every factory, shop or establishment
- Woman entitled to maternity benefit not withstanding the application of the Employees State Insurance Act, 1948



# Employer to ensure.....

- No woman works during the six weeks immediately following the day of her delivery or her miscarriage
- No woman does any hazardous work during the period of ten weeks from the expected date of delivery
- Not to discharge or dismiss a woman during her pregnancy



# Eligibility

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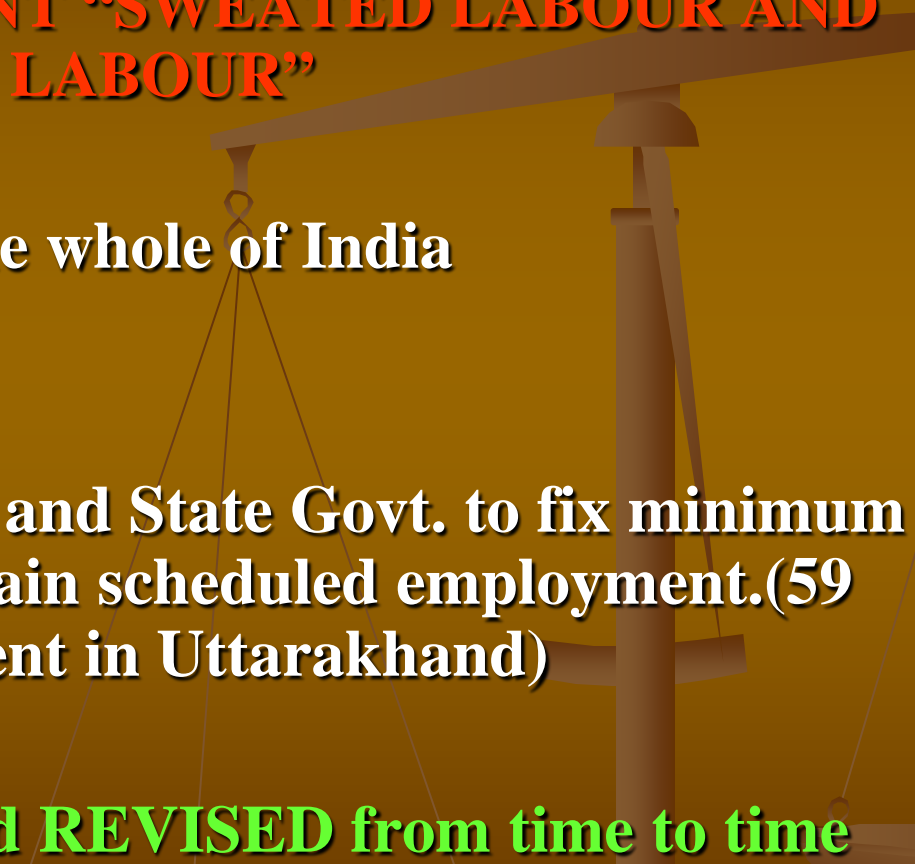
- **Work of 160 days in the 12 months immediately preceding the date of delivery.**
- **Leave days & lay offs taken as worked.**

# Benefit

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- **26 weeks leave of which not more than 8 weeks shall precede the date of her expected delivery**
- **The benefit to be paid @ average rate of wages for the three months preceding her maternity leave**
- **In case of miscarriage, 6 weeks leave with pay at the same rate as applicable to maternity benefit.**

# THE MINIMUM WAGES ACT, 1948

- **AN ACT TO PREVENT “SWEATED LABOUR AND EXPLOITATION OF LABOUR”**
  - **The Act extends to the whole of India**
  - **Requires the Central and State Govt. to fix minimum rates of wages in certain scheduled employment.(59 Scheduled Employment in Uttarakhand)**
  - **Minimum wages fixed REVISED from time to time**
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# Responsibility of the Employer

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- to follow the directions and fix wages of the workers at the rate not less than the one fixed
- to maintain Register of Wages in **form XI** showing rate of wages payable, actual amount paid, attendance & overtime, deductions for EPF, ESI and other, net amount paid, date of payment and signature of respective employee.
- Wages slip in **form X** showing the above details to be given to every employee.

# PENALTIES:-

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## Sec. 20

- For paying less than minimum rates of-MW  
Imprisonment upto 6 months or with fine upto Rs.500/-
- For contravention of any provisions pertaining to fixing hours for normal working day etc.- Imprisonment upto 6 months or with fine upto Rs.500/-

# THE PAYMENT OF WAGES ACT, 1936

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- An Act to regulate the payment of wages to certain classes of persons
- Extends to the whole of India
- Responsibility of payment wages rests with the employer
- Employer to fix Wage Period
- No wage period shall exceed one month.

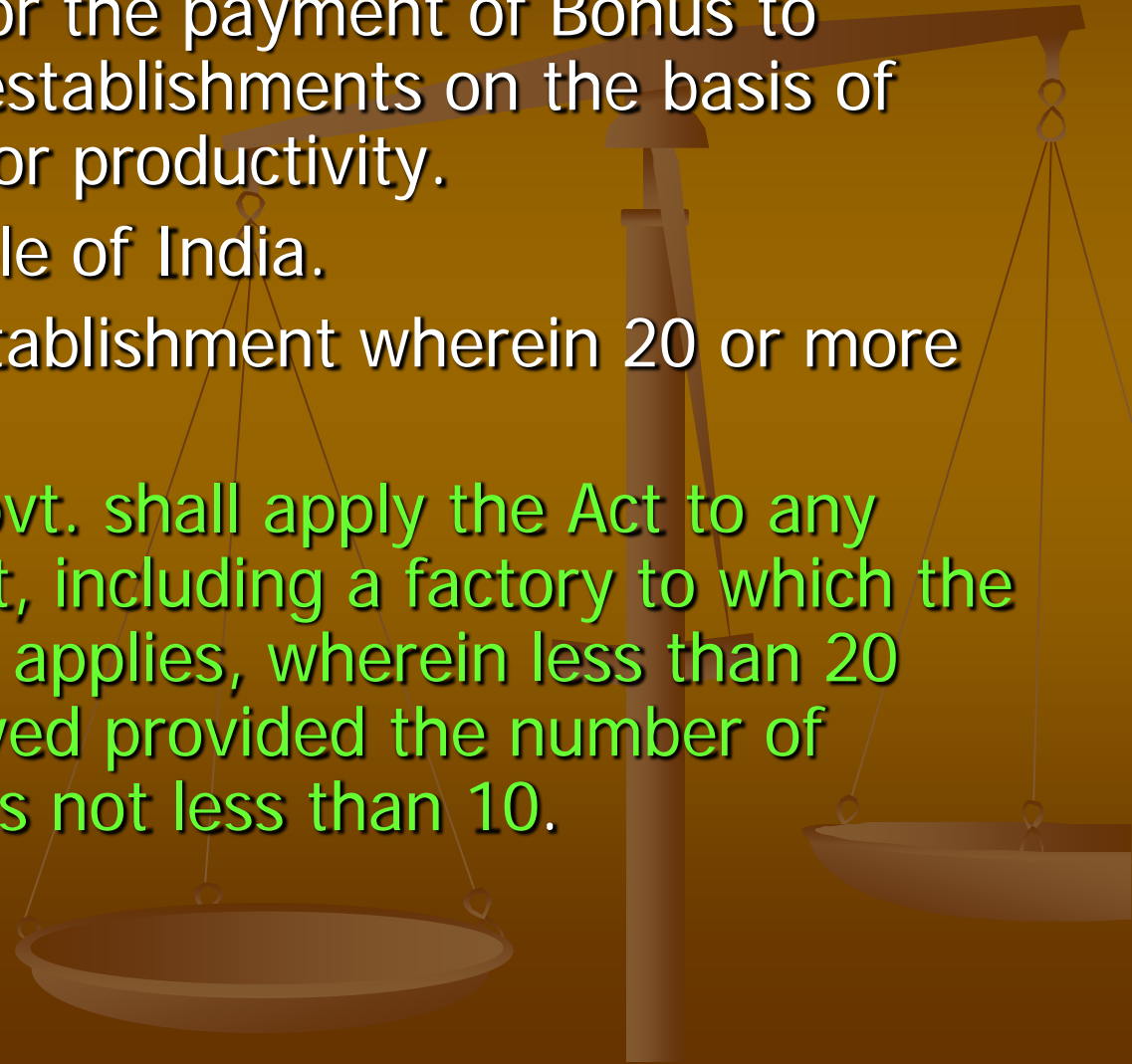
# Time of Payment of wages

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- 7<sup>th</sup> day of wage month where less than 1000 are working
- 10<sup>th</sup> day of wage month where more than 1000 are working

# THE PAYMENT OF BONUS ACT, 1965

- An Act to provide for the payment of Bonus to persons in certain establishments on the basis of profits, production or productivity.
- Extends to the whole of India.
- Applies to every establishment wherein 20 or more are employed
- The Appropriate Govt. shall apply the Act to any other establishment, including a factory to which the Factories Act, 1948 applies, wherein less than 20 workers are employed provided the number of persons employed is not less than 10.



# Eligibility to Bonus

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- ❑ employee whose salary/ wages does not exceed Rs 21000 per month (as per amendment issued w.e.f. 01 April 2014)
  - ❑ who has worked in the establishment for not less than 30 days
  - ❑ Not disqualified to claim bonus due to fraud, theft or any other misconduct
  - ❑ Bonus of every person drawing salary between Rs 7000/- and Rs 21000/- per month shall be calculated as if his salary were Rs 7000/- pm.
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# Rate of Bonus

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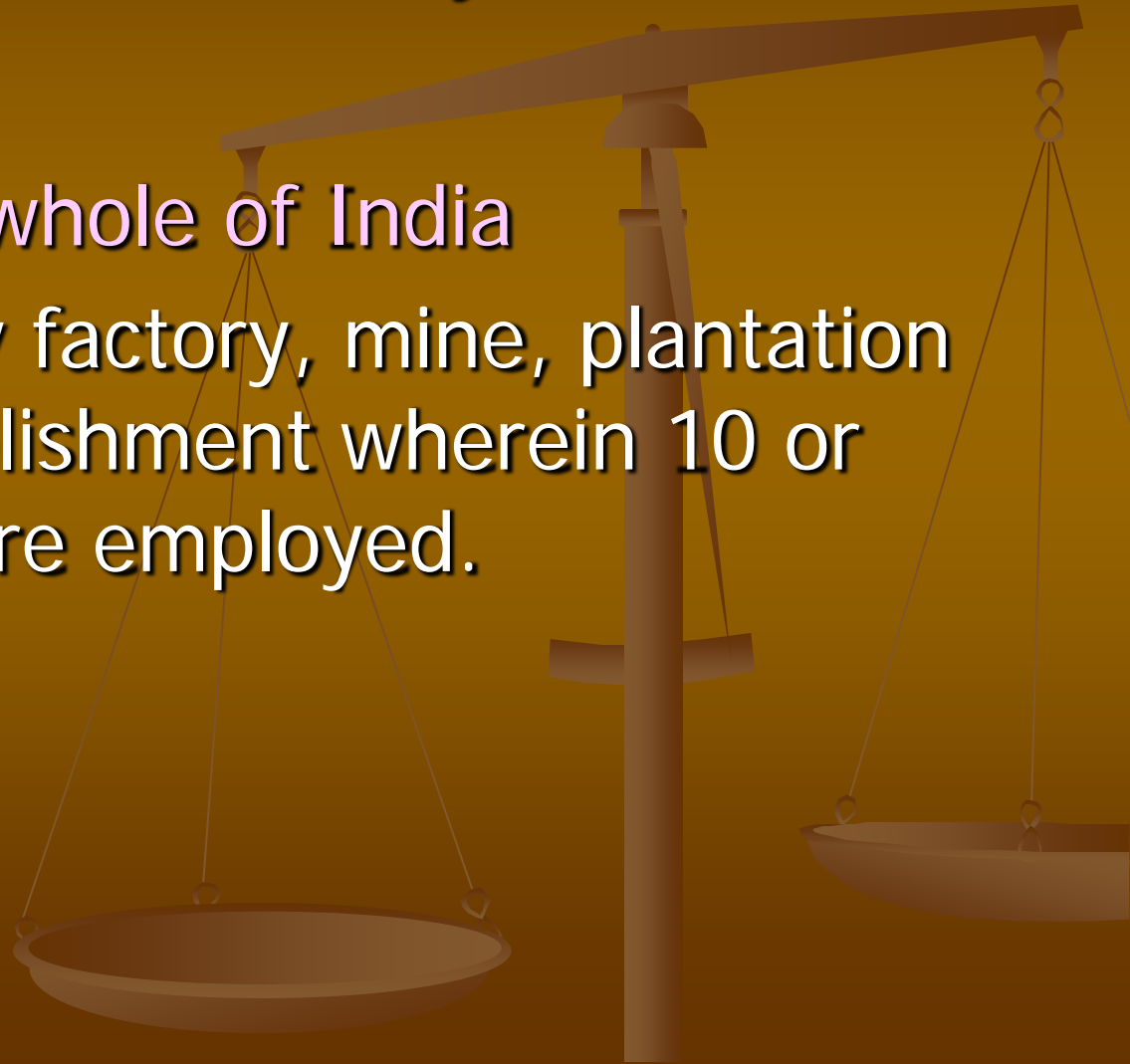
- **Minimum :8.33% of salary/wages**
- **Maximum 20% of salary/wages**
- **Computation of bonus as per Schedule I to IV of the Act.**
- **Adjust any interim bonus paid while making payment of the final bonus.**

## **PENALTIES:-**

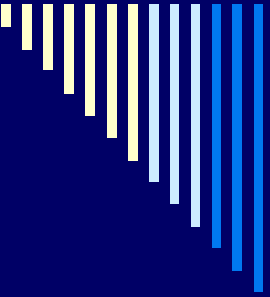
- **Section 85:** (I) (six months imprisonment and fine Rs.5000), (ii) (one year imprisonment and fine)
- **85-A:** (five years imprisonment and not less to 2 years)
- **85-C(2)** of the ESI Act, which are self explanatory. Besides these provisions, action also can be taken under section 406 of the IPC 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.

# The Payment of Gratuity Act, 1972.

- Extends to the whole of India
- Applies to every factory, mine, plantation and other establishment wherein 10 or more workers are employed.



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**Gratuity is payable to an employee on termination of his employment after he has rendered **continuous service for not less than five years****

- on his superannuation
  - on his resignation
  - on his death or disablement due to employment injury or disease
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# The payment of gratuity shall be forfeited

- **to the extent of the damage or loss caused by the employee to the property of the employer**
- **where the service of the employee is terminated due to misconduct**

# Rate of gratuity

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- 15 days wages for every completed year of service
  - Rates applicable to **Working Journalists** depends upon the service of the employee as provided in the Working Journalists and Other Newspaper Employees (Conditions of service) and Miscellaneous Provisions Act, 1955
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## Salary ceiling

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- The Amendment Act of 1994 removed the salary ceiling of an employee, but the maximum gratuity payable shall be Rs 20 lakh.

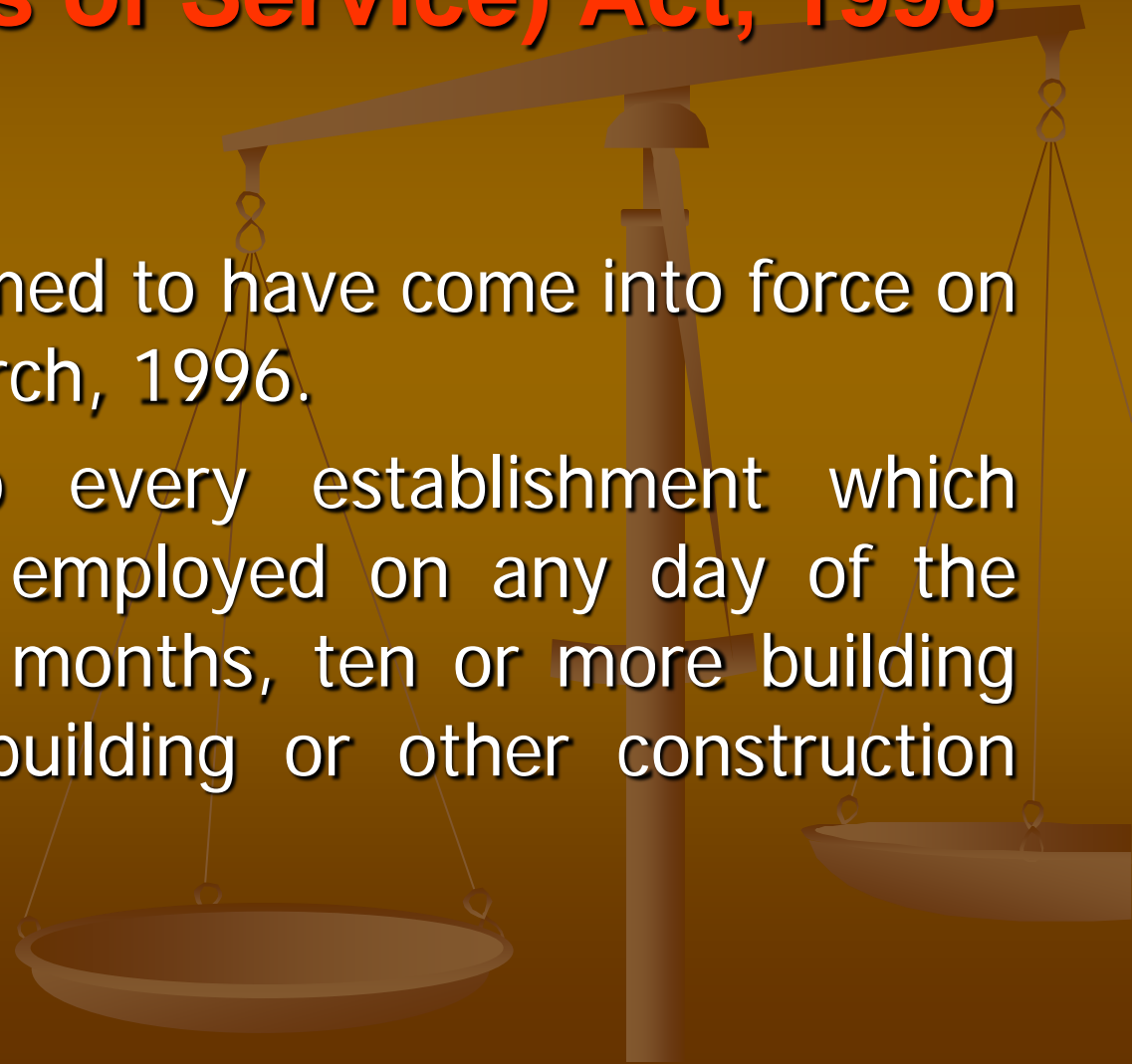
## PENTALTIES:-

- Imprisonment for 6 months or fine upto Rs.10,000 for avoiding to make payment by making false statement or representation.
- Imprisonment not less than 3 months and upto one year with fine on default in complying with the provisions of Act or Rules.

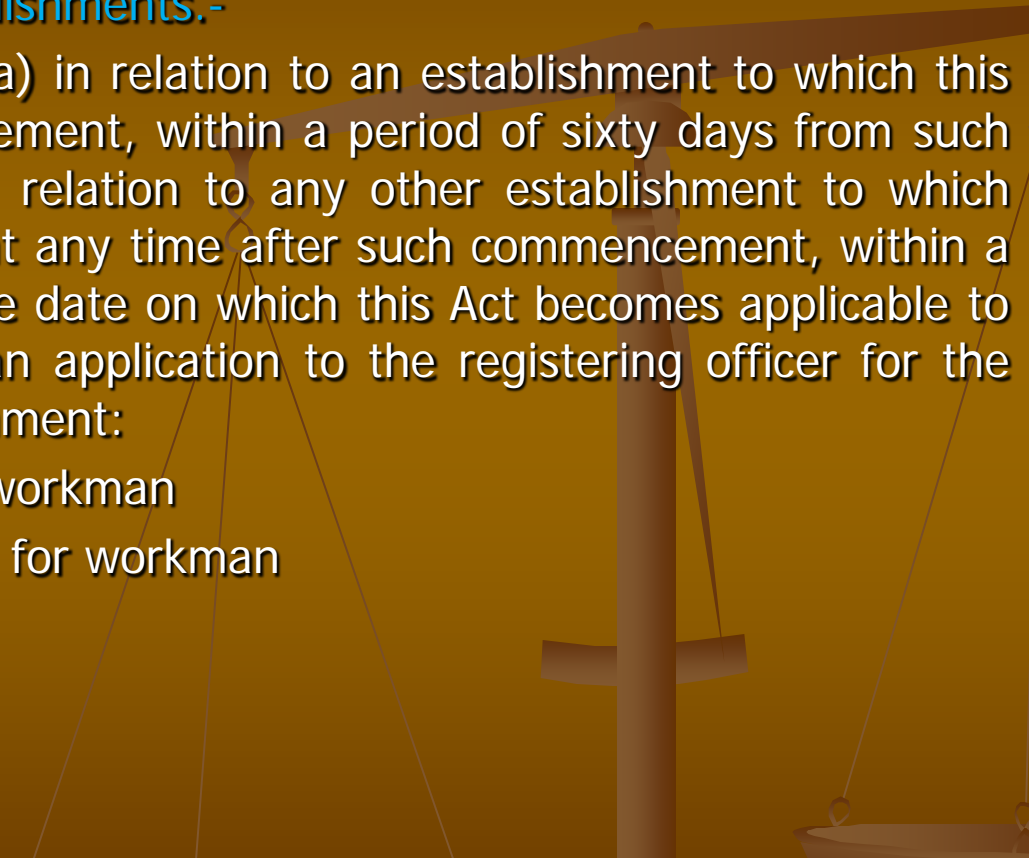
# The Building and other Construction workers (Regulation of Employment and conditions of Service) Act, 1996

## APPLICABILITY-

- 1. It shall be deemed to have come into force on the 1st day of March, 1996.
- 2. It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.



# Important sections of BOCW Act

- **Sec. 7- Registration of establishments.-**
  - (1) Every employer shall,- (a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and (b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment, make an application to the registering officer for the registration of such establishment:
    - **Sec. 32-** Drinking water for workman
    - **Sec. 33-** Latrines and urinals for workman
    - **Sec. 34-** Accommodation
    - **Sec. 35-** Creches
    - **Sec. 36-** First-aid.
    - **Sec. 37-** Canteen Facility
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# Penalties

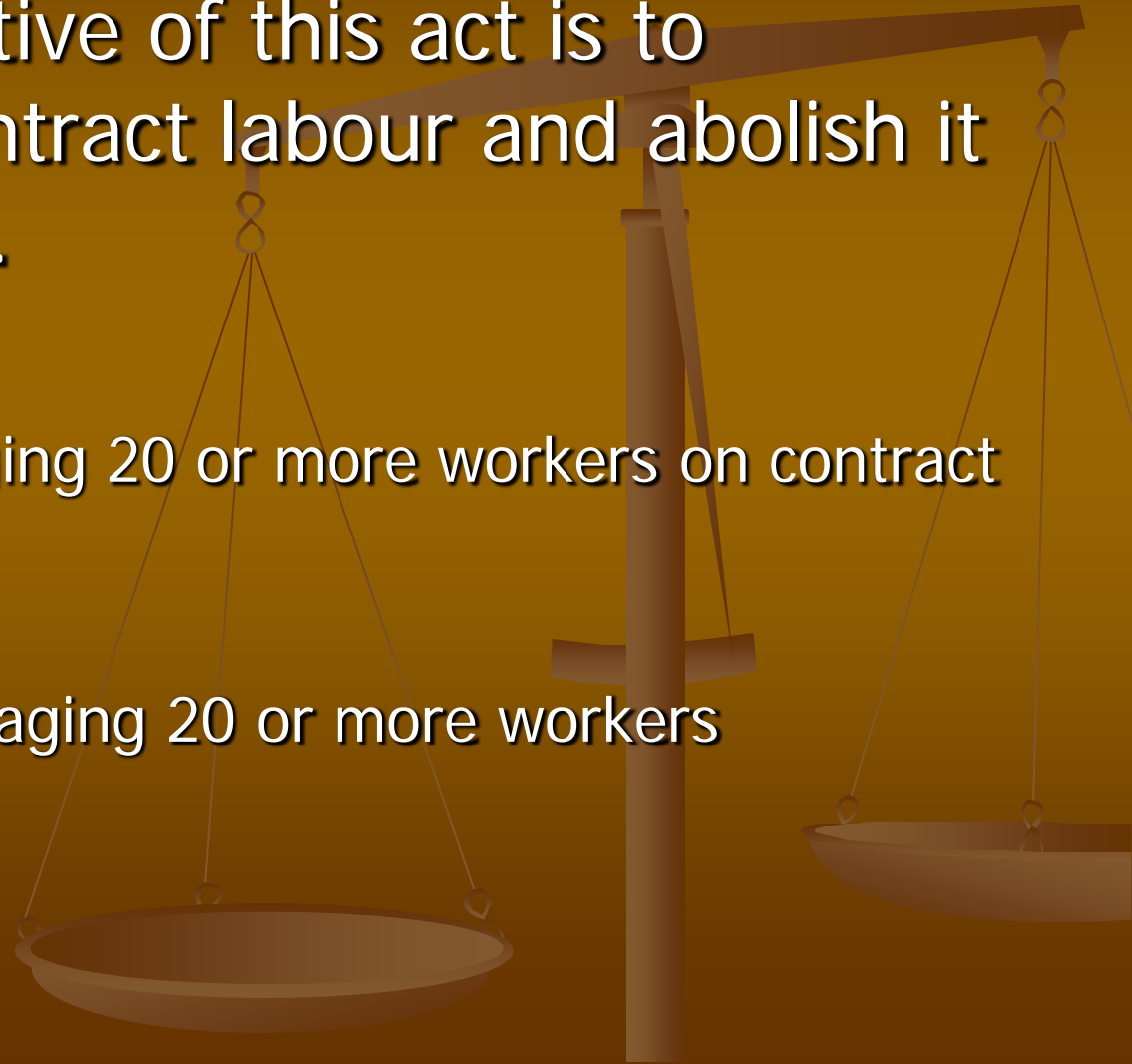
- **Sec. 48- Penalty for failure to give notice of the commencement of the building or other construction work.**- Where an employer fails to give notice of the commencement of the building or other construction work under section 46, he shall be punishable with imprisonment for a term which may extend to three months, or With fine which may extend to two thousand rupees, or with both.
- **Sec. 49- Penalty for obstructions.**- (1) Whoever obstructs an Inspector in the discharge of his duties under this Act or refuses or willfully neglects to afford the Inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorized by or under this Act in relation to an establishment shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both. (2) Whoever willfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has 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 imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.
- **Sec. 50- Penalty for other offences.**- (1) Whoever contravenes any other provision of this Act or any rules made there under or who fails to comply with any provision of this Act or any rules made there under shall, where no express penalty is elsewhere provided for such contravention or failure, be punishable with fine which may extend to one thousand rupees for every such contravention or failure, as the case may be, and in the case of a continuing contravention or failure, as the case may be with an additional fine which may extend to one hundred rupees for every day during which such contravention or failure continues after the conviction for the first such contravention or failure

# Contract Labour (Regulation & Abolition) Act, 1970

- The main objective of this act is to regulate the contract labour and abolish it in certain cases.

## Applicability-

- Every industry engaging 20 or more workers on contract basis.
- Every contractor engaging 20 or more workers



# Obtaining registration & license

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- Apply in form I for registration in triplicate copy along with prescribed fees
- Apply in form IV for license in triplicate copy along with license & security fees.
- For license form V is given by Principal employer to contractor.

# Welfare Facilities

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- Canteen Section 16
- Rest rooms Section 17
- Urinals, Latrines
- Drinking Facilities Section 18
- First Aid Facilities Section 19
  
- Principal employer will have to provide these facilities if not provided by contractor.
- In annual return these facilities needs to be shown




## 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**

# Penalties

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- Section 22-(Obstruction)- For obstructing the inspector or failing to produce registers etc.- **3 months' imprisonment or fine upto Rs.500, or both.**
- Section 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**



# Child Labour (Prohibition and Regulation) Act 1986

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- A "Child" is defined as any person below the age of 14 and the CLPR Act prohibits employment of a Child in any employment including as a domestic help (except helping own family in non-hazardous occupations).
- It is a cognizable criminal offence to employ a Child for any work.

# Child Labour (Prohibition and Regulation) Act 1986

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- Children between age of 14 and 18 are defined as "Adolescent" and the law allows Adolescent to be employed except in the listed hazardous occupation and processes which include mining, inflammable substance and explosives related work and any other hazardous process as per the Factories Act, 1948.



# National Child Labour Project (NCLP)


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- District Project Society.
- District Task Force.
- Rescue Force
- Pencil Portal
- Child Labour Survey
- Special Training Centre/Bridge Courses
- Skill Enhancement for adolescent
- NULM AND NRLM Scheme for Parents of Child Labour

# BONDED LABOUR SYSTEM (ABOLITION) ACT 1976

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- Render services to the creditor (by himself or through a family member) for a specified (or unspecified) period of time with no wages (or nominal wages).
- Forfeit the right to move freely.
- Forfeit the right to appropriate or sell the product or property at the market value from his (or his family members') labour or service.

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- On commencement of this Act the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged free from any obligation to render bonded labour.
  - Any custom, agreement or other instrument by virtue of which a person is required to render any service as bonded labour shall be void.
  - Liability to repay bonded debt shall be deemed to have been extinguished.
  - Property of the bonded labourer to be freed from mortgage etc.
  - District Magistrates have been entrusted with certain duties and responsibilities for implementing the provision of this Act.
  - Vigilance committees are required to be constituted at district and sub-divisional levels.
  - Offences for contravention of provisions of the Act are punishable with imprisonment for a term which may extend to three years and also with fines which may extend to two thousand rupees.
  - Powers of Judicial Magistrates are required to be conferred on Executive Magistrates for trial of offences under this Act. Offences under this Act may be tried summarily.
  - Every offence under this Act shall be cognizable and bailable.

# Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

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- The 2016 scheme is noteworthy as it recognises the differential needs of marginalised groups trapped in bonded labour. It provides cash assistance of Rs. 1 lakh for male bonded labourers, Rs. 2 lakh for female and child bonded labourers and children rescued from forced labour or organised or forced begging, and Rs. 3 lakh for differently-abled, physically challenged, trafficked, commercially sexually exploited, transgender, and other severely vulnerable bonded labourers.
- Non-cash assistance provided to all rehabilitated bonded labourers must include allotment of house-site and agricultural land; land development; provision of low-cost dwelling units; animal husbandry, dairy, poultry, piggery, etc.; wage employment, enforcement of minimum wages, etc.; collection and processing of minor forest products; supply of essential commodities under targeted public distribution system; and, education for children.
- The Scheme mandates that a Bonded Labour Rehabilitation Fund be created by the State Government in each district to provide immediate help to release bonded labourers. This Fund must have a minimum permanent corpus of Rs. 10 lakh. The District Magistrate (DM) must provide an advance of at least Rs. 5,000 to released bonded labourers from this fund as immediate relief. If the DM finds any bonded labourer in need of greater assistance, he/she can provide the maximum entitlement prescribed to the category that the person belongs to under the scheme.

# Industrial Dispute Act, 1947

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- It is an important piece of socio-economic legislation. The object of the act is to make provision for investigation and settlement of industrial dispute and for certain other purposes.
- Act is primarily meant for:
  - (a) regulating the relations between employers and workman, past, present and future.
  - (b) encouraging collective bargaining.
- (c) Maintaining industrial peace by preventing illegal strikes and lockouts and to provide for layoff and retrenchment compensation.



## ○ **Conciliation officers[sec4]:**

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1) The appropriate Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be Conciliation Officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

2) A Conciliation Officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

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- The main emphasis of the act is on compulsory adjudication besides conciliation and voluntary arbitration of industrial disputes.
  - The act empowers the government to make a reference of the dispute to an appropriate authority viz. labourcourt , industrial tribunal and national tribunal.
  - the right to strike by the workers and lockout by the employers has been subjected to the restriction as laid down in the act and such rights are not absolute rights.

# Strike and lockout in industrial establishment sec23]

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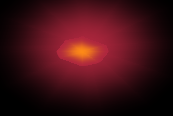
- No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out-
- (a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;
- (b) during the pendency of proceedings before 1[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 (3-A) of Section 10-A; or
- (c) 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.



# Award and Settlement

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- **Form of award or report[sec16]**
- **Publication of award and reports[sec17]**
- **Commencement of award[sec17-A]**
- **Payment of wages pending proceedings[sec17-B]**
- **Persons on whom awards and settlements are binding[sec18]**
- **Period of operation of award and settlement[sec19]**



THANK YOU!