ICAI BANGALORE CHAPTER

LABOUR LAWS

COURSE HAND OUT

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KARNATAKA SHOPS AND COMMERCIAL ESTABLISHMENT Act, 1962

An Act to provide for the regulation of conditions of work and employment in shops and commercial establishments.

WHEREAS it is expedient to provide for the regulation of conditions of work and employment in shops and commercial establishments and other incidental matters;

(a) "commercial establishment" means a commercial or trading or banking or insurance establishment, an establishment or administrative service in which persons employed are mainly engaged in office work, a hotel, restaurant, boarding or eating house, a cafe or any other refreshment house, a theatre or any other place of public amusement or entertainment and includes such establishments as the State Government may by notification declare to be a commercial establishment for the purposes of this Act;

(b) "employee" means a person wholly or principally employed in or in connection with, any establishment whether working on permanent, periodical, contract or piece-rate wages, or on commission basis, even though he receives no reward for his labour and includes an apprentice, any clerical or other member of the staff of a factory or industrial establishment who falls outside the scope of the Factories Act, 1948, but does not include a member of the employer's family; and "employed" shall be construed accordingly;

(c) "employer" means a person having charge of or owning or having ultimate control over the affairs of an establishment and includes members of the family of an employer, a manager, agent or other person acting in the general management or control of an establishment;

(d) "shop" means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, storerooms, godowns, or warehouses, whether in the same premises or otherwise, used in connection with such trade or business, but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop fall within the scope of the Factories Act, 194**.**

Registration of Establishments —(1) Within the period specified in sub-section (3), the employer of every establishment shall send to the Inspector of the area concerned, a statement in the prescribed form together with such fees as may be prescribed, containing,

(a) Name of the employer and the manager, if any;

(b) The postal address of the establishment;

(c) The name, if any, of the establishment; and

(d) Such other particulars as may be prescribed. 8;

[(4) A registration certificate issued under sub-section (2), shall be valid for 2[five years]

2 and shall be renewed 2[before the expiry of the period of registration certificate] on payment of such fees and in such manner as may be prescribed.

6. Closing of establishment to be communicated to Inspector. — The employer shall, within fifteen days of his closing the establishment, notify to the Inspector in writing the date of such closure and return

the registration certificate. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate:

6A. Issue of appointment orders.—Every employer, employing any person in or in connection with his establishment, shall issue an appointment order in writing indicating the name, designation, wage scale of such person and terms and conditions of his employment and serve the same on such person within thirty days from the date of appointment in his establishment:

HOURS OF WORK

7. Daily and weekly hours —(1) No employee in any establishment shall be required or allowed to work for more than nine hours on any day and forty-eight hours in any week:

Provided that the total number of hours of work including overtime shall not exceed ten hours in any day except on days of stock-taking and preparation of accounts:

Provided further that the total number of overtime hours worked by an employee does not exceed fifty in a period of three continuous months.

8. Extra wages for overtime work —(1) Where an employee works in any establishment for more than nine hours in any day or for more than forty-eight hours in any week he shall in respect of such overtime work be entitled to wages at twice the rate of normal wages.

12. Weekly Holidays —(1) Every establishment shall remain closed for one day of the week. The employer shall fix such date at the beginning of the year, 1[or within thirty days from the date of commencement of establishments, as the case may be]1 notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the establishment. The employer shall not alter such date more often than once in three months, shall notify the alteration to the Inspector, and shall make the necessary change in the notice in the establishment.

15. Annual leave with wages —1[(1) Every employee in an establishment shall be entitled to leave with wages and shall be allowed to avail such leave for the number of days calculated at the rate of,-

(i) one day for every twenty days' work performed by him, in case of an adult;

(3) Every employee shall also be entitled during the first twelve months of continuous service and during every subsequent twelve months of such service in any establishment to leave with wages for a period not exceeding twelve days, on the ground of any sickness incurred or accident sustained by him or for any other reasonable cause.

1(7) If an employee does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of the days of leave that may be carried forward to a succeeding year shall not exceed thirty days in the case of an adult and forty days in the case of a young person:

Provided further that an employee who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-sections (10) and (11) shall be entitled to carry forward the unavailed leave without any limit.

(13) If the employment of an employee who is entitled to leave under sub-section (1) 1[x x x]1 is terminated by the employer before he has taken the entire leave to which he is entitled or if having applied for and having not been granted such leave, the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 16 in respect of the leave not taken, and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination, and where an employee quits his employment, on or before the next pay day.

(14) The un availed leave of an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

Application of Payment of Wages Act and Employees Compensation Act

25. Prohibition of employment of women and young person's during night—No woman, or a young person 1[x x x]1, shall be required or allowed to work whether as an employee or otherwise in any establishment during night:

[1][Provided that the State Government may, by notification exempt any establishment of Information Technology or Information Technology enabled service from the provisions of this section relating to employment of women during night subject to the condition that the establishment provides facilities of transportation and security to such women employees and subject to any other condition as may be specified in the notification

Inspection & Enforcement

Duties and powers of inspectors

Penalties

33. Penalty for obstructing Inspectors, etc.—Any person who willfully obstructs an Inspector in the exercise of any power conferred on him under this Act, or any person lawfully assisting an Inspector in the exercise of such power or who fails to comply with any lawful direction made by an Inspector, shall be punishable with fine which may extend to 1[five hundred rupees]1.

34. Maintenance of registers and records and display of notices.—Subject to the general or special orders of the State Government, an employer shall maintain such registers and records and display on the premises of his establishment, such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate.

39. Notice of dismissal—(1) No employer shall remove or dismiss an employee who has put in service under him continuously for a period of not less than six months, except for a reasonable cause and unless and until one month's previous notice or pay in lieu thereof has been given to him:

Provided that where misconduct of an employee is brought on record with proof at an enquiry held for the purpose, he shall not be entitled to the notice or pay in lieu of such notice.

(2) An employee removed or dismissed under sub-section (1) shall have a right of appeal to 1[such officers having jurisdiction over such areas or such classes of employees as may be prescribed]1 on the ground that there was no reasonable cause for the removal or dismissal or that he has not been guilty of misconduct as held by the employer.

(3) Where an employee has been removed or dismissed without reasonable cause or without proof of misconduct, the employee shall, where the employer does not agree to reinstate him, be entitled to such compensation as the appellate authority may determine, provided that such compensation shall not exceed an amount calculated at one month's pay for every year of service 1[x x x]1.

(4) Any person aggrieved by an order of the appellate authority may apply to the District Judge for a revision of such order and subject to the result of such application the decision of the appellate authority shall be final and binding on both the employer and the person employed.

(5) The amount payable as compensation under this section shall be in addition to any fine payable under section 30 and shall be recoverable as a fine.

(6) No employee who has been awarded compensation under this section shall be entitled to bring a civil suit in respect of the same claim.

(7) If under any other law or under the terms of an award, agreement or contract of service, any employee is entitled to a longer period of notice or to more favorable benefits that are provided in sub-section (1) or sub-section 1962: KAR. ACT 8] Shops and Commercial Establishments (3) the provisions of the said sub-sections shall have effect as if such period of notice and such benefits had been enacted in this Act.

2. MINIMUM WAGES ACT, 1948

1. Object of the Act:

To provide for fixing minimum rates of wages in certain employments

2. Fixation of Minimum Rates of Wages:

* The appropriate government to fix minimum rates of wages The employees employed in para 1 or para B of Schedule either at 2 or either part of notification u/s 27.
* To make review at such intervals not exceeding five years the minimum rates or so fixed and revised the minimum rates.
Government can also fix Minimum Wages for Time Work
* Piece work at pieces rate.
*Piece work for the purpose of securing to such employees on a time work basis.8 Overtime work done by employees for piece work or time rate workers. Sec. 3

3. Minimum Rates of Wages:

Such as Basic rates of wages etc. Variable DA and Value of other concessions etc. Sec. 4.

4. Procedure for fixing and revising Minimum Rates of Wages:
Appointing Committee issue of Notification etc. Sec. 5

5. Composition of Committee:
Representation of employer and employees in schedule employer in equal numbers and independent persons not exceeding 1/3 or its toal number one such person to be appointed by the Chairman. Sec. 9

6. Payment of Minimum Rates of Wages:
Employer to pay to every employee engaged in schedule employment at a rate not less than minimum rates of wages as fixed by Notification by not making deduction other than prescribed Sec.12.

7. Fixing Hours for Normal Working:
* Shall constitute a normal working day inclusive of one or more specified intervals.
* To provide for a day of rest in every period of seven days with remuneration.
* To provide for payment for work on a day of rest at a rate not less than the overtime rate. Sec.13.

8. Overtime:
* To be fixed by hour by the day or by such a longer wage period works on any day in excess of the number of hours constituting normal working day.
* Payment for every hour or for part of an hour so worked in excess at the overtime rate double of the ordinary rate of (1/1/2 times for agriculture labour) Sec. 14

9. Wages of workers who works for less than normal working days.
Save as otherwise herewith provided be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day. Sec. 15

10. Wages for two class of work:
Where an employee does two more classes of work to each of which a different minimum rate of wages is applicable, wages at not less than the minimum rate in respect of each such class. Sec. 16.

1. Maintenance of registers and records:

- Register of Fines- Form I Rule 21 (4)
- Annual Returns – Form III Rule 21 (4-A)
- Register of Overtime- Form IV Rule 25

- Register of Wages- Form X, Wage Slip- Form XI. Muster Roll Form V Rule 26
- Representation of register – for three year Rule 26- A. Sec. 18

2. Minimum time rate wages for piece work
   Not less than minimum rates wages as fixed. Sec. 17
3. Claims by employees

- To be filed by before authority constituted under the Act within 6 months
- Compensation up to 10 times on under or nonpayment of wages. Sec. 20

4. Penalties: Offence: Sec. 20
   For paying less than minimum rates of wages

- For contravention of any provisions pertaining to fixing hours for normal working day etc.
- Punishment:
- Imprisonment up to 6 months or with fine up to Rs. 550/-
- Imprisonment fine up to Rs. 500/-.

3. PAYMENT OF BONUS ACT, 1965 & THE RULES

1. Applicability of the Act:

Every factory wherein 10 more persons are employed with the aid of power or
An establishment in which 20 or more persons are employed without the aid of power on any day during an accounting year. Sec.1

Establishment:
Establishment includes departments, undertakings and branches, etc.

2. Components of Bonus:
Salary or wages include

3. Computation of available surplus:
Income tax and direct taxes as payable

- Depreciation as per section 32 of Income Tax Act
- Development rebate, investment or development allowance. Sec. 5

Components of Bonus
Salary or wages includes dearness allowance but no other allowances e.g. over time , house rent, incentive or commission. Sec. 2 (21)

4. Separate establishment

If profit and loss accounts are prepared and maintained in respect of any such department or undertaking or branch, then such department or undertaking or branch is treated as a separate establishment. Sec. 3.

Computation of gross profits

For banking company, as per First Schedule

Others as per Second Schedule. Sec. 4

5. Eligibility of Bonus:

An employee will be entitled only when he has worked for 30 working days in that year. Sec. 8

6. Disqualification & Deduction of Bonus

On dismissal of an employee for

*fraud , or riotous or violent behaviour while on the premises of the establishment, or theft, misappropriation or sabotage of any property of the establishment or

*Misconduct of causing financial loss to the Employer to the extent that bonus can be deducted for that year. Sec. 9 & 18.

7. Payment of Minimum Bonus:

8.33% of the salary or Rs. 100 (on completion of 5 years after 1st Accounting year even if there is no profit. Sec. 10

8. Eligible Employees:

Employees drawing wages up to Rs. 21,000 per month or less

For calculation purposes Rs. 7000 per month maximum (or Minimum wages whichever is higher) will be taken even if an employee is drawing up to Rs. **21,000** per month. Sec.12

9. Time Limit for payment of Bonus:

Within 8 months from the close of accounting year. Sec. 19

10. Set off and Set on

As per Schedule IV. Sec. 15

11. Submission of Return

In Form D to the Inspector within 30 days of the expiry of time limit under Section 19.

12. Maintenance of Registers and Records etc.

A register showing the computation of the allocable surplus referred to in clause (4) of section, 2 in form A

A register showing the set on and set off of the allocable surplus, under section 15, in Form B.

A register showing the details of the amount ob bonus due to each of the employees, the deductions under section 17 and 18 and the amount actually disbursed, in form C. Sec. 26

13. Act not applicable to certain employees of LIC, General Insurance, Dock Yards, Red Cross, Universities & Educational Institutions, Chambers of Commerce, Social Welfare Institutions, Building Contractors, etc. Sec. 32.

Penalty:

For contravention of any provision of the Act or the Rule: Up to 6 months or with fine up to Rs. 1000. Sec. 28.

4. PAYMENT OF GRATUITY ACT, 1972

I. **Applicability:**
Every factory, mine, oil field, plantation, port, railways, company, shop, establishment or educational institution s employing 10 or more employees. Sec.1

II. Wages for Calculation: @ 15 days' wage for every completed year as if the month comprises of 26 days at the last drawn wages. Sec. 2 (s)

III. Sec. 4. Calculation Piece –rated employee:
@ 15 days ' wages for every completed year on an average of 3 months' wages
Calculation. Seasonal employee: @ 7 days' wages for every completed year of service

IV. Sec. 2 (e): Employee – All employees irrespective of status or salary
Entitlement: On completion of five years; service except in case of death or disablement
Qualifying period: On rendering of 5 years; service, either termination, resignation or retirement.

V. Rule 4. Display of Notice:
On conspicuous place at the main entrance in English language or the language understood by majority of employees of the factory, etc.

VI. Sec. 6 Rule 6: Nomination To be obtained by employer after expiry of one years' service, in Form 'F"

VII. Sec. 4 (3) Maximum Ceiling **Rs. 20,00,000**

VIII. Rule: 9: Mode of Payment: Cash or, if so desired by Bank Draft or Cheque.

IX. Sec. 8 Rule 8. Recovery of Gratuity:
To apply within 30 days in Form I when not paid within 30 days.

X. Sec. 4 (6). Forfeiture of Gratuity:
*On termination of an employee for moral turpitude or riotous or disorderly behaviour
*Wholly or partially for wilfully causing loss, destruction of property. Etc.

XI. Sec. 13. Protection of Gratuity:
Can't be attached in execution of any decree.

XII. Penalties: Sec. 9.

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

5. MATERNITY BENEFIT ACT-1961

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 her child at this important time when she is not working.

Applicability 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 establishment if the State Government so decides.

Conditions for Eligibility Of Benefits

Every woman shall be entitled to maternity benefit at the rate of the average daily wage for the period of her actual absence. No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims days in the twelve months.

Medical Bonus

A medical bonus of Rs. 3500 if the employer does not provide free medical care to the woman.

Maternity Benefit – Quantum Of

- Maximum period for which any woman shall be entitled to maternity benefit shall be 26 weeks for which not more than 8 weeks shall precede for date of hear expected delivery. However, the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her excepted delivery
- An additional leave with pay upto one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth.

Maternity Benefit on Adoption of Child

A woman legally adopts a child below the age of three months or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.

Non Cash Benefit / 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.

Condition for Claiming 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 cannot take it herself.
- She should take the payment for the first six weeks before she goes on leave.
- 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.

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. Sec. 9 & 13

Leave for Illness Arising Out of Pregnancy 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]

Dismissal Prohibition

- 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 to 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 cross misconduct.

Forfeiture of Maternity Benefit

If permitted by her employer to absent herself under the provision 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 find, but not exceeding Rs. 5,000. Sec. 18

Penal Provision

On Failure to Display Extract of Act: Imprisonment may extend to one year or fine.

6. EMPLOYEES' STATE INSURANCE ACT & THE SCHEME, 1948

Applicability

- The Act is extended in area – wise to factories using power and employing 10 or more persons and to non – power using manufacturing units and establishment including educational institutions employing 10 or more person.
- It has also been extended upon shops, hotels, restaurants, road motor transport undertaking, etc.

Benefits

- ESI Scheme takes care of following needs of the members:
- 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.

Membership

If an insured person's wages/salary becomes more than Rs. 21,000/- per month, even then he/she remains covered till the end of a Contribution Period which is either April to September & October to March.

Scheme of contribution

Employer's Share: 4.75%

Employee's Share: 1.75% of wages/salary.

Employer's contribution

New implemented are: 3%

Wages / Salary

- 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 as Wages / Salary

- Contribution paid by the 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 lnam which does not form part of the terms of employment
- Washing allowance for livery
- Conveyance:

  ➔ Amount towards reimbursement for duty related journey.
  ➔ Reimbursement of journey on production of ticket.
  ➔ Maintenance of vehicle subject to production of record.
  ➔ Fixed when paid at an interval exceeding 2 months.

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 from in quadruplicate on or before 15th of month following the calendar month in which the wages fall due.

Penal Provision

Different punishments have been prescribed for different types of offence 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.

Eligibility

All employees drawing wages/salary up to Rs. 21,000/- per month engaged either directly or thru' contractor, are covered under the Scheme.

Contribution Period

1st April to 30th September, and
1st October to 31st March

7. NDUSTRIAL DISPUTES ACT, 1947

Object

Provision for investigation and settlement of industrial disputes and for certain other purpose.

Important Clarification

- Industry – has attained wider meaning than defined except for domestic employment, covers from barber shops to big steel companies. Sec.2(j)
- Work committee – joint committee with equal number of employer and employees' representatives for discussion of certain common problems. Sec.3
- Conciliations – 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 disputes. Secs. 7, 7A & 7B
- Every establishment of 20 or more workmen shall have a grievance redressal committee

Notice of Change

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

Power of Labour Court

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

Right of A Workman

During Pendency of Proceeding in High Court, employer to pay last drawn wages to reinstated workman when proceeding challenging the award of his reinstatement are pending in the higher Courts. Sec.17B

Period Of Operation Of Settlements And Awards

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

Prohibition Of Unfair Labour Practice

As Stipulated in the Vth schedule, both the employer and the Union can be punished on resorting to unfair labour practices. Sec. 25-T

Condition 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.2(kkk)

Prior Permission for Lay Off

When there are more than 100 workmen (300 in Rajasthan and UP) during preceding 12 months. Sec.25-M

Lay Off Compensation

Payment of wages except for intervening weekly holidays 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

Retrenchment of Workmen Compensation & Conditions

- Workman must have worked for 240 days.
- Retrenchment compensation @ 15days' 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 principal of ‘last come first go’.
- Sending Form P to Labour Authorities
- Prior Permission by the Government for Retrenchment to be taken:
  Where there are more than 100 (In up and Rajasthan 300 or more) workmen during preceding 12 months.
- Three months’ notice or wages thereto to be given to the workmen.
- Form QA to be submitted [Sec. 25-N]

Protection

- Conditions of service etc. to remain unchanged under certain circumstance during pendency of proceedings
- Employer not to alter to the prejudice of workmen concerned the condition of service.
- 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
- To seek expressed permission of the concerned authority by paying one month’s wages on dismissal, discharge or punish a protected workman connected with the dispute.

Closure of An Undertaking

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

Prohibition of Strikes & Locks 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 conciliation officer or a Board and Seven days after the conclusion of such proceeding.
- 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 proceeding, 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.

Penal Provision

- Committing unfair labour practice: Imprisonment of upto 6 months or with fine upto Rs.3,000. [25(u)]
- Illegal strike and lock-ourts: Imprisonment upto one month or with fine upto Rs.50 (Rs.1000 for lock-out) or with both. [26]
- Instigation etc. for illegal strike or lock-outs: imprisonment upto 6 months or with fine upto Rs.1,000. [27]
- Giving financial aid to illegal strikes and lock-outs: imprisonment for 6 months or with fine upto Rs.1000. [28]
- Breach of settlement or award: Imprisonment upto 6 months or fine. On continuity of offence fine upto Rs. 200 per day. [29]
- Disclosing confidential information pertaining to Sec.21: Imprisonment upto 6 months or with fine upto Rs.1000. [30]
- Closure without 60 days' notice under Sec.25FFA: Imprisonment upto 6 months or with fine upto Rs.5,000. [31A]
- Contravention of Sec.33 pertaining to change of conditions of service during pendency of dispute etc. : Imprisonment upto 6 months or fine upto Rs.1000. [31]

8. INDUSTRIAL EMPLOYMENT (STANDING ORDER) ACT, 1946

Applicability of The Act

- Every industrial establishment wherein 100 or more (In many states it is or more)
- 50 and above Karnataka Rules
- 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 Order

Every matter to be set out as per scheduled and Rules 2A.

The standing ordered to be in conformity with the provisions of the Act.

Procedure for Certification of Standing Order

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

Submission 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 Order

- 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.
- The concept of fixed-period contractual appointment is also recognized under the Industrial Employment (Standing Order) Act by a Notification No. G.S.R 122(E) dated 10th February, 2017.
- Termination of employment, and notice thereof to be given by employer and workmen.
- Suspension of 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

Served Record – Matters relating to :
Service card,
Token tickets,
Certification of service,
Change of residential address of workers and records of age
Confirmation,
Age of retirement,
Transfer,
Medical aid in case of Accident,
Medical Examination,
Secrecy,
Exclusive services. [Sec. 2(g), 3(2) and Rule 2A]

Date Operation of Standing Order

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

Payment of Subsistence Allowance

- To the suspended employee,
- At the rate of 50% of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first 90 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 of such workman. Sec.10-A

Temporary Application of Model Standing Order

Temporary application of model standing order shall be deemed to be adopted till the standing orders as submitted are certified. Sec. 12-A

Display of Standing Orders

The text of the standing orders as finally certified shall prominently be posted in English or on the language understood by majority of workmen on special board at or near the entrance for majority of workers. Sec. 9

Penal Provision

Failure of employer to submit draft Standing Orders:

-Fine or 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.

RAM K NAVARATNA

- **RAM K NAVARATNA, Chief Executive, HR Resonance is a HR Service Professional and Trainer on Human Resource Management known among many HR professionals. Postgraduate in Social Work with additional qualifications in Law, PMIR and Training & Development.**

- **He has successfully undertaken several HR related assignments like Performance Management, Employee Satisfaction Surveys, Compliance Management, Industry-Institutions Interface, HR Policies, Compensation and Benefit matters, Employee Handbooks etc.**

- **He has also developed & offered many different Training programs for organizations. Till date he has trained over 36,000 Managers & others.**

- **He has also written several professional papers, manuals. He authored HR and Labour related Twelve books in English and Kannada. Viz. Sibbandi Adalita Kannada Kaipidi, Practical Guide to Personnel Profession with Special Reference to small and medium organizations, HRD Circular Modules and Dignified Work place English-Kannada, Karmika Kavya Sankalana (Labour laws in Kannada song form), Labour Law Abstracts. English- Kannada. Labour Law Ready Reckoner in Bi-lingual style. Karmika Kanunu Kalyana and Shikshana, Hand book on Departmental Enquiry in Kannada, Human Resource guide.**

- **Before establishing HR Resonance, Ram Navaratna served in reputed organizations such as SMIORE & its Group of industries, Hind High Vacuum, Apeego, GEM group, Indo Nissin Foods Ltd and Sami Labs. He served as General Manager – HRD & Training till 2007.**

- **Ram Navaratna is a Life Member of NIPM, NHRD, ISTD, and Trainers Forum and on the body of few Employers Association. He is associated with some Management Educational Institutions. Preparing people for future and restoring human values are his passion. For the needy available for service.**

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