

## Doing Business in India

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### Labour laws

#### 1. Who is a Child under The Child Labour (Prohibition and Regulation) Act, 1986?

Child means a person who has not completed 14 years of age. For more information, [click here](#).

#### 2. What is the fee structure for registration application under the building and construction workers act?

Registration fee: Up to 100 building workers: Rs. 100 Between 20 to 500 building workers: Rs. 500 Above 500 building workers: Rs. 1000 For more information, [click here](#).

#### 3. What is the type of return to be submitted by small establishments and very small establishments?

In both Establishments, a core return in ' Form A ' is required to be submitted. For more information, [click here](#).

#### 4. Who all are covered under the exemption from furnishing return component of labour laws?

Establishments which are covered under the exemption from furnishing return component of labour laws: Small Establishment Very Small Establishment For more information, [click here](#).

#### 5. Is the employer obliged to employ people sponsored by employment exchanges under the act?

No, the employer is not obliged to select or employ a person sponsored by the Employment Exchanges Act, 1959. For more information, [click here](#).

## 6. Can an employee give up his rights under the minimum wages act?

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void. (Section 25). For more information, [click here](#).

## 7. Can employees go to a civil court for recovering minimum wages payable under the minimum wages act?

The Act prohibits Civil Courts from entertaining any suit for recovery of minimum wages payable under the Minimum Wages Act, 1948 (Section 24). For more information, [click here](#).

## 8. Is an employer required to maintain any register and record under the Minimum Wages Act, 1948?

Every employer must maintain a muster-roll-cum-wage register and also a bound inspection book. (Rule 27 & 28) of the Minimum Wages Act, 1948. For more information, [click here](#).

## 9. Can employees file application in groups for claiming minimum wages under the act?

A single application can be made on behalf or in respect of any number of employees as per The Minimum Wages Act, 1948. For more information, [click here](#).

## 10. Is it possible to award ten times compensation of the difference amount between wages payable and actually paid, under the minimum wages act?

The limit of 'ten times the amount of such excess' mentioned in section 20(3)(i) of the Minimum Wages Act, 1948 is the maximum limit. When the Authority awards heavy compensation under the said section, it must give reasons for doing so. For more information, [click here](#).

## 11. Are industrial tribunals allowed to fix higher rates under the minimum wages act?

An Industrial Tribunal adjudicating a dispute relating to wages is not bound by the minimum rates of wages fixed under the Minimum Wages Act and it is open to it to fix wages at rates higher than the rates of minimum wages fixed under the Minimum Wages Act, 1948. For more information, click [here](#).

**12. Can an employee getting wages higher than the minimum wages fixed under the Act claim overtime wages under Section 20(2) of the Act?**

Where an employee gets wages higher than the minimum wages fixed under the Act, he cannot claim any benefit under the Act. For further details please access following link.

**13. If an employer, who is not paying basic wages and cost of living allowance separately as fixed under the Act but who is paying wages more than prescribed minimum rates under the Act, committing any illegality?**

The minimum rate of wages fixed under the Act is remuneration payable to the worker as one package of fixed amount, neither the scheme of the Act nor any provision of the Act provides that the rate of minimum wages is to be split into basic wages and cost of living allowance. Therefore, where an employer is paying total sum which is higher than the minimum rate of wages fixed under the Act including cost of living allowance, the employer is not committing any illegality. For further details please access following link.

**14. Who can file Claim application under the Minimum Wages Act, 1948?**

An employee, any legal practitioner or any official of a registered trade union authorized in writing to act, any inspector under the Act or any person with permission of the authority can file claim under the Minimum Wages Act, 1948. For further details please access following link.

**15. What should be done when employer pays less than the prescribed Minimum Wage?**

An aggrieved employee can file a claim application requesting relief before the Authority under the Minimum Wages Act, 1948. For further details please access following link.

**16. Earlier I employed 22 Labourers, now I have reduced to 18 workmen, whether my**

establishment has to continue with the Labour license or surrender under the Contract Labour (R&A) Act, 1970?

Yes, your establishment will continue to be covered under the provisions of the Contract Labour (R&A) Act, 1970 for a period of one year from the day on which 20 or more workmen were lastly employed. For further details please access following link.

**17.** What is the procedure for the issuance of a duplicate license under the Contract Labour (R&A) Act, 1970?

A fee of US\$ 0.075 to be remitted along with a request under the Contract Labour (R&A) Act, 1970. For further details please access following link.

**18.** Is a subcontractor supposed to take License under the Contract Labour (R&A) Act, 1970?

If principal employer endorses the name of sub-contractor in the agreement, after having Form V from principal employer, a subcontractor is requested to take license under the Contract Labour (R&A) Act, 1970. For further details please access following link.

**19.** I employed 20 Contract Labour only on one day, will my establishment be covered under Contract Labour (R & A) Act, 1970?

Yes. For further details please access following link.

**20.** If a Trade Union has an identical name with another, will it be registered?

Registrar of Trade Union shall not register that union, until they make a change in the identical name under the Trade Union Act.

**21.** Registrar of Trade Union withdrew a union 's registration in view of non performance of certain statutory provisions. Is it possible?

Registrar has the power only to cancel the registration. He cannot withdraw the order of registration

issued by him.

**22. When happens when membership falls down after the date of application?**

Application shall not become invalid.

**23. What is the number of registers to be maintained by establishments exempt from furnishing return under labour laws?**

The Registers required to be maintained by establishments exempt from furnishing return are as under: registers in Form B, Form C and Form D, in the case of small establishments: and register in Form E, in the case of very small establishments For more information, click here.

**24. Up to what number of building workers, can obtaining registration certificate be avoided?**

The maximum number of workers are Ten. For more information, click here.

**25. What are the welfare provisions that need to be made for the workers under the Indian labour laws?**

As per the Indian labour laws, employers need to ensure that following amenities are available to their employees: Canteen (if 250 or more Contract Labour were/are working) Restroom /Shelters/Lunch Rooms (If 150 or more Contract Labour were/are working) Drinking Water Toilets/ Urinal/ Washroom First Aid Facility Creche (if 50 or more women workers are ordinarily employed) Washing facilities For more information, click here.

**26. What is the list of occupations that a child cannot be employed in?**

No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on. For more information, click here.

**27. What are the registers to be maintained under Act?**

Register showing the name of date of birth of every child so employed or permitted to work, hours and periods of work of any such child and intervals of rest, the nature of work of any such child. For more information, [click here](#).

## **28. What are the notices to be displayed under the Act and list of actions that are considered as misconduct at workplace?**

An abstract of Section 3 and 14 of the Act in Local Language and English. List of actions are:

- Willful insubordination or disobedience, whether or not in combination with another, of any lawful and reasonable order of a superior.
- Going on illegal strike or abetting, inciting, instigating or acting in furtherance thereof;
- Willful slowing down in performance of work, or abetment or instigation thereof;
- Theft, fraud or dishonesty in connection with the employers' business or property or the theft or property of another workman within the premises of the establishment;
- Taking or giving bribes or any illegal gratification;
- Habitual absence without leave, or absence without leave for more than ten consecutive days or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanation;
- Habitual breach of any Standing Order or any law applicable to the establishment or any rules made there under;
- Collection without the permission of the Manager of any money within the premises of the establishment except as sanctioned by any law for the time being in force;
- Engaging in trade within the premises of the establishment;
- drunkenness, riotous, disorderly or indecent behavior on the premises of the establishment;
- Commission of any act subversive of discipline or good behavior on the premises of the establishment;
- Habitual neglect of work, or gross or habitual negligence;
- Habitual breach of any rules or instruction for the maintenance and running of any department, or the maintenance of the cleanliness of any portion of the establishment;
- Habitual commission of any act or commission for which a fine may be imposed under the Payment of Wages Act, 1936.
- Canvassing for union membership, or the collection of union dues within the premises of the establishment except in accordance with any law or with the permission of the Manager
- Willful damage to work in process or to any property of the establishment;
- holding meeting inside the premises of the establishment without the previous permission of the Manager or except in accordance with the provisions of any law for the time being in force;
- Disclosing to any unauthorised person any information in regard to the processes of the establishment which may come into the possession of the workman in the course of his work;
- Gambling within the premises of the establishment;
- Smoking or spitting on the premises of the establishment where it is prohibited by the employer;
- Failure to observe safety instructions notified by the employer or interference with any safety device or equipment installed within the establishment;
- Distributing or exhibiting within the premises of the establishment hand-bills, pamphlets, posters, and such other things or causing to be displayed by means of signs or writing or other visible representation on any matter without previous sanction of the Manager;
- Refusal to

accept a charge-sheet, order or other communication served in accordance with these Standing Orders; •Unauthorised possession of any lethal weapon in the establishment.

### **29. After what age can a person start working in India?**

In India, child below 14 years cannot be employed. However, there are following exceptions which includes non-hazardous family enterprises and child working as an artist in an audio-visual entertainment industry. Additionally, a child above 14 years but below 15 years of age can be employed only for 4.5 hours a day and cannot work during the night. For more information, [click here](#).

### **30. Is there anything that I need to adhere to, before recruiting women for my company?**

The following need to be adhered to for recruiting women in a company: Every employer employing more than 10 workers shall constitute an “ Internal Complaints Committee ” (ICC) to address any complaints of the women employee related to sexual harassment. Women employees are entitled to 12-26 weeks of maternity leave. Moreover, women are not to be allowed to work in a factory between 10:00 pm to 5:00 am. For more information, [click here](#).

### **31. What are the privileges in terms of pay that laid-off labourers can avail?**

Workers who have completed one year of services are eligible for compensation equal to 50% of total Basic wages and Dearness Allowance.

### **32. Are there any policies with respect to child labours? If yes, which act?**

Yes, The National Policy on Child Labour declared in August 1987, contains the provisions with respect to employment of child labour. For more information, [click here](#).

### **33. How many labourers are required in any industrial establishment to frame a Works Committee?**

In an industrial establishment wherein one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general

or special order require the employer to constitute a Works Committee in the prescribed manner. For more information, [click here](#).

### **34. What is retrenchment under the Industrial Dispute Act, 1947?**

Retrenchment means the termination of employee's service by the employer for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action. For more information, [click here](#)

### **35. How can the fees be paid under the building and construction workers act?**

Payment can be made online through shram Suvidha Portal. For more information, [click here](#).

### **36. Are industrial tribunals allowed to adjudicate upon wage disputes of employees under the act?**

Section 24 of the Industrial disputes Act does not bar the jurisdiction of an Industrial Tribunal to adjudicate upon a dispute relating to the fixation of wages of employees covered under the Act. For more information, [click here](#).