



Labour Laws India Associates Pvt. Ltd.

What We Do

- There are about 16 Labour laws in India We Work on

Shops and Establishment Act	Labour Welfare Act	Contract Labour Act 1970	Payment of Gratuity Act, 1972
Minimum Wages Act, 1948	Payment of Bonus Act, 1965	Maternity Benefit Act, 1961	Payment of Wages Act, 1936
Factories Act, 1948	Employees Provident Fund Act, 1952	Employees State Insurance Act, 1948	Employees Earned Leave and Compensation
Child Labour Prohibition and Regulation Act, 2016	The Sexual Harassment of Women at workplace Act, 2013	Equal Remuneration Act, 1976	Workmen Compensation Act 1923

Applicability of Labour Acts

- ESI :- In any organisation where 10 or more employees are engaged, the Act becomes applicable.

Contribution:- Employee Share is @ 0.75% of Gross Salary payable including Overtime and Incentives

Employer Share :- @ 3.25% Gross Salary payable including Overtime and Incentives

- EPF :- In any organisation where 20 or more employees are engaged, the Act becomes applicable.

Contribution:- Employee Share is @ 12.00% of Basic Salary earning

Employer Share :- @ 13.00% Basic Salary payable

Definition of PF excluded employees :

- As per EPF Scheme, 1952 definition point no. 2f a employee is excluded from employees provident fund contribution if the following conditions are met :
- **"excluded employee" means—**
- An employee who, having been a member of the Fund, withdrew the full amount of his accumulations in the Fund under clause (a) or (c) of sub-paragraph (1) of paragraph 69.
- An employee whose basic+DA pay at the time he is otherwise entitled to become a member of the Fund, exceeds [fifteen thousand rupees] per month.
- Means if an employee was member of PF in his previous company and joined your company with basic salary above Rs. 15,000/- and not withdrawn his previous PF than we need to make him a PF member.
- If the Employee has withdrawn his previous PF amount / New Joinee having Basic Salary greater than Rs. 15,000/- then we can exclude him/her from PF membership by filling declaration Form-11.

The Minimum Wages Act :

- As per the latest notification of labour department following are the minimum wages of Delhi in respect of categories:

Class of Employment	Total Per month
Unskilled	Rs. 16,064/-
Semi-Skilled	Rs. 17,693/-
Skilled	Rs. 19,473/-
Non Matriculates	Rs. 17,693/-
Matriculates But Not graduates	Rs. 19,473/-
Graduates And Above	Rs. 21,184/-

The Payment of Wages Act :

- The Act states that the Employer must pay the salary to its employees on or before 7th of the following month.

The Salary should be transferred in their respective bank accounts through NEFT/Cheque.

*NO Cash salary is allowed as per labour laws. Even PF and ESI Officers do not accept Cash payments to Exempted Employees and they can quantify dues / demand on such payments.

Leave Encashment :

- **Earned Leave / Privilege Leave** :- Every employee is entitled to get one paid leave after every 20 days working in a month so around 15 days mandatory leave encashment needs to be given to employee.
Maximum accumulation of Earned Leaves is 45 during employee service tenure.
- **Casual /Sick Leaves** :- There are 12 Casual leaves (7 casual + 5 medical) which the employee can avail during the calendar year. however if not taken they will not be carry forward and will lapse.

The Bonus Act :

- Every employee is entitled to get bonus @ 8.33% of basic salary earning payable within 8 months of closing of financial Year (or at the time of Diwali).
- The Bonus Payment is payable in respect of those employees whose basic salary is less than equal to Rs. 21,000/-. Employees drawing basic salary greater than Rs. 21,000/- can be exempted from Bonus.

The Gratuity Act :

- The act is applicable on an establishment as soon as it crosses 10 or More Employees.
- An Employee become eligible for Gratuity when he / She complete 5 years of continuous service including paid leaves, national & gazette holidays. The calculation is given here as under :-
- **Last Basic salary drawn * 15 / 26 * number of years service done.**

The Maternity Benefit Act :

- Maternity act is applicable to two categories of female employees
- 1. Covered under ESI :-
if an employee is covered under ESIC, All Treatment is free of cost in ESI hospitals and ESI pays 26 Week Salary as maternity benefit to employee.
- 2. Salary Above Rs 21000/- PM
- if a female employee having salary above 21,000 and joined at least 80 days prior to conceive is eligible for maternity benefit. According to the Maternity Benefit Act **female workers are entitled to a maximum of 26 weeks of maternity leave for first two children.**

Prevention of Sexual Harassment at Work place Act 2013

- The Act applies to any establishment having 10 or more employees
- Every employer is required to form an Internal Complaint Committee where minimum 4 members are required. Out of these Four 50% members must be Female. Detail of 4 members is 1 presiding officer (Female) 1 From NGO working for Women welfare and 2 others can be from the establishment.
- The Committee forms a POSH Policy and Conducts a quarterly Workshop and Proper Minutes of meetings are drafted.
- The Establishment is required to submit an annual return with the nearest SDM office.

HR formats : Employee File Etc

- Employer is Required to maintain All employees File in his records :-
- Contents of employee file are given below :-
Candidates Resume , Offer Letter , Appointment Letter
- Employee Passport size photographs, copy of Educational Certificates, ID Proof, Verification report,
- Salary slip of the last employer , relieving letter from Last employer
- PF Form 2, Form 11, forms needs to be properly filled and signatures should be there as and where required by employee/employer.

ACCOUNTING HEADS WHICH NEED PROPER ATTENTION BEFORE BOOKING THE EXPENSES

- Salary and Wages :- Unregistered Employers (PF and ESI)tend to put maximum Expenses in this head to reduce Gross Profit and Net Profit. We advised to ask your employers to make proper salary records showing amount and number of employees because both are important for applicability of ESI and EPF

- **JOB Work Charges:-** Generally Employer tend to ignore this Accounting head but it should be noted that as per Section 2 of the PF Act Says any person engaged directly or indirectly or through the contractor , in or in connection with the work will be considered for applicability of the act. The Employer should obtain PF & ESI and Other Labour compliance documents from Contractor along with the invoice.
- **Accounting Charges:-** We have seen many times this Expense in the balance sheet. This amount is given to the part time accountant on monthly basis. Please Note this payment will attract PF and ESI liability because the person providing the services will be considered as the part time employee of the company
- **Commission:-** Sometimes Employer tend to pay a particular amount under the accounting head Commission to avoid ESI /PF Liability, but if there is a regular same amount of transaction is found, the same will attract ESI and PF Liability.

- House Keeping and Security Services :- It is always advised to collect PF ESI Challans with Invoices of House Keeping and Security services Agencies
- Driver Allowance in Director Remuneration :- Since the Driver is used for Company services the amount will attract PF and ESI Liability.
- Labour Welfare Fund :- The Act is applicable in various states and the Contribution is different in every state
- Professional Tax :- the Act is applicable in various states and the Contribution is also different in every state

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Thank You!!

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