

UNIT - V

Payment of Wages Act, 1936 & Factories Act, 1948

Wages • Deductions • Health • Safety • Welfare • Working Hours

Including Landmark Judicial Interpretations

Unit Structure

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Working Hours & Special Provisions

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Payment of Wages Act, 1936 – Key Definitions

- Employed person – Any person employed in any factory, industrial or other establishment to whom the Act applies.
- Factory – As defined in the Factories Act, 1948.
- Industrial or other establishment – Includes tramway, motor transport, air transport, dock, wharf, jetty, inland vessel, mine, quarry, oilfield, plantation, workshop, etc.
- Wages – All remuneration capable of being expressed in money, which would, if the terms of employment were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment. Includes certain allowances but excludes bonus under the Payment of Bonus Act, value of house accommodation, contribution to pension/PF, travelling allowance, etc.

The Act applies to persons drawing wages below a prescribed ceiling (periodically revised).

Responsibility for Payment & Time of Payment

Responsibility (S. 3): Every employer is responsible for the payment of wages to persons employed by him. In factories, the manager is also responsible. In industrial establishments, the person responsible for supervision and control is responsible.

Time of Payment (S. 5):

- Wages must be paid before the expiry of the 7th day (if less than 1,000 employed) or 10th day (if 1,000 or more) after the last day of the wage period.
- Wage period shall not exceed one month (S. 4).
- On termination, wages must be paid before the expiry of the second working day.

Wages must be paid in current coin or currency notes or by cheque / credit to bank account (S. 6).

Authorised Deductions from Wages

Only the following deductions are permitted (S. 7):

- Fines
- Absence from duty
- Damage to or loss of goods expressly entrusted
- House accommodation supplied by employer
- Amenities / services supplied by employer
- Recovery of advances / overpayments
- Income-tax, PF contributions, cooperative society dues, etc.
- Any other deduction authorised by the appropriate Government

Total deductions in a wage period shall not exceed 50% (or 75% in case of payments to cooperative societies) of the wages.

Unauthorised deductions are illegal and recoverable.

Inspectors and Payment of Wages Authority

Inspectors (S. 14)

Appointed by the appropriate Government. Powers include:

- Entering premises
- Examining registers and records
- Taking evidence
- Seizing documents

Duty to ensure compliance with the Act.

Authority under S. 15

Appointed to hear and decide claims arising out of deductions from wages or delay in payment of wages.

Application to be made within 12 months (condonation possible).

Authority can direct refund of deducted amount + compensation, and impose penalty.

Appeal lies to the District Court / Court of Small Causes.

Factories Act, 1948 – Important Definitions

Factory (S. 2(m))

Any premises including the precincts thereof where 10 or more workers are working (with power) or 20 or more (without power) and a manufacturing process is carried on.

Manufacturing Process (S. 2(k))

Making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; includes power generation, printing, ship building, etc.

Occupier (S. 2(n))

The person who has ultimate control over the affairs of the factory. In case of a company, any one of the directors; in case of a firm, any partner.

Worker (S. 2(l))

Person employed, directly or through any agency, whether for wages or not, in any manufacturing process or cleaning or any work incidental to or connected with the manufacturing process.

Provisions Relating to Health

Key health provisions (Ss. 11–20):

- Cleanliness – daily removal of dirt, weekly cleaning, whitewashing / painting at prescribed intervals
- Disposal of wastes and effluents
- Ventilation and temperature – adequate ventilation, reasonable temperature, measures against dust and fumes
- Dust and fume – exhaust appliances where necessary
- Artificial humidification – prescribed standards
- Overcrowding – minimum space per worker
- Lighting – sufficient and suitable lighting
- Drinking water – wholesome drinking water at suitable points
- Latrines and urinals – sufficient, separate for sexes, clean
- Spittoons – sufficient number, clean

Provisions Relating to Safety

Key safety provisions (Ss. 21–41):

- Fencing of machinery – every dangerous part must be securely fenced
- Work on or near machinery in motion – only by specially trained adult male workers with special clothing
- Employment of young persons on dangerous machines – prohibited without proper training and supervision
- Striking gear and devices for cutting off power
- Self-acting machines – restrictions on traversing parts
- Casing of new machinery
- Prohibition of employment of women and children near cotton openers
- Hoists, lifts, lifting machines, chains, ropes – construction, maintenance, examination
- Pressure plant, floors, stairs, means of access, pits, sumps, excessive weights, protection of eyes, precautions against dangerous fumes, explosive or inflammable dust/gas, fire safety

Provisions Relating to Welfare

Key welfare provisions (Ss. 42–50):

- Washing facilities – adequate and suitable, separate for sexes
- Facilities for storing and drying clothing
- Facilities for sitting – for workers obliged to work in standing position
- First-aid appliances – prescribed number of boxes, trained personnel
- Canteens – in factories employing more than 250 workers
- Shelters, rest rooms and lunch rooms – in factories employing more than 150 workers
- Creches – in factories employing more than 30 women workers
- Welfare Officers – in factories employing 500 or more workers

These provisions aim to ensure a basic level of comfort, hygiene and support for workers at the workplace.

Provisions Relating to Hazardous Processes

Inserted after the Bhopal Gas Tragedy. Applies to industries involving hazardous processes listed in the First Schedule.

Key provisions:

- Constitution of Site Appraisal Committees
- Compulsory disclosure of information to workers, local authority and Chief Inspector
- Specific responsibility of the occupier in relation to hazardous processes
- Power of Central Government to appoint Inquiry Committee
- Emergency standards
- Permissible limits of exposure of chemical and toxic substances (Second Schedule)
- Workers' participation in safety management
- Right of workers to warn about imminent danger

Occupier must maintain health and medical records of workers and provide protective equipment.

Working Hours of Adults

- Weekly hours – not more than 48 hours in any week (S. 51)
- Daily hours – not more than 9 hours in any day (S. 54)
- Intervals for rest – at least half an hour after 5 hours of work (S. 55)
- Spread over – not more than 10½ hours in any day (S. 56)
- Night shifts – special provisions for overlapping shifts and weekly holiday for night shift workers
- Prohibition of overlapping shifts (S. 58)
- Extra wages for overtime – twice the ordinary rate of wages (S. 59)
- Restriction on double employment (S. 60)
- Notice of periods of work and register of adult workers must be maintained

Weekly Holidays and Annual Leave with Wages

Weekly Holiday (S. 52)

No adult worker shall be required or allowed to work on the first day of the week (Sunday) unless:

- He has or will have a holiday for a whole day on one of the three days immediately before or after; and
- The manager has given prior notice to the Inspector and displayed a notice in the factory.

Substituted holiday must be provided.

Annual Leave with Wages (S. 79)

Every worker who has worked for 240 days or more in a calendar year is entitled during the subsequent year to leave with wages:

- Adult – one day for every 20 days of work
- Child – one day for every 15 days of work

Leave may be accumulated up to 30 days (adult) / 40 days (child).

Wages for leave period are paid at the rate of average daily wage.

Provisions Relating to Employment of Women

- Prohibition of work between 7 p.m. and 6 a.m. (S. 66) – State Government may vary the limits but no woman can be required to work between 10 p.m. and 5 a.m.
- No woman shall be required or allowed to work in any factory for more than 9 hours in any day.
- Creche facilities where more than 30 women are employed.
- Separate latrines, washing facilities, etc.
- Restrictions on employment near cotton openers and on certain dangerous machines.

These provisions balance the need for protection with the principle of equal opportunity. Recent debates focus on allowing night work for women with adequate safety measures.

Employment of Children and Young Persons

- Child (below 14 years) – Prohibited from employment in any factory (S. 67). Also prohibited under the Child Labour (Prohibition & Regulation) Act.
- Adolescent (15–18 years) – May be employed only if a certificate of fitness is granted by a Certifying Surgeon and the adolescent carries a token giving reference to the certificate (S. 68).
- Working hours for children – not more than 4½ hours in any day; no night work (S. 71).
- Young persons (adolescents) – restrictions on working on dangerous machines and in certain processes.
- Register of child workers must be maintained.

Certificate of fitness is valid for 12 months and may be renewed.

General Duties of Occupier and Manufacturer

Occupier's general duties (S. 7A):

- Ensure health, safety and welfare of all workers while at work
- Provide and maintain plant and systems of work that are safe and without risk to health
- Make arrangements for safe use, handling, storage and transport of articles and substances
- Provide information, instruction, training and supervision
- Maintain the workplace in a safe condition and provide safe means of access and egress
- Provide a safe working environment and adequate welfare facilities

Manufacturer / importer / supplier of articles for use in factories also has duties to ensure safety and provide information (S. 7B).

Contravention attracts penal consequences under the Act.

Important Judicial & Practical Points

Definition of Factory

The number of workers and the existence of a manufacturing process are decisive. Premises used for a manufacturing process even for a short period can be a factory.

Occupier Liability

Ultimate control is the test. Directors of a company can be prosecuted as occupiers if they have ultimate control.

Overtime

Extra wages at twice the ordinary rate are mandatory. Compensatory time-off is not a substitute unless permitted.

Safety Obligations

Absolute duty to fence dangerous machinery. Contributory negligence of the worker is generally no defence.

Key Takeaways – Unit V

- Payment of Wages Act ensures timely payment of wages and regulates deductions so that workers receive their rightful earnings.
- Factories Act is the principal statute regulating health, safety, welfare and working conditions in factories.
- Occupier has extensive statutory duties; non-compliance attracts both civil and criminal consequences.
- Working hours, overtime, weekly holidays and annual leave are strictly regulated.
- Special protective provisions exist for women, children and young persons.
- Hazardous process provisions (post-Bhopal) impose additional obligations of disclosure, emergency preparedness and worker participation.

Quick Reference – Important Provisions

Payment of Wages – Deductions	S. 7
Payment of Wages – Authority	S. 15
Factory / Manufacturing Process	Ss. 2(m), 2(k)
Health Provisions	Ss. 11–20
Safety Provisions	Ss. 21–41
Welfare Provisions	Ss. 42–50
Hazardous Process	Chapter IV-A
Working Hours / Overtime / Leave	Ss. 51–59, 79

End of Unit – V

Payment of Wages Act, 1936 • Factories Act, 1948

All Five Units Completed