

**Challenging Opportunities
for
Practising Company Secretaries
in
Labour Laws**



**THE INSTITUTE OF
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IN PURSUIT OF PROFESSIONAL EXCELLENCE
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PREFACE

Industrialization is considered to be one of the key engines to support the economic growth of any country. The commence of industry and its growth is not a venture of the employer alone; yet it involves the hard work and tough grind of each and every stakeholder of the industry including the labourers, supervisors, managers and entrepreneurs. With the initiation of the concept of welfare state in the early realm of independence of our country, various legislative efforts have made their first move in the direction of welfare, equitable rights, social justice, social equity and equitable participation of the labour as a stakeholder at parity.

A plethora of labour laws have been established to ensure elevated health, safety, and welfare of workers; to protect workers against oppressive terms as individual worker is economically weak and has little bargaining power; to encourage and facilitate the workers in the organization; to deal with industrial disputes; to enforce social insurance and labour welfare schemes and alike.

Company Secretaries as the expert professionals in the vicinity of compliance and governance play crucial role in directing the desired implementation and deployment of these labour law towards the labour rights and welfare. Hence, the cavernous indulgence of the professionals in the facts and facets of entire range of labour laws is necessitated at par.

Recently, the Labour Department, Government of Haryana vide its Notification No.11/38/2016-4Lab dated 10th August, 2016 formulated Third Party Certification/Audit Scheme for the factories, shops and commercial establishments in the State to liberalise the enforcement of labour laws in pursuance of implementation of the “Business Reform Action Plan 2016- Ease of Doing Business” as formulated by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industries, Government of India . The Third Party Certification/Audit Scheme authorizes Practising Company Secretaries to conduct audits of compliance of various labour laws.

With a view to advance the understanding and support critical analysis

of labour laws under the recurrent position, this book as a consolidated guide on the entire array of labour laws will assist the Company Secretaries to augment their perspective of professional services under labour laws.

I commend the sincere efforts of Dr. Rajesh Agarwal, Director, ICSI-CCGRT and his team in preparing the manuscript. I also take this opportunity to convey my heartfelt gratitude to CS Ashish Doshi, Council Member & Chairman, ICSI-CCGRT Management Committee under whose leadership this book been accomplished.

I sincerely believe that this book will be of paramount academic importance even for other professionals, such as Chartered Accountants, Cost Accountants, Industry executives and students pursuing Company Secretaryship and other professional courses.

New Delhi
November 07, 2016

CS Mamta Binani
President, ICSI

INDEX

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
1.	Introduction to Labour Law framework	1
1.1	Brief introduction	1
1.2	Coverage of labour laws	1
1.3	Categories of labour laws	1
1.4	Enacted by central government and sole responsibility of enforcement by central government	2
1.5	Enacted by central government and enforced by both central and state government	3
1.6	Enacted by central government and enforced by state government	4
1.7	Enacted by state government and enforced by state government	5
1.8	Purpose and objectives of labour laws	6
2.	Opportunity for Practice	7
2.1	Functions of Company Secretary under Companies Act, 2013	7
2.2	Available opportunities and Scope	7
2.3	Excelling in labour laws	7
2.4	The landmark judgment on Factories Act by Supreme Court	8
2.5	Occupier of factory to be only directors	9
2.6	Bhopal Gas Tragedy case	10

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
2.7	Concern of regulators on compliance	10
2.8	Company secretary professionals are expert as per Companies Act, 2013	10
3.	Areas of Practice in labour laws	11
3.1	Brief on areas of practice in labour laws	11
3.2	Documentation relating to employment	11
3.3	Company Policy and Employee Handbook	12
3.4	Advisory Services	12
3.5	Employee's compensation structuring and allied services	14
3.6	Employee Stock Options & Share Plans	15
3.7	Employment Termination/ Downsizing	16
3.8	Transfer of Employment	16
3.9	Labour and Compliance Audits / HR audit – legal	17
3.10	Employment Litigation	17
3.11	Expatriate Taxation, Social Security & Immigration Issues	18
3.12	The gist of practice	18
4.	Understanding the applicable laws in an organization	20
4.1	Applicable laws and their compliance	20
4.2	Starting point – identifying all applicable labour laws	20

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
4.3	Next step – preparation of check lists	21
4.4	Technology could help	21
4.5	Responsibility of Compliance	22
4.6	Greater Role for practicing Company Secretaries in ensuring Compliance	22
4.7	Non compliance	23
4.8	Conclusion	23
5.	Overview of few (select) labour laws	25
5.1	Classification of labour laws	25
5.2	Labour laws relating to wages of workmen	25
5.3	Labour laws relating to Working Hours, Conditions of Service and Employment	25
5.4	Labour laws relating to Equality and Empowerment of Women	27
5.5	Labour laws relating to deprived and disadvantaged sections of the society	27
5.6	Labour laws relating to industrial relations	27
5.7	Labour laws relating to social security	27
5.7.1	Health related	27
5.7.2	Compensation related	27
5.7.3	Welfare related	28
5.7.4	Unorganized sector related	28
5.7.5	Employers' liability related	28

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
5.7.6	Retirement benefit related	28
5.8	Few forms under labour laws (illustration) to understand magnitude of compliance	28
5.9.	Scope of practice is enormous & challenging as well as rewarding	31
6.	Factories Act, 1948 Compliance	32
6.1	Importance of Factories Act	32
6.2	Various compliance requirements	32
6.3	Labour Laws Provision v. Board of Directors Responsibility	32
6.4	Appointment of occupier (director) who would have the ultimate control over the factory	33
6.5	Draft Resolution for Appointment of..... (Director's Name) as Occupier under the Factories Act, 1948	33
6.6	Appointment of the manager who would be responsible for day-to-day affairs of the factory (with draft resolution)	35
6.7	Answerability for offences (with draft resolution)	36
6.8	Information to inspector of factories	37
6.9	Resolution authorizing the secretary or other authorized person to advise the inspector of factories about the appointment	37
6.10	The compliance issues	37
6.11	Display on the notice board	38
6.12	Provisions relating to various health and welfare measure	38

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
6.13	Floor space / rest room requirements	39
6.14	Nomination form	39
6.15	Mode of form of intimation before occupying or use of the premises	40
6.16	Ensuring Compliance - system to be in place	41
6.17	Declaration from the Manager	41
6.18	Suggested draft declaration from the Manager	41
6.19	Monthly Compliance Certificate from the Manager to the Occupier	43
6.20	Suggested draft monthly compliance certificate (draft certificate in ideal circumstances)	43
6.21	Intimation regarding proposed action on the compliance	44
6.22	Review of the compliance report and initiating required action on the compliance	45
6.23	Compliance Report to the Board	45
6.24	Certificate of compliance	46
6.25	Action points arising on the compliance certificate	47
6.26	Compliance certificate taken on record by the Board	48
6.27	Compliance other than the Factories Act, 1948	18
6.28	Role of practicing company secretary (especially in SME sector)	49
6.29	The actual work /job involved for the practicing company secretary professional in relation to Factories Act	50

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
6.30	Prescribed returns and registers under Factories Act, 1948 Compliance checklist	51
7.	The Industrial Disputes Act, 1947	100
7.1	Brief on Industrial Disputes Act, 1947	100
7.2	Obligations of Employers	100
7.3	Rights of Employers	101
7.4	Conditions of service etc., to remain unchanged under certain circumstances during pendency or proceedings	101
7.5	Offences and Penalties	103
	The Industrial Disputes Act, 1947 Compliance checklist	104
8.	The Registration of Foreigners Act, 1939 read with the Registration of Foreigners Rules, 1992 as Amended in 1999	116
8.1	Brief on expatriate appointment in India	116
8.2	Opportunity for PCS in case of expatriate appointment	117
8.3	Registration procedure	117
8.4	Time Limit within which Registration Report required to be Presented	118
8.5	Mode of presenting registration report	118
8.6	Foreigner's address in India	118
8.7	Issue of residential permit	119
8.8	Conditions to be Fulfilled upon Issue of Resident Permit	120

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
8.9	Rules to be observed by the Foreigner	121
8.10	Duplicate certificate of registration	122
8.11	Extension/Renewal of Residential Permit	122
8.12	Surrender of the Residential Permit	123
8.13	Consequences of not leaving the Country upon Expiry Date of Permit	123
8.14	Visa application	123
8.15	Visa renewal of foreigners from India itself	124
8.16	One more area of challenging practice for professional	124
9.	The Employees Provident Funds and Miscellaneous Provisions Act, 1952	125
9.1	Brief about the Provident Fund and Miscellaneous Provisions Act, 1952	125
9.2	Compliance related issues from the point of Practice	125
9.3	Duties and responsibilities of the employer (returns)	125
9.4	Scheme certificate	126
9.5	Death benefits	126
9.6	Compliance	126
	The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 Check list	127
10.	Payment of Gratuity Act, 1972	145
10.1	A brief about the Payment of Gratuity Act, 1972	145

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
10.2	Compliance related issues <i>vis-a-vis</i> responsibility of employer	145
10.3	Compliance required – the forms and other requirements	146
	Payment of Gratuity Act, 1972 Check list	148
11.	Employee State Insurance Act, 1948	164
11.1	A brief about ESI	164
11.2	Compliance required under ESI Act	164
11.3	The duties and responsibilities of the employer	164
11.4	Record requirement under ESI Act	166
11.5	Various important forms prescribed under the ESI Act	166
11.6	Rate of contribution of the wages	168
12.	The Payment of Wages Act, 1936	169
12.1	Brief and applicability of the Act	169
12.2	Employer's responsibility for Payment of wages	170
12.3	Maintenance of registers and records	171
12.4	Display requirements	171
12.5	Compliance requirements (returns)	171
	The Payment of Wages Act, 1936 Compliance Checklist	172
13.	The Minimum Wages Act, 1948	179
13.1	A brief introduction	179

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
13.2	Display requirement	179
13.3	Record requirement	179
13.4	Compliance requirement (returns)	179
13.5	Other prescribed forms under the Minimum Wages Act	180
	The Minimum Wages Act, 1948 Compliance Checklist	181
14.	The Payment of Bonus Act, 1965	193
14.1	Brief of Payment of Bonus Act	193
14.2	Duties of Employer	193
14.3	Records to be maintained	193
14.4	Compliance required	194
	The Payment of Bonus Act Compliance Checklist	195
15.	The Employees' Compensation Act, 1923	199
15.1	The purpose / objective of the Act	199
15.2	Employers Liability for Compensation (Accidents)	199
15.3	Employer shall not be liable	199
15.4	Records prescribed / required to be maintained	200
15.5	Compliance required	201
	The Employees' Compensation Act Compliance Checklist	202
16.	Maternity Benefit Act, 1961	207
16.1	Brief on Maternity Benefit Act	207

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
16.2	Display requirement	207
16.3	Records to be maintained	207
16.4	Compliance required	207
	Maternity Benefit Act, 1961 Compliance Checklist	208
17.	The Equal Remuneration Act, 1976	212
17.1	The purpose / objective of the Act	212
17.2	Penalties	212
17.3	Registers to be maintained	212
17.4	Various forms under this act	212
	The Equal Remuneration Act, 1976 Compliance Checklist	213
18.	The Industrial Employment (Standing Orders) Act, 1946	215
18.1	The purpose / objective of the Act	215
18.2	Applicability of the Act	215
18.3	Model Standing order	215
18.4	Obligations of Employers	215
18.5	Penalties	216
	The Industrial Employment (Standing Orders) Act, 1946 Compliance Checklist	217
19.	The Contract Labour (Regulation and Abolition) Act, 1970	221
19.1	The purpose / objective of the Act	221

<i>Chapter</i>	<i>Content</i>	<i>Page No.</i>
19.2	Registration of establishment	221
19.3	Prohibition of employment of contract labour (Sec 10)	221
19.4	Liability of principal employer	221
19.5	Registers and other records to be maintained	222
19.6	Compliance required	223
	The Contract Labour (Regulation and Abolition) Act, 1970 Compliance Checklist	224
<i>Annexure</i>		
I	Month wise checklist for submission of various returns Under labour laws	233
II	Event based compliance	240
III	Notice to be displayed	241

Introduction to Labour Law Frame Work

1.1. Brief Introduction

Labour laws are the one dealing with employment laws in any organization – whether it is a manufacturing organization or trading organization or shops and establishment. The labour laws address the various administrative rulings (such as employment standing orders) and procedure to be followed, compliance to be made and it address the legal rights of, and restrictions on, working people and their organizations. As such, the labour laws mediate in many aspects of the relationship between trade unions, employers and employees. In other words, Labour law defines the rights and obligations as employees, union members and employers in the workplace.

1.2. Coverage of labour laws

By and large the labour law covers the industrial relations, certification of unions, labour management relations, collective bargaining and unfair labour practices and very importantly the workplace health and safety with good environmental conditions. Further the labour laws also focus on employment standards, including general holidays, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay and many other issues related to employer and employee and the various compliance requirements.

1.3. Categories of labour laws

There are two broad categories of labour law. Firstly collective labour law relates to the tripartite relationship between employee, employer and union, and secondly individual labour law concerning the employees' rights at work and through the contract for work. The labour movement has been instrumental in the enacting of laws protecting labour rights in the 19th and

20th centuries. Labour rights have been integral to the social and economic development since the industrial revolution.

Under the Companies Act, 2013 the role of the company secretary has been considerably widened in as much as now he is not only responsible for the compliances under the company law but also in respect of compliances under all other applicable laws. Section 205 of the Companies Act, 2013 while spelling out the functions of company secretary clearly states that the functions of the company secretary shall include(a) to report to the Board about compliance with the provisions of this Act, the rules made there under and other laws applicable to the company.

Obviously the labour laws deals with the employees – one of the important factors of production acquires a significant place while we talk about compliance.

1.4. Enacted by central government and sole responsibility of enforcement by central government

Labour legislations when analyzed one could come to a clear cut understanding that there are labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement as a first category. The following are few labour legislations which fall in this category.

- (1) The Employees' State Insurance Act, 1948
- (2) The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
- (3) The Mines Act, 1952
The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
- (4) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labor Welfare Fund Act, 1976
- (5) The Mica Mines Labour Welfare Fund Act, 1946
- (6) The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
- (7) The Beedi Workers Welfare Cess Act, 1976
- (8) The Cine Workers Welfare (Cess) Act, 1981

- (9) The Beedi Workers Welfare Fund Act, 1976
- (10) The Cine Workers Welfare Fund Act, 1981
- (11) The Dock Workers (Safety, Health and Welfare) Act, 1986

1.5. Enacted by central government and enforced by both central and state government

When one moves further, it can be seen that labour laws enacted by Central Government and enforced by Central and State Governments both. The following are some of the examples of such legislations.

- (1) The Minimum Wages Act, 1948
- (2) The Payment of Bonus Act, 1965
- (3) The Payment of Gratuity Act, 1972
- (4) The Payment of Wages Act, 1936
- (5) The Maternity Benefit Act, 1961
- (6) Dangerous Machines (Regulation) Act, 1983
- (7) The Apprentices Act, 1961
- (8) The Equal Remuneration Act, 1976.
- (9) The Industrial Disputes Act, 1947
- (10) The Industrial Employment (Standing Orders) Act, 1946.
- (11) The Child Labour (Prohibition and Regulation) Act, 1986.
- (12) Sales Promotion Employees Act, 1976
- (13) Private Security Agencies (Regulation) Act, 2005
- (14) The Contract Labour (Regulation and Abolition) Act, 1970
- (15) The Building and Other Constructions Workers' (Regulation of Employment and Conditions of Service) Act, 1996
- (16) The Building and Other Construction Workers Cess Act, 1996
- (17) Unorganized Workers Social Security Act, 2008
- (18) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- (19) The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
- (20) The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981

- (21) Working Journalists (Fixation of Rates of Wages) Act, 1958
- (22) Merchant Shipping Act, 1958
- (23) Dock Workers (Regulation of Employment) Act, 1948
- (24) Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997.

1.6. Enacted by central government and enforced by state government

When we move down further, it is seen that there are regulations concerning labour laws enacted by Central Government and enforced by the State Government. The following are the list of such laws.

- (1) The Factories Act, 1948
- (2) The Weekly Holidays Act, 1942
- (3) The Employees' Compensation Act, 1923
- (4) The Trade Unions Act, 1926
- (5) The Motor Transport Workers Act, 1961
- (6) The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
- (7) The Plantation Labour Act, 1951
- (8) The Bonded Labour System (Abolition) Act, 1976
- (9) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- (10) The Personal Injuries (Compensation Insurance) Act, 1963
- (11) The Personal Injuries (Emergency Provisions) Act, 1962
- (12) The Sales Promotion Employees (Conditions of Service) Act, 1976
- (13) The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
- (14) The Children (Pledging of Labour) Act, 1938
- (15) The Employers' Liability Act, 1938

1.7. Enacted by state government and enforced by state government

Finally, there are labour laws enacted and enforced by the various State Governments, which apply to respective States only.

Let us look at the labour laws of Madhya Pradesh – likewise each state has got its own laws enacted and implemented.

Madhya Pradesh State Labour Laws

- (1) Factories Act, 1948 and Madhya Pradesh Factories Rules, 1962
- (2) Payment of Wages Act, 1936 and Madhya Pradesh Payment of Wages Rules, 1962
- (3) Madhya Pradesh Shops & Establishment Act, 1958
- (4) Madhya Pradesh Industrial Relations Act, 1960
- (5) Madhya Pradesh Industrial Relations Rules, 1961
- (6) Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961
- (7) Contract Labour (Regulation & Abolition) Act, 1970 and Contract Labour (Regulation and Abolition) Madhya Pradesh Rules, 1973
- (8) Workmen's Compensation Act, 1923
- (9) Workmen's Compensation (Madhya Pradesh) Rules, 1962,
- (10) Madhya Pradesh Workmen's Compensation (Occupational Diseases) Rules, 1963
- (11) Workmen's Compensation Act, 1923 and Workmen's Compensation (Madhya Pradesh) Rules
- (12) The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and Inter- State Migrant Workmen (Regulation of Employment and Conditions of Service) M.P. Rule, 1981
- (13) MP Labour Welfare Fund Act
- (14) Maternity Benefit Act, 1961 and MP Maternity Benefit Rules
- (15) Minimum Wages Act, 1948 and MP Minimum Wages Rules

- (16) Payment of Gratuity Act, 1972 and MP Payment of Gratuity Rules

1.8. Purpose and objectives of labour laws

The labour laws are social, safety, protection of employees rights and hence they deal with the payment of wages, industrial relations, working hours, conditions of service and employment, equality and empowerment of women, laws related to Deprived and Disadvantaged Sections of the Society and as well laws relating to society security.

Opportunity for Practice

2.1. Functions of company secretary under Companies Act, 2013

Under the Companies Act, 2013, while spelling out the functions of company secretaries for the first time in the history of the Companies Act, the role of the company secretary has been considerably widened in as much as now he is not only responsible for the compliances under the Company law but also in respect of compliances under all other applicable laws.

2.2. Available opportunities and scope

Here is the great opportunity for the practicing company secretaries in assisting and helping the organizations to find out the number of laws which are applicable to them at the first place. The companies where no company secretary is required to be employed or company secretary is not employed, the practicing company secretaries have got a great opportunity to explore the areas of compliance in those companies under various laws that are applicable – it is a vast scope for the practicing secretaries since the laws are innumerable.

In this connection, if one asks a question to anyone including company secretary in a company or a practicing professional as to how many Acts/ laws are applicable to that company, by and large one may not be able to get the exact number of laws/ Acts applicable to that company. Laws are innumerable and none has really got an idea as to how many laws would be applicable. Laws are innumerable and one needs to be focused in ensuring compliance.

2.3. Excelling in labour laws

If one desires to excel in the area of labour laws, ample opportunities are thrown open to them since day in and day out the employers are required to deal with the employee related

issues and there are various compliances required to be done either in the form of filing returns, making payments, maintaining records and registers, complying with various conditions etc.

There is more scope in manufacturing units when compared to the other sectors since the working conditions and safety is involved significantly in manufacturing sectors and the government is very much concerned about it. Even within the manufacturing sector, certain specific industries are subjected to stricter compliance failing which heavy penalties and imprisonment would be involved to the level of directors and senior management. For example, factories manufacturing chemicals, hazardous chemical and dangerous chemicals are subjected to severe compliance.

2.4. The landmark judgment on Factories Act by Supreme Court

In October 1996, the Supreme Court fixed the responsibility for violations of the rules under the Factories Act, 1948 on a nominated Director of a company and not on any of the employees as some companies chose to do by appointing one of its employees as "Occupier of the Factory". The Court's ruling in the case of *JK Industries Limited v. The Chief Inspector of Factories and Boilers and others* (1997) 1LLJSC 772 have far-reaching consequences as the designated Director under the Factories Act, 1948 will henceforth be liable for all the illegal acts of the unit along with the Manager. Each of them is liable for offences punishable with imprisonment or fine or with both (which may extend to the extent of two years imprisonment or fine of Rs. 1 lakh or with both). The Apex Court, while delivering the judgment made the following observations:

“The Legislature has attempted to plug the loopholes which existed earlier and enable the Directors to escape their liability by passing on the buck, as they say, to an employee. It is much too obvious that when top persons of the company are made conscious of their responsibility and duties for the implementation of the safety and welfare measures in a factory and to carry out the duties prescribed under the Act, at the pain of punishment in case they choose to overlook, there are much greater chances that proper care would be taken for maintenance

of the factory, particularly in regard to the safety measures and welfare of workers”.

2.5. Occupier of factory be only by directors

The court held that in the case of a company, which owns a factory, it is only one of the Directors of the Company who can be notified as the occupier of the factory for the purposes of the Act and the company cannot nominate any other employee as the occupier of the factory. Where the Company fails to nominate one of its Directors as the occupier of the factory, the Inspector of Factories shall be at liberty to proceed against any of the Directors of the Company, treating him as the deemed occupier of the factory, for prosecution and punishment in case of any breach of contravention of the provisions of the Act or for offences committed under the Act.

The Court further held that Proviso (II) to Section 2(n) of the Act was *intra-vires* the substantive provisions of Section 2(n) of the Act and constitutionally valid and not *ultra-vires* Articles 14, 19(1) (g) and 21 of the Constitution of India. While delivering the judgment the Court also made reference to various Sections of the Factories Act, 1948 especially the notice to be sent to the Chief Inspector of Factories once the occupier is appointed, the vast difference between the occupier, who would have the ultimate control over the affairs of factory and the Manager, who would have the control over day to day affairs of the factory. There is a vast difference between a person having the ultimate control of the affairs of factory and manager who have day to day affairs of the factory. In the case of a company, the ultimate control of the factory, where the company is the owner of the factory, always vests in the company through its Board of Directors. The Manager or any other employee, of whatever status can be nominated by the Board of Directors of the company to have immediate or day to day or even supervisory control over the affairs of the factory. From the above it is clear that as per Section 2 (n), in a resolution nominating an employee or an officer as the occupier by stating that he shall have "ultimate control over the affairs of the factory", a company cannot be permitted to defeat the object of the amendment. The Supreme Court further observed that though the expression 'ultimate

control' was used in Section 2(n) even prior to the 1987 amendment read with the provision to Section 100 (2), it gave an opportunity to the companies owning the factory to dilute the rigour of the provision by not notifying one of its Directors to be the occupier and instead nominating some employee or the other to be the "Occupier" for purposes of punishment and penalty.

2.6. Bhopal Gas Tragedy case

One would not have forgotten the Bhopal disaster (Bhopal gas tragedy, the world's worst industrial disaster occurred on the night 2-3rd December, 1984 at the Union Carbide India Limited pesticide plant in Bhopal. In this case the management had paid huge amount of compensation and some of senior employees including former Union Carbide India Limited chairman were convicted to two years imprisonment.

2.7. Concern of regulators on compliance

In the light of the above facts, each and every organization is concerned very much on compliance – especially on various labour laws applicable to them. Though the companies do have their HR department, still they prefer to take all pre-caution and ensure near total compliance and hence they seek the expertise from professionals like company secretaries.

2.8. Company secretary professionals are expert as per Companies Act, 2013

Chapter 1 of the Companies Act 2013 under Section 2(38) wherein, the company secretary is recognized as an "expert" and the company secretaries being the compliance officer who understand the corporate laws well, they would be able to explore the great and challenging opportunities thrown open under the labour laws.

Areas of Practice in Labour Laws

3.1. Brief on area of practice in labour laws

When one talks about the areas of practice, a question would arise as to what areas, the company secretary professional would be able to take up practice and render service.

Let us briefly look at the areas, which could be of practice for the practicing professionals. The company secretary professional could provide informed, confidential advice on the full range of labour and employment related issues. Before venturing into the practice one has to gather the full knowledge on labour laws and also keep dated on various developments which are taking place in labour and employment related issues relating to the specific industry to which the service is rendered.

To begin with, the following are some of the areas, one could render professional services.

3.2. Documentation relating to employment

- Preparation of the entire set of the employment dossier such as (Drafting and reviewing)
 - Offer Letter
 - Appointment Letter
 - Employment Agreement
 - Confidentiality Agreement
 - Non-Disclosure Agreement
 - Secondments and deputation Agreements
 - Non-compete and non-solicit agreement
 - Severance and release Agreements
 - Invention Assignment Agreement

- Grant Letter
- Training bonds
- Consultancy Agreements
- Resignation Letter
- IP assignment agreement
- Termination Letter, etc.

3.3. Company Policy and Employee Handbook

Organizations are always interested and have their written down policies and procedures in place. By and large all organizations formulate their “code of conduct and policies” which are found in the Employee Handbook and this is provided to each of the employee at the time of joining the organization and this handbook also gets updated from time to time with required modifications depending upon the regulatory changes, customs and other factors.

The purpose of the handbook is to communicate to the organization’s employees the organization’s mission statement, vision statement, values, cultures and practices, as also support the employment contract by setting out procedures, rules and regulations for the employees within the organization in its daily operations including dealing with clients/customers.

Here comes the expertise of the company secretary professional who specializes in drafting the required policy and procedure documents customized to suit the organization, the “Employee Handbook” to suit the requirements of the organization for a specific industry. The handbook could be structured to incorporate precise detailed clauses on standard employment practices including in relation to resignation / termination / leave policies, prohibition of harassment, employment benefits, discipline and grievance, separation, confidential information, intellectual property rights, etc. amongst many other employment related matters.

3.4. Advisory Services

- Render advice on all labour and employment matters including but not limited to

- implications relating to non-adherence of the restrictive provisions in employment contracts (non-solicit and non-compete obligations)
- protection of confidential and proprietary information by imposing adequate and enforceable obligations on employees
- compensation payable for overtime hours
- mandatory holidays and leave applicable to employees
- procedure to be adopted for retrenching and terminating employees
- payment of statutory entitlements (provident fund, gratuity, etc.).

Most organizations would come into the purview of the following labour laws when one looks into the manufacturing sector. The practicing company secretary professionals need to familiarize themselves on these labour law acts before venturing into full-fledged practice. The advise may be called for on the applicability of various acts which are enacted by central and state governments and the procedures to be followed and records to be maintained and the various compliance to be ensured. Following are illustrative examples of few acts amongst many other acts which are applicable, depending upon the organization, industry in which the organization is doing a business. (naming only a few acts as an illustration)

- Employees' Provident Fund Act
- Payment of Bonus Act
- Payment of Gratuity Act
- Contract Labour Regulations
- State-specific Shops & Establishments enactments, etc.
- Industrial Disputes Act
- Trade Unions Act

At times, a doubt would also arise such as, in case of compensation payable to an employee, whether the Employee State Insurance Act would be applicable or Employees' Compensation Act would be applicable etc. In such a conflicting

situation, the company secretary professional with their expert knowledge could resolve and provide the right solution to the organization depending upon the facts and circumstances of each such case or situation.

It goes without saying that the company secretary professional would be able to advise the organizations to which they render service, on

- the applicability of numerous human relation laws
- the obligations and compliances required and
- the consequences of non-compliance
- issues related to provident fund contributions
- payment of gratuity
- payment of bonus
- superannuation/retirement benefits
- termination and safety regulations
- Discrimination and harassment issues, etc.

3.5. Employee's compensation structuring and allied services

A key concern of structuring employee benefits and incentives is the tax implications on both the employee and the employer. Having regard to taxation laws applicability, the company secretary professional could advise the concerned organizations on the structuring of a tax-efficient compensation package. Before venturing into this task / assignment the company secretary professional should get themselves augment / possess a buoyant human resources knowledge with proper understanding so that advises on employee benefits and the structuring of tax-efficient compensation packages could be designed in its correct perspective which is beneficial to both i.e., the organization and also to its employees while designing the package of compensation.

Additionally the company secretary professionals could also utilize their expertise in employee taxation and advise on various tax related matters such as tax deduction at source, exemptions, tax computations, advance tax payment etc. The advise and services on taxation matter could further be extended to senior

level employees for negotiating the compensation structure. Even further extension is possible for rendering service in getting the tax return filed, assisting in appeal matters, assisting them for scrutiny assessment etc.

One of the extended service on this area is providing the income tax return filing for the interested employees of the organization where one renders service which of course would be a seasonal volume based practice since the tax returns are required to be filed after the end of the financial year – by 31st of July every year. Since the return filing is now made in e-mode, the company secretary professionals have to get familiarized with the technology and would possess requisite knowledge of the software which are used for this purpose.

3.6. Employee Stock Options & Share Plans (ESOP and ESPS)

Employee Stock Option Plans (ESOP / ESPS) enable clients to structure their ESOP Scheme in a manner beneficial to the company by optimizing performance of the employees. ESOP related services are rendered to private as well as public companies in India. Since the company secretary professionals have considerable understanding and experience in implementing, preparing and finalizing all relevant documentation with respect to ESOP, the following services could be rendered:-

- Preparing the plan
- ESOP Agreement
- Grant Letter
- Trust Deed
- Relevant resolutions etc.

While providing service on this area and advising on structuring the equity-based employee compensation plans to attract and retain best talent in the industry / organization, proper assumption of stock options as part of Merger & Amalgamation transaction could be designed, which of course is fairly very complex especially in view of the several guidelines/regulations which regulate the issue of stock options by the Companies Act, 2013 coupled with market regulators act of Security Exchange Board of India's regulations. Most of the foreign companies offer

the stock option to Indian employee and rendering service / extending practice in this area would be most challenging and rewarding. One has to have a thorough understanding of the relevant, current, updated regulations on this area.

3.7. Employment Termination/Downsizing

In our country the employment is not of hire and fire or it does not envisage an “at-will” employment relationship. Therefore, when it comes to termination of employment a strategic advice is needed by the organizations before they effect for employment termination, downsizing and reduction in the labour force. As every one of us is aware, more and more organizations are trying to be most efficient with minimum employees – most functions are outsourced (example HR function, payroll and even the entire accounting function etc.) in order to have greater efficiency at a minimum cost.

Here again a great opportunity for the company secretary professional and they could advise on applicable labour laws and employment laws, apart from guidance on regulatory requirements mandated for employers by understanding that the interest of the employer should be well secured in the event of termination of the employee's employment, for which purpose expert professional could ensure that clauses on confidentiality, post-employment non-solicitation, data protection are adequately drafted and put in place to avoid any future litigations.

3.8. Transfer of Employment

In cases where there is a transfer of one undertaking to another by way of merger/ amalgamation / acquisition/takeover / sale of assets or otherwise, issues such as the transfer of employees of the transferor to the transferee creates certain legal complications.

The company secretary professional could advise organization involving these restructuring activities on the implications of various labour law arising out of such transactions and assist the organizations in structuring such transactions in a manner so that the transfer of employment complies with all the required statutory requirements – whether state regulations or central regulations.

3.9. Labour and Compliance Audits / HR audit – legal

In order to ensure sound corporate governance, company secretary professional could assist the companies in conducting due diligence to ensure compliance with applicable labour laws. Due diligence is one of the core competence area of company secretary professional accordingly, practicing company secretaries could assist the companies in rectifying and correcting any lacunae which are highlighted upon conducting the due diligence exercise.

Depending upon the need and requirement of an organization, the company secretary professionals could conduct periodic HR Law audits for their clients and such HR audit typically could encompasses appraisal of the level of compliance with

- applicable labour laws
- taxation laws and
- corporate laws relating to
 - hiring/ firing of employees,
 - terms of employment,
 - employee compensation,
 - stock option plans
 - stock purchase option etc.

The HR audit could also include review of the employment-related documentation and the policy and procedure manual of the company, especially with respect to such issues as confidentiality, assignment of intellectual property and non-competition.

This exercise of providing HR audit by the company secretary professional could lead to the various suggestions on measures for legal process re-engineering in order to achieve greater efficiency, cost effective and minimum disputes leading to litigations in future.

3.10. Employment Litigation

On this subject one would recall that while a few years back

employment litigation was not very prevalent in our country but today the scenario is undergoing a rapid change. The company secretary professional who would like to excel in this area with their drafting skills could represent the organizations in employment litigation cases. On this area the services which could be rendered would include -

- advising companies clients on the litigation strategy
- drafting and issuing legal notices
- responding to legal notices
- drafting claim documents and
- coordinating with local counsel to pursue litigation in the appropriate courts across India.

(Since the company secretary professional have the expert knowledge in corporate laws, adequate skills of drafting pleading conveyance – this is one of the challenging area of practice)

3.11. Expatriate Taxation, Social Security & Immigration Issues

Here again if one is inclined to excel in representing organization's interest in employment related Indian immigration matters, one could undertake this assignment. The area of practice could be (on the immigration law assignments)

- Rendering advice to companies and employees who wish to come to India on deputation, secondment or on employment,
- Advice on expatriate taxation etc.
- Thereafter if needed assisting them for routine tax filing and assisting in their assessments etc.

3.12. The gist of practice

Much would depend upon the need of the industry / organization having regards to its type of business, segment where it is serving, combination of people working and many other factors. Company secretary professional who would like to excel in the area of practice of labour laws have to understand the relevant laws applicable to a particular type of organization and get familiarized and render service.

In the forthcoming chapters, few illustrated compliances are discussed with specific reference to a particular labour act and as well with particular reference to the industry so that one could get a fair idea of work, procedure, and documents involved while rendering service and ensuring compliance.

Understanding the Applicable Law in an Organization

4.1. Applicable laws and their compliance

Under section 205(1)(a) of the Companies Act, 2013, one of the functions is that the company secretary is required to report to the board the compliance not only under the Companies Act but also compliance relating to all other Acts that are applicable to the company. This particular provision which has been included for the first time in the Companies Act is very significant and calls for a larger responsibility on the part of the company secretaries both in employment and in whole time practice.

Since provision relating to compliance of all applicable laws is already there in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, this mechanism of reviewing and ensuring compliance is expected to be in place in all the listed companies. Now, the same provisions finding a place in the Companies Act 2013, this would now be applicable not only to the listed companies but to all categories of companies which are registered and incorporated under the Companies Act.

4.2. Starting point – identifying all applicable labour laws

First and foremost important thing as a starting point for any organization is to know as to what are the applicable labour laws to a particular organization so that the organization could get the compliance issues addressed and documents prepared and records kept. Though most common labour laws involving condition of employment, their wages remuneration, leave, working hours, work safety, retirement benefit laws, health related laws are applicable, in some of the specialized industries, industry specific laws are also applicable. For example, if a factory is situated in a village /commune then the applicable law in that region / area would be of “Village and Commune Panchayats Act of 1973” and if the industry is producing plastic

materials then the specific act of Recycles Plastics Manufacture and Usage Rules, 1999 would be applicable and similarly Biomedical Waste (Management and Handling) Rules, 1988 for biomedical producing units. In case of micro, small medium enterprises (SME sector) the specific act of Micro, Small and Medium Enterprises Development Act, 2006 would be applicable.

Hence it is very important to identify at the first instance the applicable labour laws and understand them fully as to the requirement, records maintenance, compliance, returns to be furnished, their periodicity, any specific inspection and sample testing requirements and other related matters.

4.3. Next step – Preparation of check lists

As seen above, identifying the applicable labour laws itself is a mammoth task and once identification is made, then comes the next task of identifying the compliance required in respect of each laws.

The compliance would have two parts

- (i) One relating to payment of fees, cess, charges and
- (ii) The second submitting the periodical returns, such as monthly, quarterly, half yearly and in some cases compliance would be event based.(example bonus returns as and when bonus is paid – employees joined and left under Factories Act as and when this happens etc.)

A comprehensive checklist needs to be prepared – preferably spelling out the nature of compliance, due date on which the compliance is required to be made and column for filling up the date of actual compliance.

4.4. Technology could help

Now that technology is in place, the company secretary professionals make use of the technology and prepare the compliance checklist by using the of IT technology which has got a facility of sending out reminders just before the compliance is due by pop-up-window etc., advance reminding system could also be built up – action points arising on any matter could also be highlighted. Basically a corporate compliance system needs to be designed for ensuring total compliance.

4.5. Responsibility of Compliance

The practicing company secretary professionals being an expert in the relevant field of labour laws have got a greater responsibility to ensure that the compliance relating to all the applicable laws to the organization is complied with.

The practicing company secretary could ensure that compliance relating to all other laws except Companies Act and market regulations are ensured /done by the respective departmental heads responsible for the function and the practicing company secretary could periodically run a check and monitor where necessary the compliance and report to the Managing Director / Chief Executive Officer / Board members accordingly as the case may be. Here again, the practicing company secretary has to play a very vital role since he has to report to the Managing Director / Board that all compliances required to be done are infact done. Needless to mention, that the highest governing body, i.e., the board of directors would place reliance on the report provided by the practicing professional on compliance matter.

4.6. Greater Role for Practicing Company Secretaries in ensuring Compliance

The compliance aspect of any business exhibits that the company is a compliant company and it also helps building up the company's image and brand – the practicing company secretary who is in the field of labour law practice has got a greater role to play in ensuring compliance by taking the following steps:-

- (a) Identification of all applicable labour laws in the first instance.
- (b) Running the checks as to what is required to be complied with in respect of each law.
- (c) Preparing the check list for compliances separately for
 - Payment related (by and large handled by finance function).
 - Return related – routine and event based (this is handled by respective department).

- (d) Having a monitoring checklist and regularly checking that the compliance is done in time.
- (e) It would help indicating the due date – creating reminder – compliance done etc.
- (f) Finally preparing report to board on compliance matter in an appropriate format.
- (g) Submitting the report.

4.7. Non-Compliance

In spite of having a system in place, the possibility of non-compliance cannot be ruled out. Such non-compliance could occur due to various reasons and in such a case, the practicing company secretary has to initiate action to set right the non-compliance either to late compliance, or any suitable action which also needs to form part of his reporting to board.

In every board meeting normally there will be an item called review of matter arising out of previous meetings or action taken report by whatever name it is called. Any non-compliance is definitely required to be addressed by the board and necessary action taken in setting right the same. Obviously the board would only provide decision and the company secretary, after having the decision from board has to ensure for necessary implementation as directed / guided by the board.

4.8. Conclusion

All along, the compliance of all applicable laws was mandatory under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 applicable to the listed companies. The Companies Act 2013, now categorically spells that it is one of the functions of the company secretary who is responsible for the compliance of all other laws.

The responsibility and the role of company secretary stands enlarged to a greater extent. Since every company would like to ensure compliance of all applicable laws trying to achieve excellence in corporate governance thereby aiming to ensure that all the stakeholders would feel proud to be associated with the company, it is important for the company secretary to ensure that he exercises his professional skill and diligence in ensuring

the total compliance by shouldering a higher responsibility as expected and anticipated by the law makers.

In a smaller organization – it may be possible to have a compliance register designed and maintained for all the compliance and periodic checking. However, the large organizations with multi location operations with many branches, the maintenance of physical register may not be possible and also impracticable due to complexity of multiple laws requiring compliance. In this case, the IT professional could be of great help and a system of compliance management in e-mode could be designed – checklist put in place – reminding mechanism built in and finally monitoring.

In order to strengthen effective compliance management of all applicable laws company secretary who is a corporate professional has a greater challenge and delightful opportunity to bring about a differentiating factor in achieving excellence in compliance management coupled with corporate governance in days to come.

In larger companies who have a full time company secretary may also need at the initial stages the assistance and help of an outside expert in identifying the applicability of various laws, designing the compliance management system in place and getting the standard operating procedures (SOP) prepared. Thereafter the company may take the routine compliance forward. These companies may also need periodical updation, getting to know the latest amendments etc. which could be rendered by the practicing professional.

In smaller and medium companies, the practicing secretaries could take up the total responsibility of labour law compliance and offer single window operating system in providing the service in this area.

Overview of Few (Selected) Labour Laws

5.1. Classification of labour laws

The labour laws could be classified with reference to the objective for which the enactment has taken place. Government is rather interested in ensuring that the object of the enactment is achieved rather than tracing the offender and punishing them. Most of the labour laws, by implementation process ensured inspection process and prescribed inspection book. Whenever the inspector comes for inspection, after carrying out the inspection, the inspector makes in writing his observations, non-compliance and he directs that the compliance be furnished and he also takes a committed date from the employer. Later the employer is supposed to send a compliance report providing the status of the inspection report and action taken and compliance done.

Let us briefly look into the classification of labour laws from the objective point so that the compliance expected is better understood.

5.2. Labour laws relating to wages of workmen

Payment of Wages Act, 1936, Minimum Wages Act, 1948, Payment of Bonus Act, 1965, Working Journalists (Fixation of Rates of Wages) Act, 1958 are some of the few acts amongst others relating wages of workmen.

5.3. Labour laws relating to Working Hours, Conditions of Service and Employment

In our earlier chapter we discussed in detail the provisions of the Factories Act, 1948 which talked about many working conditions including floor space, lighting, ventilation, drinking water facility, canteen and many other things.

There are specific industry related labour laws as listed below amongst many other laws are there in order to take care of the workmen employed in these specific industries.

- (i) Plantation Labour Act, 1951
- (ii) Mines Act, 1952.
- (iii) Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955.
- (iv) Merchant Shipping Act, 1958
- (v) Motor Transport Workers Act, 1961
- (vi) Beedi & Cigar Workers (Conditions of Employment) Act, 1966
- (vii) Contract Labour (Regulation & Abolition) Act, 1970
- (viii) Sales Promotion Employees Act, 1976
- (ix) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- (x) Dock Workers (Safety, Health & Welfare) Act, 1986
- (xi) Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996
- (xii) Building and Other Construction Workers Welfare Cess Act, 1996
- (xiii) Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
- (xiv) Dangerous Machines (Regulation) Act, 1983
- (xv) Dock Workers (Regulation of Employment) Act, 1948
- (xvi) Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997
- (xvii) Employment of Manual Scavengers and Construction of Dry Latrines(Prohibition) Act, 1993
- (xviii) Industrial Employment (Standing Orders) Act, 1946
- (xix) Mines and Mineral (Development and Regulation) Act, 1995
- (xx) Private Security Agencies (Regulation) Act, 2005.

5.4. Labour laws relating to Equality and Empowerment of Women

There are labour laws relating to equality and empowerment of women such as Maternity Benefit Act, 1961 and Equal Remuneration Act, 1976.

5.5. Labour laws relating to Deprived and Disadvantaged Sections of the Society

There are also labour laws taking care of Deprived and Disadvantaged Sections of the Society such as Bonded Labour System (Abolition) Act, 1976, Child Labour (Prohibition & Regulation) Act, 1986 and Children (Pledging of Labour) Act, 1933 etc.

5.6. Labour laws relating to industrial relations

There are laws relating to industrial relations such as (i) Trade Unions Act, 1926, (ii) Industrial Employment Standing Order Act, 1946 and (iii) Industrial Disputes Act, 1947.

5.7. Labour laws relating to social security

There are numerous labour laws relating to social security and the government is much concerned on adherence of these laws and any non-compliance leads for severe and stringent penalty and punishment involving senior management and the board members.

5.7.1 Health related

Employees' State Insurance Act, 1948 has been enacted in order to provide medical facilities to the workmen including hospitalization, treatment of outpatient whenever the workmen fall sick and also medical benefits, maternity benefits, disablement benefits, dependent benefits and Funeral benefits.

5.7.2 Compensation related

In order to provide compensation and relief in case of accidents involving partial, full disablement of workmen affecting his earning capacity the Employees' Compensation Act, 1923, Fatal Accidents Act, 1855, Personal Injuries (Compensation Insurance) Act, 1963 and Personal Injuries (Emergency Provisions) Act, 1962 are in place.

5.7.3 Welfare related

Many welfare regulations are in place to take care of the welfare of the workmen in general and also industry specific such as (i) Beedi Workers Welfare Cess Act, 1976, (ii) Beedi Workers Welfare Fund Act, 1976, (iii) Cine workers Welfare Cess Act, 198, (iv) Cine Workers Welfare Fund Act, 198, (v) Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976, (vi) Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976, (vii) Limestone and Dolomite Mines Labour Welfare Fund Act, 1972 and (viii) Mica Mines Labour Welfare Fund Act, 1946 amongst many others.

5.7.4 Unorganized sector related

Similarly to take care of the unorganized sector workmen there is a labour law titled as Unorganized Workers' Social Security Act, 2008.

5.7.5 Employers' liability related

Then to safeguard the interest of the workmen, there is an act specially providing for the liability of employers' titled as Employers' Liability Act, 1938.

5.7.6 Retirement benefit related

Employees' Provident Fund & Miscellaneous Provisions Act, 1952 and Payment of Gratuity Act, 1972 are in place to take care of the post retirement life of the workmen.

5.8. Few forms under the Labour laws (illustration)

To have a better understanding on the magnanimous amount of compliance involved in labour law areas, few forms which are prescribed under the act is given in the next few pages. This would give a fair idea of the compliance requirement expected by the regulator and the work involved in maintaining the records and submitting the various returns at the prescribed time.

<i>Form</i>	<i>Content / brief details</i>
1	Application for permission to construct, extend or take in to use any building as a factory
1A	Certificate of stability

- 1B Form of application for grant of certificate of competency to a person under sub-rule (1) of rule 3 a
- 1C Form of application for grant of certificate of competency to an institution under sub-rule (1) of rule 3 a
- 1D Form of certificate of competency issued to a person or an institution in pursuance to rule 3a
- Information required by the Director of Factories, Boilers, Industrial Safety and Health under rule 3 of the Karnataka Factories Rules, 1969 read with section 6 (1) a, b & c of Factories Act, 1948
- 2 Application for registration and grant of license, renewal of licence and notice of occupation specified in Sections 6 & 7 (to be submitted in triplicate).
- 3 Registration and licence to work factory
- 3A Notice of change of manager
- 4 Certificate of fitness
- 5 Humidity register
- 6 Record of lime-washing, painting, etc.
- 7 Report of examination of pressure vessel or plant
- 8 Register of compensatory holidays
- 9 Register of overtime and payment
- 12 Notice of periods of work for child workers
- 14 Register of leave with wages for the year
- 15 Leave book
- 16 Health register
- 17 Notice of dangerous occurrence which does not result in death or bodily injury (see instructions on the reverse)
- 18 To be filled by Chief Inspector
- 21 Half yearly return
- 22 Muster roll cum register of wages/salary/subsistence allowance
- 23 Register of accidents and dangerous occurrences

24	Special certificate of fitness
25	Form of nomination
26	Register of fees for the issue of certificates or for medical examinations
27	Certifying surgeons visit note
28	Register of exemptions
29	Particulars of rooms in the factory
30	Certificate stating that workers trained to work in machinery under Rule 58 of Factories Act, 1948
31	Form prescribed for report examination of hoist or lift
32	Form prescribed for report examination of cranes and other lifting machines
33	Register of tight fitting clothing
34	Register of water sealed gas holders
35	Report of examination of eater sealed gas holders
37	Certificate of fitness
38	Health register
39	Record of eye examination
40	Sickness, absenteeism register
20	Combined annual return
1	Register of fines deductions for damages or loss and advances
Combined form	For obtaining required clearance from depts./ authorities concerned
B	First class boiler attendant certificate of competency
B	Second class boiler attendant certificate of competency
IV	Annual Return
IV	Annual Return under the Payment of Wages Act, 1936
	Forms down loaded from the site
	http://labour.kar.nic.in/fandb/f_feecharts.htm

5.9. Scope of practice is enormous & challenging & as well rewarding

As seen the volume of work involved and compliance required to be done, especially when regulators both from Ministry of Corporate Affairs under the Companies Act and as well as market regulation from the point of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 looking forward cent percent compliance, there is a vast scope in labour laws related area and even in other laws as well.

The reality is SME sector is not enough equipped to meet the challenges where the practicing company secretary professional could render services and assist and ensure the required compliance done.

In case of multinational and bigger organization, they need expertise, they see experts from outside and many companies are even outsourcing the HR function payroll function etc. Even many organizations from abroad are outsourcing the payroll function since India is economical from the cost perspective and also having regards to the talent.

It is high time that company secretary professionals venture into the newer avenues – especially one which is untapped – and make use of the challenging opportunities and reap the harvest.

Factories Act, 1948 Compliance

6.1. Importance of Factories Act, 1948

The Factories Act, 1948 is an important legislation and the ultimate responsibility of a factory lies with an occupier. The Factories Act is administered by the State Government and each State Government has framed separate Factories Rules. For example, in Maharashtra, the Factories Rules, are 1963 prevalent while the Union Territory of Pondicherry; the Tamil Nadu Factories Rules of 1950 read with The Pondicherry Industrial Establishments Act, 1964. Under the Factories Act, 1948 read with the relevant Factories Rules, the following compliance will be applicable for factories. (The Factory Rules of Maharashtra and Pondicherry are referred while listing the requirements). In other States also, the requirement would be the same but the relevant sections and rules may be different.

The level of compliance may vary depending upon the nature of business of the factory, i.e., whether chemical factory, factory producing dangerous chemical products or hazardous chemical products, etc.

6.2. The various compliance requirements

Under the Factories Act along there are numerous requirements of compliance right from display of information on notice board, records maintenance, floor space, rest room requirements, nomination forms in case of unforeseen circumstances etc. Let us look into each one of them so that the compliance requirement is fully understood.

6.3. *Labour Laws Provision v. Board of Directors Responsibility*

The provisions in the Factories Act, 1948 are made mainly to ensure that the company ensures the Safety, Health and good working environment to its employees. To ensure the above, the

Board of Directors needs to have policy guidelines and a good reporting system with review so that the compliance is taken care of. The compliance is not only from the regulatory point of view but also in the interest of its own employees with whom the company is running its business. To start with, it is a good idea to give a presentation to the board of directors and highlight the importance.

6.4. Appointment of occupier (director) who would have the ultimate control over the factory

The next step is to have a formal resolution by the board of directors for the appointment of occupier / directors. The Board of Directors should pass a resolution to appoint one of the Directors - generally the Managing Director as the occupier of the factory, who would ensure the required compliance. If the company has more than one unit, then it can identify the Director(s) under whose control the factory is functioning and can appoint more than one occupier for different factories. The Occupier, thus appointed would be responsible in respect of the factory / factories for which he is responsible to ensure compliance. The organization can have more than one occupier in case of multi-location units.

Obviously in small and medium (SME sector) companies the practicing company secretaries have a great scope in assisting the management towards ensuring the required procedural related issues. The draft resolution is given below by way of illustration and the practicing personnel could draft suitable resolution and have it in place.

6.5. Draft Resolution for Appointment of (the Director's Name) as Occupier under the Factories Act, 1948

Considering the applicable provisions of the Factories Act, 1948, it has been debated whether a Director alone has to be appointed as Occupier or it would also be any other person not necessarily a Director in charge of the factory engaged in the manufacturing operations. It was pointed out that this controversy has now been laid at rest by a recent decision of the Supreme Court of India in the case of *JK Industries Limited v. The Chief Inspector of Factories & Boilers and others* where it has been held that in the case of a

company which owns a factory, it is only one of the directors of the company who can be notified as the Occupier of the Factory 'who has ultimate control over the affairs of the factory' for the purposes of the Factories Act and the Company cannot nominate any employee to be the Occupier of the factory. However, if company does not inform any such director, then proceedings of prosecution and punishment can be initiated against any one of the directors. This is rule of 'strict liability'.

Attention was invited to the provisions contained in Section 101 of the Factories Act, 1948, in terms of which where the Occupier or Manager of a factory is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the prosecutor not less than three clear days' notice in writing of his intention so to do, to have any other person, whom he charges as the actual offender, brought before the Court at the time appointed for hearing the charge and if, after commission of the offence has been proved, the Occupier or Manager of the Factory as the case may be, proves to the satisfaction of the Court.

- I. That he had used due diligence to enforce execution of the above Act; and
- II. That the said other person is deemed to have committed the offence in question without his knowledge, consent or connivance.
- III. That the Occupier or the Manager shall be discharged from any liability under the Act in respect of such offence. The Board was advised that, in the circumstances, even if a Director was so appointed as the Occupier of a factory, he could have recourse to the remedy provided for in the aforesaid Section 101 of the Factories Act, 1948. In fact there is an express reference to such recourse even in the aforesaid Supreme Court Judgment referred to above.

The Board decided to appoint..... (The Director's name and designation) as Occupier in respect of the Company's factories at (name of the factory / factories) and passed the following Resolutions:

RESOLUTION FOR THE
APPOINTMENT OF
OCCUPIER (DIRECTOR)

RESOLVED

that (the Director's name and designation)..... be and is hereby appointed Occupier of the factory / factories of the Company at (location / locations).

6.6. Appointment of the manager who would be responsible for day-to-day affairs of the factory

The Managing Director being the Chief Executive Officer of the company and the whole time Director(s) being in-charge of the total operation of the unit, it is always not possible for them to look after the day to day affairs of the factory. The law makers also don't expect that the board members should be involved on day-to-day affairs of the factory and look into the routine matters. However, the ultimate responsibility lies with the director, who is appointed as the occupier of the factory.

In practice, since the factory's operations are run by the experts in the field such as works manager, production manager, cell manager the day to day operations of the factory and the routine matters relating to safety measures, health relating to factory workmen, maintenance of plan and system of work in the factories, risk related matters in connection with use, handling, storage and transportation of materials, working environment and other safety related measure are looked after by the respective factory manager /works manager / production manager/ cell manager etc. In the light of the above, the Board of Directors also recognizes the fact that the day to day responsibility of running the factory rests with the factory manager and accordingly, the board passes a resolution to that effect. The Board of Directors should resolve for the appointment of the manager for day-to-day affairs by passing a suitable resolution, a draft of which is provided below.

This resolution could be in continuation of the earlier resolution passed in respect of the appointment of occupier of factory, appointing one of the directors as an occupier.

**Further resolution spelling out the
Responsibility of the manager
who is in charge of the day-to-day control of the factory**

RESOLVED

That, it is hereby understood that notwithstanding the aforesaid nomination of (the name of the Director and his designation) of the Company, as the Occupier, he would not actually be in the immediate control over the affairs of the said Factories as in fact he could not be considering the circumstances and the nature of his duties vis-à-vis the Company and it be hereby reiterated that (the name of the Manager and his designation) as specified above, who is in immediate charge of the Factory / Factories is vested with immediate control over the affairs thereof and he shall be solely liable, answerable and responsible for the full and timely observance of and compliance with all the provisions and requirements of the Factories Act and Rules made there under and in so far and to the extent they are to be observed and complied with by them by virtue of this Resolution and the consequential authority so vested in him.

6.7. Answerability for offences

There could be minor non-compliances, certain rectifications, calling for certain action upon the visit of the factory Inspector etc., in connection with the Factories Act and regulations. Since most of the routine matters need to be attended then and there, they need not, come to the occupier on routine basis and the manager in-charge could take suitable action and answer the same including the offences if any arising on day to day operations. It is better, that the board makes this point clear and puts it in the form of a resolution. Many companies generally take a resolution to this effect as foreign nationals manage many of the multinational companies. Given below is the suggested draft of the resolution, which could be taken by the board of directors, in continuation of the earlier resolution.

Further resolution stating that the manager would be answerable for the offences if any immediately after a charge is made

RESOLVED

That, in the event of the said.....(name of the Director and

his designation) being charged with an offence punishable under the Factories Act or the Rules made there under,.....(the name of the Manager and his designation) of the Company as specified above, shall appear before the Court at the hearing and confirm that notwithstanding the aforesaid formal nomination of (the name of the Director and his designation) he is in immediate control over the affairs of the said factory / factories and answerable for compliance of all provisions, rules and regulations applicable under the Factories Act and the Rules there under.

6.8. Information to inspector of factories

The resolutions passed by the board for the appointment of occupier, appointment of manager, making the manager responsible for day-to-day operations of the factory etc. need to be communicated to the Inspector of Factories. The board may pass the following resolution authorizing the company secretary to inform the same. (Many States and Union Territories have specified the form in which the details are required to be filled up and submitted to the inspector of factories along with the certified copy of resolution and this may have been checked up while intimating the same to the relevant inspectorate of factories.

6.9. Resolution authorizing the secretary or other authorized person to advise the inspector of factories about the appointment

RESOLVED

That the Company Secretary (or other authorized person) of the Company be and is hereby authorized to advise the Inspector of Factories of the appointment of..... (name of the Director and his designation) as occupier of the factories at.....(location / locations).

6.10. The compliance issues

Having the occupier in place, manager appointed for day to day management of factories, now let us look into the compliances in terms of records, maintenance and up keeping of other requirements one by one.

6.11. Display on the notice board

Prominent display of the following information is required in the factory premises at or near the main entrance of the establishment:

- (a) Form No.11 showing clearly for every day the period of work for adult workers pursuant to section 6(1).
- (b) Abstract of the Act and Rules made thereunder alongwith name and address of the Inspector and the Certifying Surgeon as required under section 108.
- (c) Form No. 7 showing the list of National and Festival Holidays duly approved by the Inspector under the Pondicherry Industrial and Establishment Act (similar Acts would be there for other states).
- (d) Under the Payment of Gratuity Rules {Rule 4(1)} notice in English and in vernacular language showing in bold letters, the name of the officer with designation, authorized by the employer to receive on his behalf the notice under the Act or the Rules.
- (e) An abstract of the Payment of Gratuity Act, 1972, and Rules in Form U, in English and vernacular language.

The practicing professional could advise suitably on the requirement of display and even they could help and assist the organization in getting abstracts translated in vernacular language since it is the requirement that the display of abstract be in English and as well in vernacular language.

6.12. Provisions relating to various health and welfare measure

The practicing professional could advise the various requirements with reference to health and welfare related provisions so that the compliance is ensured by the organization. Following are to be ensured:

- (a) Cleanliness of walls and ceilings;
- (b) Standard Lighting;
- (c) Provision for drinking water;
- (d) Proper toilets with sign boards;

- (e) Proper drainage system/maintenance of drains;
- (f) Periodical White washing, colour washing of toilets;
- (g) Employment of sweepers;
- (h) Provision of Spittoons;
- (i) Disclosure of information to workers (hazardous process etc.);
- (j) Disposal of industrial wastes;
- (k) Provision of ambulance vans in case of hazardous process;
- (l) Washing facilities;
- (m) First aid appliances;
- (n) Notice regarding first aid ;
- (o) Ambulance room or dispensary room;
- (p) Canteen facility is another requirement but the same will not be applicable where less than 250 workers are employed;
- (q) Register of compensatory holidays;
- (r) Overtime register; and
- (s) Register showing white washing, lime washing done etc. are also required to be maintained.

6.13. Floor space / rest room requirements

The practicing company secretary professional should bring to the notice of the occupier the provisions of section 16(2) and rule 120(1) which require provision of every workroom of factory in existence on the date of commencement of this act at least (9.2 cubic metres) and of a factory built after the commencement of this act at least (4.2 cubic metres) of space for every worker employed.

Adequacy and suitable shelters or rest rooms are required to be provided to the workmen. Adequate suitable lunch rooms are required to be provided.

6.14. Nomination form

Under the Payment of Gratuity Act, 1972, duplicate copy of the

nomination in prescribed Form "F" duly attested by the employer (as a token of recording of the nomination) is required to be returned to the employee. In addition to the above, there may other requirements under the various labour laws read with rules of the local state Government.

The practicing professional could ensure that the nomination is in place, the copy duly attested by employer is given to the respective employees.

6.15. Mode of form of intimation before occupying or use of the Premises

The Occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory send to the Chief Inspector a written notice containing:

- (a) Name and situation of the factory.
- (b) Name and address of the occupier.
- (c) Name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93.
- (d) Address to which communication relating to the factory may be sent.
- (e) Nature of manufacturing process:
 - (i) Carried on in the factory during the last twelve months in the case of factories in existence.
 - (ii) On the date of commencement of this Act.
 - (iii) To be carried on in the factory during the next twelve months in the case of all factories.
- (f) Total rated horsepower installed or to be installed in the factory which shall not include the rated horsepower of any separate standby plant.
- (g) Name of the manager of the factory for the purpose of this Act.
- (h) Number of workers likely to be employed in the factory.
- (i) Number of workers employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act.

(j) Such other particulars as may be prescribed.

6.16. Ensuring Compliance - system to be in place

Once the intimation is given, the actual compliance part is required to be ensured and also continuous compliance is required to be ensured thereafter. The Director Occupier and the Manager have to evolve a better system to ensure the safety, health and environment of the workmen employed in the factory.

6.17. Declaration from the Manager

The Director Occupier may like to take a declaration from the Manager stating that the Manager would ensure the statutory compliance while running the day-to-day factory and in turn the Manager has to ensure the same. This declaration is taken to show that the manager who is appointed for running the day to day operation is actually a capable executive, to whom the responsibility is entrusted and not a dummy person for record purposes. In case of any compliance issue, the authorities may like to rely on this document and the operations were really run by an able and efficient executive of the company.

To make it clean and transparent, the Manager may give a declaration to the Director-Occupier as per the following format and he shall ensure the compliance on an ongoing basis. The suggested draft declaration form is given below: -

6.18. Suggested draft declaration by the manager

I son of....., residing atis working for gains with (Company's name) thereafter-called Company, as (designation) at its factory located at (place) (responsible for the operations of the factory / factories at (location / locations))effective from.....

I hereby confirm and declare as under: -

1. That I have the expertise to run similar factories and am fully aware of and conversant with the requirements of the Factories Act and the Rules made there under for the running of factories and that I am aware of and conversant with the various health, safety and welfare regulations and methods to be followed in such factories.

2. That keeping in view my ability, I have been sufficiently empowered by the Board of Directors of the Company in the meeting of the Board held on (date of board meeting) and that I have been furnished a certified true copy of the resolution passed in the said meeting and that I have been *inter-alia* entrusted independent responsibility for effective running and monitoring of the said factory on day to day basis including compliance of the various requirements of the Factories Act and the Rules made there under.
3. That I shall at all times ensure and keep ensured that all the provisions of the Factories Act and the rules made there under are complied with and that I shall every month give a certificate to (name of the Director - Occupier) and the nominee Occupier that there has been due discharge of responsibility and compliance of the provisions of the Factories Act and the Rules made there under and that this certificate will be effective and binding on me.
4. That in the event,.....(name & designation of the Director-occupier) and nominee Occupier of the factory is charged with an offence punishable under the Factories Act and the Rules made there under, I, as the immediate person responsible for complying with the same hold myself responsible and shall on being called upon, on a charge being framed under the said Act and the Rules made there under against him, make myself available before the concerned Court (whether in employment with (name of the company) or not) at the time appointed for hearing the charge, provided, the charge relates to the period of my employment.
5. That I shall at all times exercise due diligence in complying with the requirements of the said Act and the Rules made there under and that I shall be answerable in terms of Section 101 of the said Act notwithstanding the nomination of (name of the Director Occupier) as Occupier under Section 2(n) of the said Act.
6. That due to my proximity with the operation of the said factory and being responsible for day to day operations, I shall be liable for non compliance of the provisions of the Factories Act and Rules made there under and accordingly hold myself liable for contravention, if any.

7. This declaration is given by the undersigned knowing well that (name of the Director occupier), the nominee Occupier and/or the Board of the Company shall on its faith and strength place his/its reliance that all the provisions of the Factories Act and Rules made there under have been complied with.

Place:

Date:

Signature of the Manager

6.19. Monthly Compliance Certificate from the Manager to the Occupier

The Manager, who is in-charge of day to day operation could issue a certificate on a monthly basis, every month, in the beginning of the month, for the earlier month, a compliance certificate to the Director- Occupier as per the suggested format is given below. This would ensure that the factory compliance is in place, if there is non-compliance; necessary rectification action could be taken. On the basis of this certificate, the director-occupier could issue his compliance certificate to the board members.

6.20. Suggested draft monthly compliance certificate

(Draft certificate in ideal circumstances)

Addressed to: -

Director-Occupier of the Factory Place where he is located

**Subject : Compliance Certificate for the month of
Regarding : Factories Act and the Rules made thereunder in
respect of (location/locations) Works.**

Certified that there has been due compliance of the Factories Act, 1948 and the Rules made there under during the month of.....and in particular, I confirm, declare and certify as under: -

That health, safety and welfare of all the workers while they were at work has been adequately taken care of.

That the existing provisions and maintenance of plant and

systems of work in the factory are safe and without risk of health and wherever and whenever required, corrective actions are being taken.

That suitable arrangements exist in the factories for ensuring safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances. That the workers are continuously kept informed, instructed, training and supervision as are necessary given to them to ensure the health and safety of all workers at work.

That the maintenance of all places of work in the factories including maintenance of such means of access to and egress from, such places are regularly carried out and work place is totally safe and without risk to health.

That provision, maintenance or monitoring of such working environment in the factories for the workers are safe, without risks to health and adequate as regards facilities and arrangement for.

That there exists a written statement of the general policy suitably modified from time to time with respect to the health and safety of the workers at work and the organization and arrangements for the time being in force for carrying out that policy. That the said statement is put in Notice Boards at different locations and it is ensured that it is brought to the knowledge of all the workers.

That periodical safety drills are undertaken by involving all the workers and the workers are trained on various aspects relating to safety and health.

This declaration is given by the undersigned knowing well that you as the Occupier will on its faith and strength place reliance that all the provisions of the Factories Act and Rules made there under have been complied with.

Place: _____ Signature of the Manager

Date: _____

6.21. Intimation regarding Proposed Action on the Compliance

The Manager may add the necessary action points under the relevant paragraph spelling out the proposed action which are

planned in case part compliance/non-compliance. For example: Under para 1 of the certificate the Manager may like to inform the Director-Occupier that the workers are being educated about the safety requirement by adding the following remarks.

The workers are being educated about the requirement of safety and necessary precautions to be taken on the shop floor as required. Similarly, the Manager may like to inform the Director-Occupier about the planned medical room facilities to be provided on an ongoing basis by adding the following remarks.

The Improvements to the medical room facilities have be included in the list of projects planned and expect initiation work in (indicate the month here), completion by (indicate the month).

In the last para, the Manager may like to inform about the safety drills and training by adding the suitable remarks, which could be:

At.....(Location), the safety drills and formal safety training for employees would be commenced after appointment of Safety Officer, which is expected to be completed by.....(indicate the month). Currently periodical safety drills are undertaken for the security personnel.

6.22. Review of the compliance report and initiating required action

The Occupier Director can review the action plans on a month to month basis on an ongoing basis and ensure that the compliance is strictly made as required under the Factories Act, 1948, not only to satisfy the regulatory authorities but also environment to safe guard the interest of his own workmen in the factory in respect of their safety, health, etc.

6.23. Compliance Report to the Board

Whenever the Board meets periodically, the concerned Occupier Director has to place the compliance certificate under the Factories Act, 1948 so that the Board is kept informed about the required compliance in each of its Board meeting. The Board members could discuss the various action points so that the members can add value to it for the improvement over the existing compliance, after their detailed deliberations,

discussions and review. The draft compliance report (on ideal circumstances) by the Director-Occupier is given below.

6.24. Certificate of compliance

BOARD OF DIRECTORS

Subject: Compliance Certificate up to the month of (month here) Regarding Factories Act and the Rules made there under

The Board had nominated me as Occupier under Section 2 (n) of the Factories Act, 1948 in the meeting of the Board held on (date).

Pursuant to the resolution passed in the said meeting, all the Managers who have been vested with the powers and immediate control of the respective factories have given certificates individually confirming due compliance of the provisions of the Factories Act and the Rules made there under. Based on the compliance certificates received from them and relying them to be true in bona fide good faith. I hereby certify that there has been due compliance of all the provisions of the Factories Act, 1948 and the Rules made there under upto the month of (month) in particular I confirm, declare and certify as under:

- a. That health, safety and welfare of all the workers while they were at work has been adequately taken care of.
- b. That the existing provisions and maintenance of plant and systems of work in the factory are safe and without risk of health and wherever and whenever required, corrective actions are being taken.
- c. That the workers are continuously kept informed, instructed, trained and supervised as are necessary given to them to ensure the health and safety of all workers at work.
- d. That the maintenance of all places of work in the factories including maintenance of such means of access to and egress from such places are regularly carried out and workplace is totally safe and without risk to health.
- e. That provision, maintenance or monitoring of such working environment in the factories for the workers are safe, without risks to health and adequate as regards facilities and arrangement for their welfare at work;

- f. That there exists a written statement of the general policy suitably modified from time to time with respect to the health and safety of the workers at work and the organization and arrangements for the time being in force for carrying out that policy. That the said statement is put in Notice Boards at different locations and it is ensured that it is brought to the knowledge of all the workers.
- g. That periodical safety drills are undertaken by involving all the workers and the workers are trained on various aspects relating to safety and health.
- h. That I have exercised due care to the best of my ability notwithstanding the fact that I am not involved in day to day affairs of the factories due to my pre-occupation with my main responsibilities elsewhere as Managing Director/ Occupier to enforce execution of the provisions of the Factories Act and the Rules framed there under and that I have not given any consent or acted in connivance with the said Managers whereby offence could have been committed with my knowledge under the said Act and Rules in any manner.
- i. This declaration is given by the undersigned knowing well that the Board will on its faith and strength place reliance that all the provisions of the Factories Act and Rules made there under have been complied with.

For (the Company's name)

Place: Signature of the Occupier/Director
Date: with Name and Designation.

6.25. Action points arising on the compliance certificate

Based on the certificate issued by the Manager(s) the action points could also be indicated by the Occupier Director as informed / intimated by the Manager (s) to enable the Board to have detailed discussions on the action points arising out of this.

The above procedure, if strictly followed, the compliance could be monitored to a greater and fuller extent and noncompliance could be avoided. It is not the question of only introducing the

procedure but strictly adhering to it with regular review and follow up along with the action plan from time to time, which would ensure the compliance. The compliance should not only be for the purpose of meeting the requirement of the law and law enforcement agencies but also to ensure the adherence of the compliance in its true spirit so that the health, safety and environment problems are taken care of, for the workmen through whom the company works with and achieves its targets.

6.26. Compliance Certificate taken on Record by Board

The Board may record the compliance certificate in its minute book along with the action points agreed upon which could form part of review in their next meeting while discussing the "matter arising out of previous meetings" / " Meeting Action Points" / " Action Taken Report" – whatever be the name on the action points. This would help the board to review the action periodically and ensure that the required compliance is done and all pending actions are attended to. Compliance certificate placed in each board meeting would also give the comfort level on the compliance to the board and the board members can be rest assured that the compliance are in place. Since non-executive directors are not involved on day-to-day management of the company, the compliance certificate would give a greater comfort level to them since the directors are now made responsible for the compliance under Factories Act, 1948.

6.27. Compliance other than the Factories act, 1948

Apart from the compliances under Factories Act, there are other compliance under various laws such as the Income Tax, other Labour Legislations, ESIC, FERA/FEMA etc. for which a separate compliance certificate may be issued by the Managing Director stating that the required compliance are met with. Needless to mention that the required compliance in terms of returns, payment, submission of documents are to be complied with by the respective executives who are in-charge of the respective function, preferably with a help of a check list of compliance.

In the forthcoming chapters we shall also see the other major laws where practicing company secretary could extend their services to organizations.

6.28. Role of practicing company secretary (especially in SME sector)

The Company Secretary in whole-time employment in multinational and larger companies can play a major role in assisting the Managing Director and the Board in ensuring the compliance. One of the job objectives of the whole time Company Secretary could be to “Monitor and report on the statutory compliance of all the company's operations through the control of a compliance certificate process”. The Company Secretary while preparing the agenda should ensure that an agenda item always appears in the Board meeting titled "matters arising out of previous meetings" so that the points raised and the action plan agreed upon is discussed at this meeting and a thorough review is taken. He can make a note of various action points arising out of the meeting and assist the Managing Director and the other Executives of the Company for necessary action and its implementation.

The question would arise in case of small medium enterprises and also in those companies who does not have a full time company secretary and also in some of bigger companies where they need expertise in the labour law field. Here comes the opportunity for the practicing company secretary professionals who can always keep Executives of the Company updated about latest amendments and assist them to have a continuous monitoring and follow up action. At the time of Board meeting, the practicing company secretary professional could review the various aspects relating to labour law compliance with the Managing Director and help and assist in getting a summary note for the Board members prepared so that the compliance is better attended to. For this purpose, the practicing Company Secretary professional should equip himself properly to give correct legal advice on all relevant aspects of the company's operations.

Authorization of Practicing Company Secretaries for conducting Third Party Certification Audits of compliance of various labour laws:

The labour Department, Government of Haryana vide its Notification No. 11/38/2016-4 Lab dated 10th August, 2016

formulated Third Party Certification/ Audit Scheme for the factories, shops and commercial establishments in the State to liberalize the enforcement of labour laws in pursuance of implementation of the “Business Reform Action Plan 2016- Ease of Doing Business” as formulated by the department of Industrial Policy and Promotion, Ministry of Commerce and Industries, Government of India.

In this Third Party Certification / Audit Scheme, “Compliance Auditor” would be a qualified Practicing Company Secretary and who has not been an employee or on the regular pay role of the establishment or has not been a consultant of the company for the last three years. The units which submit Third Party Certification regularly on annual basis shall not be inspected through the random list of inspections.

6.29. The actual work /job involved for the practicing company secretary professional in relation to Factories Act along could be summarizes as below:

As said elsewhere, bigger companies and multinational companies would be able to manage the compliance requirements in their organizations while the practice would be available for SME sector. Even many of bigger organizations are also interested in outsourcing the function or taking the assistance of outside expert in which case, the practice is open for company secretary professional. Let us briefly list down the actual work involved.

- (i) The starting point could be making a brief presentation to the board members highlighting the requirements of compliance, action required to be taken by the organization.
- (ii) Drafting of required resolutions for the following:
 - a. Appointment of occupier / director for factories managed by each of the director.
 - b. Appointment of manager who looks after the day to day affairs of the factory.
 - c. Declaration letter of manager subsequent to his appointment.
 - d. Monthly format of compliance certificate to be issued by the manager to the managing director/director.

- e. For each board meeting the required compliance certificate to be placed by the occupier / director.

Reviewing the compliance certificate and any action arising out of compliance matter / non-compliance, the practicing professional could assist them to address.

Ensuring the periodical compliance and either maintaining the necessary records and assisting the organization for its maintenance and review of the same on ongoing basis.

Besides there are certain returns to be submitted which is discussed below and the company secretary professional could help in getting it submitted for the SME sector.

Whenever the factory inspector visits and carryout the inspection, the practicing professional could assist and provide necessary clarification during the inspection.

Normally the inspector writes on the inspection book, any action point arising during his inspection and here again the practicing professional could ensure that those points raised at the inspection by the inspector is set right and complied with.

6.30. Prescribed returns and registers under Factories Act

The following are the various returns and registers which are prescribed under the Factories Act and the practicing professional could ensure these are all done from time to time as prescribed.

<i>Sr. No.</i>	<i>Brief details</i>	<i>Form No.</i>	<i>Compliance requirements</i>
1	Application for permission to construct, extend or take into use any building as a factory	1	Before commencement of construction or extension
2	Application for Registration and Grant of Amendment of Licence And notice of occupation	2	After commencement of factory
3	Certificate of Stability	3	Once in five years
4	Licence to work a factory	4	Obtained first time and renewed each year

5	Certificate of fitness for young person	5	Every year
6	Humidity Register	6	Record of reading of Hygrometer on daily basis at 9 am 2.pm and 5.30 pm
7	Record of Lime washing, painting, etc.	7	On an ongoing basis
8	Report of examination or test of pressure vessels or plant	8	Certificate to be obtained from competent person each year
9	Register of Compensatory Holidays	9	On an ongoing basis
10	Overtime, register for exempted workers	10	On an ongoing basis
11	Notice of periods of work for adult workers	11	As per weekly shift change
12	Register of adult workers	12	On an ongoing basis
13	Notice of periods of work for child workers	13	As per weekly shift change
14	Register of child Workers	14	On an ongoing basis
14	Register of leave with wages	15	On an ongoing basis
15	Leave Book	16	On an ongoing basis
16	Health Register	17	On an ongoing basis
17	Report of accident including dangerous occurrence resulting in death or bodily injury	18	As and when occurred
18	Report of dangerous occurrence which does not result in bodily injury	18A	As and when occurred
19	Notice of poisoning or disease	19	As and when occurred
20	ABSTRACT of the Factories Act, 1948 and the concerned state government rules, (year)	20	Permanent display
21	Annual Return	21	31st December each year
22	Half Yearly Return	22	30th June each year
23	Notice of Change of Manager	23	when change take place
24	Muster Roll	25	On an ongoing basis
25	Register of accidents, major accidents dangerous occurrences	26	As and when occurred

26	Certificate of fitness for employment in hazardous processes / dangerous operations	27	On an ongoing basis
27	Attendance Card	28	On an ongoing basis
28	Certificate of fitness for employment in hazardous processes and operations	29	Every year
29	Register containing particulars of monitoring of working environment required	31	On an ongoing basis
30	Details of Closure	32	As and when take place
31	Prescribed under Rule 132	33	
32	Register of workers employed for work on or near moving machine	34	On an ongoing basis
33	Particulars of rooms in the factory	35	On an ongoing basis
34	Nomination for payment of wages in lieu of the quantum of leave to which he was entitled in the event of death of worker.	36	At the time of workmen joining
35	Register of examination of gasholders	37	
36	Report of examination of water-sealed gasholder	38	
37	Certificate of fitness for dangerous operations	39	
38	Test Report Dust Extraction system	40	
39	Report of examination of hoists and lift	41	
40	Certificate of Fitness	42	
41	Prescribed under sub-rule (4) of rules 81G	43	

The above table itself is self-explanatory; the amount of expectation from the regulator under one single Factories Act 1948 specifying so many registers and records and it is quite a challenging opportunity for practicing professional.

Factories Act Compliance Checklists

The Factories Act, 1948

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	Objectives		
	To ensure adequate safety measures and to promote the health and welfare of the workers employed in factories		
Sec 6 Rule 3 to 11	Approval, Licensing & Registration of Factories Prior permission of the Chief Inspector shall be obtained for the usage of any site for the location of a factory or construction of a building in factory or installation of Plant & Machinery in the factory. Please refer the stated rules for information on further provisions on registration, renewal, transfer of license etc. - if not received any reply it will be deemed to be granted within 3 months from the date of application	Approval of site, construction or extension of a Factory Form 1 Application to construct factory (In triplicate) Registration and grant of license shall be issued in Form No 3 as per rule 4(4) Application for renewal of license in Form No. 2 (In triplicate) Renewal of License registered in Form No.3	
Sec 7	Notice by Occupier	Notice of Occupation in Form-2	
Rule 12	Occupier to send a written notice containing the prescribed particulars to the Chief Inspector at least 15 days before an occupier begins to occupy or use a premises as a factory and at least 30 days before the date of resumption of work in case of seasonal factories i.e. factories working less than 180 working days in a year.		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Rule 12A	New factory manager is appointed, the occupier shall send to the inspector a written notice and to the chief inspector a copy thereof within 7 days from the date on which such person takes over charge	Notice of change of Manager shall be in Form 3A	
Sec 10	<p>Certifying surgeons</p> <p>-certifying surgeon with approval of state government can appoint qualified medical practitioner to examine the workers of the factory</p> <p>Measures to be taken by factories for Health, Safety and welfare of workers</p> <p>I. Health</p> <p>Cleanliness</p>		
Sec 11(1)	<p>The factory premises shall be kept clean at all times and provision for effective drainage system, shall be arranged.</p> <p>Regarding painting the following provisions shall be complied:</p> <p>i) Floor of every workroom to be cleaned at least once in every week by washing using disinfectant wherever necessary</p> <p>ii) Repainting or re-varnishing of surface otherwise than washable water paint shall be carried out once in every 5 years and where it is was painted with washable water paint with one coat of such paint once in a period of 3 years, and washed in every six months</p> <p>iii) White washing or colour washing to be carried out at least once in 14 months</p>	Form 7 – Record of whitewashing	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>iv) Cleaning or painted or varnished surfaces to be carried out once in every 14 months by means of prescribed method.</p> <p>v) Metallic or wooden doors, windows and other framework shall be painted/ varnished once in every 5 years.</p> <p>-The dates on which such processes are carried out shall be entered in registers kept for the purpose</p>		
Sec 12	Disposal of waste and effluents		
Rule 17	Arrangements in line with rules laid down by state government, shall be made by Occupier for the treatment of wastes and effluents to render them innocuous.	The arrangements shall be in accordance with those prescribed by the relevant Water and Air Pollution Boards appointed under the Water(Prevention and Control of Pollution Act), 1974 and Air(Prevention and Control Of Pollution) Act, 1981	
Sec 13	Ventilation and temperature		
Rule 17A, 18-28	<p>Reasonable ventilation systems shall be provided to secure healthy working conditions.</p> <p>Where the nature of work carried on generates excessively high temperature, following measures shall be adopted:</p> <ul style="list-style-type: none"> - Separating such process from the workroom, - Insulating the hot parts, 		
Sec 14	Dust and fume		
	Exhaust appliances should be fitted,		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	as far as possible, to the point of origin of dust, fumes or other impurities.		
Sec15 Rule 18-28	Artificial Humidification Making standards for humidification and methods for ensuring humidity of the air, and to secure adequate ventilation and cooling of the air in the work rooms. -if humidity of the air is artificially increased, the water used for that purpose shall be taken from public supply or other source of drinking water effectively purified before use -if Inspector feels that water isn't purified, he will give an order to the manager in writing specifying the measures to be carried out before the specified date	The temperature shall be registered in Humidity register in prescribed Form No. 6	
Sec 16 (1,2)	Overcrowding Overcrowding shall be restricted by providing a minimum working space of 14.2 cu.m. per worker at the factory, 9.9 cu.m. of each workplace shall be displayed -no account shall be taken of any space which is more than 4.2 meters above the level of the floor of the room -the chief inspector in writing may exempt such conditions if it is unnecessary in the interest of the health of the workers employed therein		
Sec 16(3)	A notice specifying the maximum number of workers that can be employed in the work room shall be displayed as directed by the Chief Inspector by order in writing		
Sec 16(4)	The Chief Inspector may exempt this section by passing an order		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Sec 17	Lighting		
Rule-29-33	Sufficient and suitable lighting, natural or artificial or both, shall be provided at all working places in the factory. Further glare due to excessive lights or from reflection and shadows causing eye strains shall be prevented.		
Rule 29	Apply to factory indulged in manufacturing process for more than 48 hours a week -if well-constructed the Chief inspector shall give opinion for non-requirement		
Rule 30	Lighting of interior parts -general illumination over those interior parts shall be not less than 65 lux measured in the horizontal plane at a level of 91.4c.m above the floor -if mounting height of light source exceeds 7.6 meters measured from the floor or structure of room, general illumination at the said level shall not be less than 22 lux and where work is actually done shall be not be less than 65 lux -illumination over all other parts over which the person employed pass shall be not less than 5.5lux at floor level		
Rule 31	Prevention of glare -artificial light in the factory is less than 4.9 meters above the floor level, no part of the light source having brightness greater than 1.5 candles per sq. meters shall be visible to the persons whilst normally employed within 30.5 meters of the source except angle of elevation from the		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>eye to the source or part of the fitting as the case may be exceeds 200.</p> <p>-to provide suitable opaque material to prevent glare or other means</p>		
Rule 32	<p>Power of chief inspector to exempt</p> <p>-If rules mentioned in 29 to 31 are inappropriate or not practicable Chief inspector by order in writing may exempt</p>		
Sec 18	Drinking water		
Rules 34-39	<p>Arrangements for pure drinking water at convenient places away from sanitation facilities shall be made. All places of supply shall be marked legibly in the languages understood by majority of workmen.</p> <p>Further cool water supply be arranged where the strength of workmen employed exceeds 250 during hot weather</p>		
Rule 34	<p>Quantity of drinking water</p> <p>-each employee of factory shall be provided at least 4.5 liters per day readily available at all times during working hours</p>		
Rule 35	<p>Source of supply</p> <p>-from public water supply system</p> <p>-from any other source approved in writing by the Health officer</p>		
Rule 36	<p>Means of supply</p> <p>-kept in suitable vessels, receptacles or tanks or fitted with taps with dust proof covers</p> <p>-suitable arrangement for split water</p> <p>-clean once every day</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Rule 37	<p>Cleanliness of well or reservoir</p> <p>-if supply from well or reservoir sterilized once a week or more frequently if the inspector by written order requires the date for sterilizing</p> <p>-no such requirement if health officer satisfies before consumption</p>		
Rule 38	<p>Report from health officer</p> <p>-the inspector may direct the manager to obtain a report from health officer about the fitness for human consumption of water supplied</p>		
Rule 39	<p>Cooling of water</p> <p>-the cooled water shall be supplied in every canteen, lunch-room, and rest-room and also at accessible points throughout the factory</p> <p>-the water centre is provided for every 150 persons employed at any one time in the factory</p> <p>-if more than 500 persons, from 150 to 500 persons there will be one water centre and another water centre is for every 500 persons thereafter</p>		
Sec 19	Latrines & Urinals		
Rules 40-49	<p>-Latrines and urinals separate for ladies and gents shall be provided at convenient locations accessible to workers at all times, which shall be kept clean at all times.</p> <p>-an enclosed accommodation shall be provided for male and female workers and shall be adequately lighted and ventilated</p> <p>-no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>intervening open space or ventilated passage</p> <p>The method of construction and facilities vary with number of workmen employed, which can be referred from the section.</p> <p>If more than 250 workers are ordinarily employed, the floors and internal walls up to a height of 90 c.m. of the latrines and the urinals and the sanitary blocks shall be laid in glazed tiles or otherwise prescribed.</p> <p>-the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.</p> <p>-sweepers must be appointed whose primary duty is to clean</p>		
Rule 40	<p>Latrine accommodation</p> <p>-where women are employed there shall be one latrine for every 20 women</p> <p>-where males are employed, one latrine seat for every 20 males provided if exceeds 100 in number, one latrine seat for every 20 males upto the first 100, and one for every 50 thereafter.</p>		
Rule 43	<p>Signboards to be displayed</p> <p>-a notice in the language understood by majority of workers "for men only" or "for women only" with picture as the case may be</p>		
Rule 44	<p>Urinal accommodation</p> <p>Urinal accommodation shall be provided for the use of workers and</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	shall not be less than 61c.m in length for every 50 workers. Where it exceeds 500, one urinal for every 50 workers upto to first 500 employed and one for every 100 thereafter. The chief inspector may grant exemption from the above provisions if less than 20 workers.		
Rule 45	Urinals to conform to public health requirements -factory employing more than 250 workers shall comply with requirements of public health authorities.		
Rule 46	Certain Latrines and urinals to be connected to sewage system - all latrines and urinals other than septic tank latrines and any type of latrines and urinals to be approved by Public health authority of a factory situated in such locality shall be connected with sewage system if the factory is situated within 30.5 meters of an existing sewer.		
Rule 47	Whitewashing and colour washing of urinals -walls, ceilings and partitions of every latrine and urinal shall be whitewashed at least once in every period of 4 months and date of white washing is entered in register (form 7)		
Sec 20	Spittoons -Check whether sufficient number of spittoons are provided at convenient places and maintained in a clean and hygienic condition -Check whether notice containing this provision and the penalty for		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	its violation has been prominently displayed at suitable places in the Factory premises		
Rule 51	Type of spittoons -a galvanized iron with a conical funnel-shaped cover. A layer of disinfectant liquid shall always be maintained in the container -a container filled with dry, clean sand and covered with a layer of bleaching powder -any other type approved by the Chief Inspector		
Rule 52	Cleaning of spittoons -cleaned at least once every day and cleaned by scrapping out the top of sand once every day		
Rule 52-A	Planting of trees -if 100 or more workers are employed in the factory, the occupier shall plant and maintain trees within the premises of the factory and number, type and layout of trees shall be approved by the District Agricultural Officer concerned -if it isn't possible to plant trees due to non-availability of space, DAO may recommend to the government for grant of exemption		
II.	Safety		
Sec 21	Fencing of machinery -certain types of machinery or their parts such as moving part of prime mover and every fly-wheel, headrace and tailrace of every water wheel and water turbine, any part of a stock-bar, every part of electric generator, any part of transmission machinery and dangerous part of the machinery shall be securely fenced by safeguards of substantial		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>construction and shall be constantly maintained and kept in position</p> <p>-examination of the parts of the machinery will be made while it is in motion.</p>		
Sec 22 Rule 53	<p>Safety measures in case of work on or near machinery in motion</p> <p>The examination of any part of a machine while in motion shall be carried out only by specially trained adult male workers wearing tight fitting clothing and whose name had been recorded in the Register</p> <p>-such worker shall not handle a belt at moving pulley unless</p> <p>- the belt is not more than 15 cm. in width</p> <p>-pulley is only for drive not merely a fly-wheel or balance wheel (belt isn't permissible)</p> <p>-belt joint is either laced or flush with the belt</p> <p>-the belt including the joint and the pulley rim are in good repair</p> <p>-reasonable clearance between the pulley and any fixed plant or structure</p> <p>-secure foothold and where necessary secure handhold are provided for the operator</p> <p>-any ladder used for examination or operation securely fixed or lashed or firmly held by second person</p> <p>-set screw, bolt and key on any revolving shaft, spindle, wheel or pinion and all spur, worm and other toothed or friction gearing in motion shall be securely fenced to prevent such contact</p>	Register-FORM 35 (to record the names of specially trained adult workers)	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Schedule VI	<p>Regarding safety</p> <ul style="list-style-type: none"> - no women or young person allowed to clean, lubricate or adjust any part of the prime mover or any transmission machinery -safe access shall be provided to all bearing clutches, belt shifting levers and all such other appliances required to be handled or operated while the machinery is at work -all ladders used in replacing belts or in attending similar overhead machinery shall be made for that work and provided with books or an effective non-skid device -no transmission machinery in motion shall be cleaned with cotton waste, rags or similar materials held in hand -all belts shall be regularly examined to ensure that the joints are safe and the belts are kept in proper tension -each water gauge glass of a boiler shall be fitted with an efficient guard -all condenser pipes of steam or steam engines and exhaust pipes of oil engines shall be adequately guarded 		
Sec 23 Rule 54	<p>Employment of young person's on dangerous machinery</p> <p>The working by young person's on machines considered to be dangerous by the state government shall be allowed only if</p> <p>Full instructions as to dangers arising in connection with the machine is provided by the employer</p> <ul style="list-style-type: none"> • Sufficient training to the handling persons has been provided 		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<ul style="list-style-type: none"> • Adequate supervision by a person with thorough knowledge and experience of the machine is exercised <p>Rule 54 -list of such machines</p> <p>Power presses other than hydraulic presses milling machines used in the metal trades</p> <p>-guillotine machines</p> <p>-circular saws</p> <p>-platen printing machines</p> <p>-decorticator</p> <p>-oil expeller</p>		
Sec 24	<p>Striking gears and devices for cutting off power</p> <p>-suitable striking gears or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery</p> <p>-gear or appliances shall be so constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley</p> <p>-suitable devices for cutting off power in emergencies shall be provided and maintained in every workroom</p> <p>-Check When a device, which can inadvertently shift from "off" to "on" position, is provided in a factory to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	machines to which the device is fitted.		
Sec 25	Self-acting machines Safeguards in the manner prescribed in this section shall be provided for workers from being injured during the movement of self-acting machines. Allowed to run inward or outward traverse within a distance of 45c.m from fixed structure not being part of machine		
Sec 26 Rule 54A	Casing of new machinery In all machinery driven by power and installed in any factory after the commencement of this act <ul style="list-style-type: none"> • Every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger • All spur, worm, and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased, unless it is so situated as to be as safe as it would be if it were completely encased. • The following parts of machines will be deemed to be machinery to be guarded by the makers for the purpose of section 26(1) <ul style="list-style-type: none"> -reciprocating knife of the guillotine machine -revolving drums and cylinders in all machines such as groundnut seed crusher, soap mixtures and foundry tumblers 		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>-abrasive wheels</p> <p>-if anyone doesn't comply with any provision he shall be punishable with imprisonment for a term which may extend to 3 months or with fine extending to Rs.500 or with both</p>		
Sec 28, 29 Rule 55, 55A	<p>Hoists, lifts and lifting machines, chains etc.,</p> <p>Maintenance and safeguard procedures for the operations of hoists and lifts provided in the section shall be followed. The maximum safe working load shall be marked on every hoist and lift and loads carried shall not exceed the limit. The hoist and lifts shall be thoroughly examined by a competent person at least once in every period of six months for hoists and lifts and 12 months for others and the results shall be recorded in the register</p> <ol style="list-style-type: none"> 1. -all parts of lifting machine including working gear whether fixed or movable of every lifting machine and every chain, rope or lifting tackle will be of good construction ,sound material and adequate strength and free from defects 2. -no lifting machine except for test be loaded beyond the safe working load plainly marked together with identification mark and duly entered in register, where it isn't practicable a table showing the safe working loads of every kind and size of lifting machine or rope, chain displayed in prominent position on the premises 	Register in Form 36	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>3. -any person working near wheel track of a travelling crane effective measures shall be taken to ensure that the crane doesn't approach within six meters of that place</p> <p>4. -the lifting machine or a chain or rope deemed to be examined if a visual examination supplemented if necessary, by other means and by dismantling of parts of the gear has been carried out to ensure the safety of the parts.</p> <p>5. No person under 18 years of age shall be employed in handling the lifts and hoists.</p>		
Sec 30	<p>Safety measures in the case of use of revolving machinery</p> <p>A notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel shall be displayed in the factory</p>		
Sec 31	<p>Pressure plant</p> <p>Effective measures to ensure that safe working</p> <p>Pressure of any plant machinery, used in manufacturing process operated at pressure above atmosphere pressure, does not exceed the limits.</p>		
Rule 56	<p>The pressure vessels or plant shall be subject to the following tests to be carried out by a Notified Person:</p> <ul style="list-style-type: none"> Externally, once in 6 months and internally once in 12 months or in the event of impossibility of such an exercise a hydrostatic test once in every 2 years. If pressure vessel or plant in 	Report in FORM 8 for examination of pressure vessels shall be prepared and kept in the factory and shall be signed by the person making the examination or test	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>continuous process which cannot be frequently opened the period of internal examination may be extended to 4 years</p> <ul style="list-style-type: none"> • Hydrostatically tested once in every 4 years • Hydrostatic test before being brought into use in the factory 		
Rule 56-A	<p>Water sealed gas holder -gas holder means a water sealed gas holder which has a storage capacity of not less than 141.5 cubic meters</p> <p>-if more than one gas holder in the factory every gas holder shall be marked in a conspicuous position with a distinguishing number</p> <p>-examined at least once in every period of 12 months</p> <p>- in case of a gas holder if lift has been in use for more than 10 years internal state of sheet shall within one year of the rule coming into force and thereafter at least once in every period of 4 years be examined by means of electronic or other accurate devices</p> <p>-if such electronic or other accurate devices are not available chief Inspector may permit the cutting of samples from the crown and sides of the holder</p> <p>-a permanent register duly signed by the occupier or manager shall be maintained giving the details of distinguishing number, dates of examination, date of painting, nature of repairs and name of persons carrying out such repairs</p>	Report shall be in Form 8-A and maintained in a Register	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Rule 56-B	<p>Testing or examination of pressure plant or vessel :</p> <p>-the fees payable for examination are such as</p> <ul style="list-style-type: none"> • Rs.400 per plant or vessel irrespective of its size or capacity for the external examination • Rs.1000 per plant or vessel upto 4kgf/sp.cm for the Hydrostatic test • Rs.2000 per plant or vessel above 4kgf/sp.cm for the Hydrostatic test • Rs.1000 per plant or vessel irrespective of the size or capacity for the internal examination • Rs.4000 per plant or vessel irrespective of the size or capacity for the non-destructive ultrasonic thickness gauging test 	Form 8-B	
Sec 33	<p>Pits sumps, openings in floor etc</p> <p>Every fixed vessel, sump tank, pit or opening in the ground or in a floor on account of its depth, situation etc. shall be either securely covered or securely fenced.</p>		
Sec 34 & Rule 57	<p>Excessive weights :</p> <p>1. -no man, young person, women shall unaided by the another person lift, carry or move by hand exceeding the maximum limit in weight set out in the following schedule</p> <ul style="list-style-type: none"> • -adult male = 50kgs • -adult female = 30kgs • -adolescent male = 30kgs • -adolescent female = 20kgs 		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<ul style="list-style-type: none"> -male child =16kgs -female child =13kgs 		
Sec 35	<p>Rule 58 Protection of eyes Effective screens or suitable goggles for the protection of persons, employed shall be provided where:</p> <ul style="list-style-type: none"> • Risk of injury to the eyes from the particles or fragments thrown off in the course of process • Risk to the eyes by reason of exposure to excessive light 	Ref. the schedules of Rule 58 for the list of various process	
Sec 36	<p>Precautions against dangerous fumes, gases, etc.</p> <p>Provide for restrictions for entry of persons into any chambers or other places where gas, fume, vapor or dust is likely to be present at levels injurious to persons. Rules for entry:</p> <ul style="list-style-type: none"> • A certificate in writing has been given by a competent person stating that space is reasonably free from dangerous gas, etc • Suitable breathing apparatus and a belt securely attached to a rope. 		
Rule 59	<p>Minimum dimensions of manholes</p> <p>-every chamber, tank, vat, pipe, flue or other confined space which persons may have to enter and which may contain dangerous fumes unless there is other effective means of egress, be provided with a manhole which may be rectangular, oval or circular in shape and which shall</p> <p>-in case of rectangular or oval shape be not less than 40.6c.m long and 30.5c.m wide</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	-in case of a circular shape be not less than 40.6c.m in diameter		
Sec 36 A	Precautions regarding the use of portable electric light Restrictions are placed on the usage of portable Lights exceeding 24 volts and portable lights in chamber, tanks, etc. which are likely to contain inflammable gas, fumes or dust		
Sec 37	Explosive or inflammable dust, gas, etc. Every factory where manufacturing process produces dust, gas, fumes or vapour of such characters and to such extent to be likely to explode on ignition, all practicable measures shall be taken to prevent such explosion.		
Rule 60	Exemptions : -section 37(4) shall not apply for following process -the gas holder shall contain only the following gases separately or mixed at a pressure greater than atmospheric pressure namely town gas, coke-oven gas, producer gas, blast furnace gas, or gases other than air used in manufacture but not applicable to any gas holder containing acetylene or mixture of gases -where acetylene gas is used as a source of heat in connection with an operation it shall be compressed and contained in a porous substance in a cylinder		
Sec 38	Precautions in case of fire In every factory all practicable measures shall be taken to tackle the outbreak of fire and its spread,		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>both internally and externally and to provide and maintain</p> <ul style="list-style-type: none"> • Safe means of escape for all persons in the event of fire and • The necessary equipment and facilities for extinguishing fire • Workers familiar with means of escape in case of fire with trained and adequately trained in the routine 		
Rule 61	<p>Fire protection :</p> <p>-all processes involving serious explosion and flash fire hazards shall be located in segregated building minimum number of employees are exposed</p> <p>-in all work places having serious fire or flash fire hazards, passages between machines, installation should be at least 90c.m wide. For storage of piles, the clearance between the ceiling and the top of the pile should not be less than 2m</p> <p>-the quantity of flammable liquids shall be minimum required for the process carried on in such room and containing suitable containers provided not more than 20 liters of flammable liquids having a flash point of 21°C or less shall be kept or stored in any work room</p>		
Sec 40	<p>Safety of building and machinery</p> <p>-if it is derelict position or danger to the human life or safety, the Inspector will serve notice to the occupier in writing prohibiting its use until it has been properly repaired or altered</p>		
Sec 40B	<p>Safety Officers</p> <p>The State Government is empowered</p>		

Sections/ Rules	Brief details of Sections/Rules	Document reference	Compliance status
	<p>for directing the occupier to employ such number of safety officers, as specified by it in the following circumstances</p> <ul style="list-style-type: none"> • Where more than 1000 workers are employed • Where manufacturing process involves risk of bodily injury, poisoning or disease or any other hazard to the health of the persons employed. 		
Sec 41 B	<p>Compulsory disclosure of information by the occupier</p> <p>The employer handling hazardous substances shall disclose the following information to the workers, General Public, Chief Inspector and Local Authority</p> <ol style="list-style-type: none"> 1. Information on likely dangers including health hazards and the methods to overcome such hazards. 2. Details on characteristics and quantity of waste and manner of their disposal 3. On site emergency plan to overcome any possible risks 4. The nature of process involving hazardous substances shall be intimated within 30 days of intended implementation 		
Rule 61-R	<p>Road safety in factory premises</p> <p>-speed limit shall be displayed at conspicuous places such as entrance to the factory and distance of 500 meters along the roads inside the factory premises</p> <p>-parking places with clear marking shall be provided</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>-no vehicle is allowed or required to enter the factory unless it is duly registered</p> <p>-no driver or operator is allowed to drive unless he holds valid driving license</p> <p>-record of details of vehicle, driver or persons accompanying the vehicle and other information such as TREM CARD as found necessary is maintained</p> <p>-proper traffic signals shall be displayed at sharp turns or 'U' turns wherever necessary</p> <p>-all traffic signals, markings and cautionary notices shall be displayed in Tamil</p>		
Rule 62 B	<p>Health and safety policy of the company</p> <p>The company shall prepare a written statement on the Health and Safety Policy of workers at Factory including the following aspects</p> <ul style="list-style-type: none"> • Arrangements for involving the workers • Fixing the responsibility of the contractors, Sub- Contractors, Transporters and other agencies entering the premises. • Providing a resume of health and safety performance of the Factory in its Annual Report • Relevant techniques and methods, such as Safety Audits and Risk Assessment for periodical assessment on status of health, safety and environment and taking all remedial measures. 		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<ul style="list-style-type: none"> • Stating its intentions to integrate health and safety, in all decisions, including those dealing with purchase of plant, equipment machinery and material as well as selection and placement of personnel • Arrangements for informing, educating and training and retaining its own Employees at different levels and the public, wherever required <p>A copy of that declared Health and Safety Policy signed by the Occupier shall be made available to the Inspector.</p>		
Sec 41C	<p>Specific responsibility of Occupier on hazardous processes</p> <ul style="list-style-type: none"> • Maintain accurate and up-to-date health/ medical records of workers who are exposed to any chemical, toxic or other harmful substances • Appoint persons competent to supervise the handling of such process • Medical examination of the labourers before and after continuance of work at an interval of not exceeding 12months 		
Rule 62-N	<p>Medical examination First time employment- certificate of fitness in form 27 granted by the factory medical officer</p> <p>-if employed in hazardous process shall be examined once in 6 months</p> <p>-the details of pre-employment and periodical examinations carried out shall be recorded in the Health registers in forms 39 and form 17</p>	Health registers in forms 39 and form 17	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	-no person shall be employed for the first time without a certificate of fitness in form 27 granted by the factory medical officer		
Rule 62-O	Occupational health centres		
	-if hazardous process is in factory employing upto 50 workers there should be health centre		
	-minimum of 5 persons trained in first-aid procedure and among them one shall be always available during the working period		
	-a fully equipped first-aid-box		
	-if employing 51 to 200 workers there shall be a room with floor area of 15sq.metres with floors and walls made of smooth and impervious surface		
	-a part time medical officer shall be in charge of the centre and visit the factory twice in a week		
	-if employing above 200 workers, full time factory medical officer for factories upto 50 workers and one more medical officer for every additional 1000 workers or part thereof		
	-there shall be one nurse, one dresser cum compounder and one sweeper cum ward boy throughout the working period		
Rule 62-P	Ambulance van		
	-if hazardous process in factory there shall be facility of ambulance van with driver cum mechanic and helper trained in first aid for the purpose of transportation of serious cases of accidents or sickness		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Rule 62-R	<p>Making available health records to workers</p> <p>-if carrying out any hazardous process ,health records shall be maintained with conditions of once in every six months or immediately after the medical examination whichever is earlier</p> <p>-certification of worker having notifiable disease in third schedule</p> <p>-give medical report to the workers on application from him</p>		
Rule 64	<p>Ambulance room</p> <p>-the room should be kept open and used for first aid treatment and rest</p> <p>-it shall have a floor area of atleast 24sq. meters and kept ventilated and lighted by natural and artificial means</p> <p>- a prominent notice containing the particulars of name, address and telephone number of the medical practitioner in charge and name of nearest hospital and its telephone number</p>		
Sec 41E	<p>Emergency standards</p> <p>-if the standards of safety prescribed is inadequate, the Central government may direct the Director General of factory advise service and labour Institutes or any institution specialized in standards of safety in hazardous process to lay down emergency standards for enforcement of suitable standards in respect of such hazardous process</p>		
Sec 41F	<p>Permissible limits of exposure of chemical and toxic substances</p> <p>The maximum permissible</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	threshold limits of exposure of chemical and toxic substances in manufacturing processes shall be as per the value indicated in II schedule to the Act		
Sec 41G Rule 61M	Workers participation in safety management/ safety committee -where 250 or more workers are ordinarily employed or which carries on any process declared to be dangerous u/s 87 of the Act, there shall be a safety committee consisting of a senior official as Chairman and safety officer as secretary of the committee and a representative each from the production, maintenance and purchase departments -tenure of the committee is 3 years -meeting shall be held at least once in a quarter -minutes of the meeting shall be recorded and produced to the Inspector on demand	Refer Rule 61 M for further details on safety Committee	
III.	Welfare		
Sec 42, 43	Washing facilities Every factory should provide and maintain adequate and suitable washing and drying facilities at conveniently accessible places.		
Rule 62	-suitable washing facilities should be provided including soap and nail brushes or other suitable means of cleaning -it includes a trough with soaps or jets at intervals of not less than 61c.m -wash basins with taps attached thereto		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>-if persons employed in injurious or noxious substance one tap for every 15 persons and for other persons</p> <p>-upto 20 = 1 tap</p> <p>-21 to 35 = 2 taps</p> <p>-36 to 50 = 3 taps</p> <p>-51 to 150 = 4 taps</p> <p>-151 to 200 = 5 taps</p> <p>-200 to 500 = 5+one tap for every 50 persons</p> <p>-exceeding 500= 11 + one tap for every 100 persons</p> <p>-separate wash basin for women only</p> <p>-water supply to washing facilities shall be capable of yielding 27.3 litres a day for each person and shall be from source approved in writing by the Health officer and if not possible he may certify for not less than 4.5liters per day for every person</p>		
Rule 62-A	All classes of factories shall provide facilities for keeping clothing not worn during working hours and for the drying of wet clothing		
Sec 44	<p>Facilities for sitting</p> <p>-suitable arrangements has to be provided to the persons working in a standing position</p>		
Sec 45 & rule 63	<p>First aid Appliances</p> <p>Various First Aid Appliances and materials provided in this section shall be maintained</p> <p>-it is distinctively marked with the red cross on a white background with the contents</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Sec 46	Canteens Canteen facilities shall be provided and maintained by the occupier in any factory, which employs more than 250 workers. Further the rules laid down by the State Government for operating the canteen needs to be followed by a Canteen Management Committee shall be constituted in line with the Provisions of Rule 70	Ref Rules 65 to 70 for further details on canteen maintenance, pricing and periodical medical examination	
Rule 65	-the canteen building shall be situated not less than 15.2 meters from any latrine, urinal, boiler house. Chief Inspector may relax the provisions if it is reasonable - it shall accommodate at least a dining hall, kitchen room, pantry and washing places separately for workers -the minimum height of the building shall be not less than 3.7 meters and all the walls and roof shall be of suitable heat-resisting materials and shall be water-proof -the doors and windows of a canteen building shall be of fly-proof construction and shall allow adequate ventilation -records of dates on which lime washing, colour washing, varnishing or painting is carried out shall be maintained in the prescribed register (form no.7)	Register in Form No.7	
Rule 66	Dining hall : -it shall accommodate at a time at least 30% of the workers working at a time -the floor area of the dining hall excluding service counter and any furniture except tables and chairs shall be not less than 0.9 sq. meter		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	-sufficient tables, chairs or benches shall be available provided soaps and towels should be at washing places		
Rule 67-A	Medical examination of canteens staff	Form 40	
	-every member of canteen should be medically examined for dysentery and typhoid at intervals of not more than 6 months and blood examination at intervals of not more than 12 months		
Rule 70	Managing committees		
	-the manager shall appoint a canteen management committee consisting of equal number of persons nominated by the occupier and elected by workers		
	-number of elected workers shall be in the proportion of one for every 1000 workers employed in the factory provided that in no case shall there be more than 5 or less than 2 workers on the committee		
	-it shall be dissolved by the manager 2 years after the last election		
Sec 47	Shelters, rest rooms and lunch rooms		
Rule 72	In every factory where more than 150 workers are employed, the occupier should make adequate arrangements for shelters or rest rooms and lunch rooms	Refer Rule 72 for specified Standards	
	-it shall be sufficiently lighted and ventilated and maintained in a cool and clean condition		
	-the floor and walls to a height of 91.4c.m shall be so laid and height of every room in the building shall		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	be not less than 3.7 meters from the floor level to the lowest part of the roof and there shall be 1.1sq.meters of floor area for every person employed		
Sec 48 & rule 73 to 76	Crèches In every factory wherein more than 30 women workers are ordinarily employed, the facilities of suitable rooms should be maintained for the use of children under six years of age of such women.	Refer Rule 73 to 76 A for specified standards	
Rule 74	-the height of the room shall be not less than 3.7 meters from the floor to the lowest part of the roof and there shall be not less than 1.9sq. meters for each child as per rule 73		
Rule 75	Wash room -wash room's floor and internal walls shall be to a height of 91.4c.m with adequate light and ventilation and one basin for every 4 children and at least supply of water per child is 22.7 liters per day		
Rule 76	Supply of milk and refreshment -at least 284.1 milliliters of clean pure Milk shall be available for each child on every day and mother of the child is allowed in the course of her daily work intervals of 15 minutes to feed the child. For children above 2 years of age there shall be provided an adequate supply of wholesome refreshment. Crèche staff and cloths for crèche staff : -the occupier shall appoint a qualified nurse or midwife with sufficient number of ayahs, the number calculated is one ayah for every 30 children		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Rule 76A	<p>Exemption</p> <p>-the number of married women or widows employed doesn't exceed 15 or factory works less than 180 days in a calendar year or number of children kept in crèche is less than 5 in the preceding year</p> <p>-the alternative is to include a crèche building which has a minimum accommodation at the rate of 1.9 meters per child</p>		
Sec 49	<p>Welfare Officers</p> <p>In every factory wherein 500 or more workers are ordinarily employed, the occupier should appoint such numbers of Welfare Officers, as may be prescribed. This provision shall also apply to seasonal factories like Sugar factories.</p> <p>-as per TN (welfare officers)Rules 1953 the occupier shall appoint welfare officer if workers of the factory are 500 or more and if it exceeds 2000 assistant welfare officer is to be appointed for every 2000 workers</p> <p>-in case 500 or more but not more than 2000 workers are employed majority of them are women if so the welfare officer shall be a woman</p>		
Sec 51	<p>Working Hours of Adult</p> <p>Maximum Weekly Hours for an adult worker shall not exceed 48 hours</p>		
Sec 52	<p>Weekly holidays</p> <p>- the worker can have holiday on one of the three days either before or after the said day</p> <p>-it can be substituted by Chief</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	Inspector but no substitution will be made if worker works more than 10 days consecutively without a holiday		
	No adult worker shall work for more than 6 days consecutively without a Holiday for the whole day. Where the holiday is maintained on any day other than the first day of the week, notice shall be delivered at the inspector's office and also displayed at the factory not later than the day before the said day or the holiday to be cancelled whichever is earlier		
Sec 53	Compensatory holidays		
Rule 77	Compensatory holidays shall be provided to workers who are deprived of their weekly holidays as per Sec 52, within the next two months immediately following that month		
Rule 77	-not more than two holidays in one week -notice as to compensatory holidays given shall be displayed -the manager shall maintain the details of the compensatory holidays in muster roll preserved for 3 years	Form 25 & FORM 25A for muster roll of adult workers	
Sec 54	Daily hours Daily hours for an adult worker shall not exceed 9 hrs, which can be exceeded to facilitate change of shifts.		
Sec 55	Intervals for rest Maximum permissible hours of continuous work is for 5 hours and a rest Interval of at least half an hour is provided to an adult Worker. The		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>shift and relay timings shall be displayed</p> <p>-the state government may exempt from the provision that total number of hours worked by a worker without an interval doesn't exceed 6hrs</p>		
Sec 56	<p>Spread over</p> <p>Inclusive of rest intervals, the daily working hours cannot exceed 10.5 hours</p> <p>-the chief inspector may increase the spread over upto 12hrs for reasons to be specified in writing</p>		
Sec 57	<p>Night shifts</p> <p>Where a worker works in a factory works on a shift which extends beyond midnight the weekly or compensatory holiday shall be a period of 24 consecutive hours beginning when his shift ends.</p>		
Sec 58	<p>Prohibition of overlapping shifts</p> <p>In respect of work on multiple shifts, the period of shifts should be arranged in such a manner, that not more than one relay of workers is engaged in work of the same kind at the same time.</p>		
Sec 59	<p>Extra wages for overtime</p> <p>Overtime wages at twice the ordinary rate of wages shall be paid where a worker works for more than 9 hours in a day or 48 hours in a week</p>		
Rule 78	<p>Muster roll for exempted factories</p> <p>-the manager of factory in which workers are exempted u/s 51 or 54, shall keep a muster roll in form no 10 showing normal piece work rate of pay or rate of pay per hour of all exempted employees</p>	Form 10	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Rule 78B	<p>Overtime slips</p> <p>-period of overtime shall be entered in the overtime slip in duplicate and a copy of the slip signed by the Manager or by a person authorized by him.</p> <p>-An overtime slip shall be prepared and one copy shall be handed over to the concerned employee.</p>		
Sec 60	<p>Restriction on double employment</p> <p>-no adult worker is allowed to work in any factory on any day on which he has already been working in any other factory.</p>		
Rule 78-C	<p>-with previous approval of the Inspector, an adult worker may be employed in more than one factory on the same day subject to the following conditions</p> <p>-he shall not be employed for more than 9hrs in all on any one day</p> <p>-he shall receive a weekly holiday in accordance with the provisions of sec 52</p> <p>-every worker required to work in another factory on the same day shall carry with him a card in which the following particulars shall be entered such as his normal periods of work as the notice of period of work for the day and the period or periods he has worked in the first factory for the day.</p>		
Sec 61 Rule 79	<p>Notice of periods of work for adults</p> <p>Notice of period of work showing clearly the periods during which the adult workers may be required to work shall be displayed and correctly maintained in every</p>	Form 11	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>factory. Any proposed change in the system of work in the factory, necessitating a change in the notice shall not be made without notifying the inspector.</p> <p>-if adult workers aren't required to work during the same periods, the manager shall classify them into groups according to the nature of their work</p> <p>-if group isn't required to work on system of shifts, the manager fixes the period</p> <p>-if shift basis is made, the manager draws the scheme for shift.</p>		
Sec 62	Register of adult workers	Form 12	
Rule 80	A register of adult workers incorporating details such as name of worker, nature of work etc. shall be maintained at the factory. Inspector may by order in writing that such muster roll or register shall to the corresponding extent be maintained in place of, and be treated as, the Register of Adult Workers in the factory.		
Sec 63	<p>Hours of work to correspond with notice u/s61 and register u/s62</p> <p>-no adult worker is allowed to work in the factory unless the notice of periods of work is displayed in the factory and entries made before hand against his name in the register</p>		
Sec 64	<p>Power to make exempting rules</p> <p>The state government may make rules in respect of adult workers providing for exemption from the above provisions- subject to the following limitation.</p> <p>-The total number of hours of work in any day shall not exceed ten</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>-The spread over inclusive for rest should not exceed 12 hours in any one day.</p> <p>-The total number of hours of overtime shall not exceed 50 for any one quarter.</p> <p>-The total number of weekly hours, including overtime shall not exceed 60.</p>		
Sec 66	<p>Additional provisions regulating employment of women in a factory</p> <ul style="list-style-type: none"> • No exemption may be granted to female workers towards provisions of Sec 54 • Women workers shall not be employed except between the hours of 6 am and 7 pm • The state government by notification may vary the limits so that no such variation shall authorize the employment of any women between the hrs of 10 p.m. to 5 a.m. 		
Sec 67	<p>Prohibition of employment of young children</p> <p>Children who have not completed 14 years of age shall not be employed</p>		
Sec 68	<p>Employment of children and adolescents</p> <ul style="list-style-type: none"> • Certificate of fitness under Sec 69, granted to such young person to be obtained. • The child adolescent carries a token giving reference to such certificate, while at work 		
Sec 69 & Rule 86A	<p>Certificate of fitness</p> <p>A certifying surgeon shall certify that such young person is fit for the work, before such person is employed</p>	Certificate in Form 5	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>-if lost, copy of certificate from certifying surgeons is obtained</p> <p>-a fee of Rs.100 shall be charged for such certificates or renewal or such duplicates and the fee paid by occupier to the treasury and receipt attached with the application</p>		
Sec 70	<p>Effect of certificate of fitness granted to adolescent</p> <p>-an adolescent having certificate of fitness not less than 14 years but not attained the age of 17yrs</p> <p>-no female adolescent workers are allowed to work except between 6 a.m. and 7 p.m.</p> <p>- The state government by notification may vary the limits so that no such variation shall authorize the employment of any female adolescent between the hrs of 10 p.m. to 5 a.m.</p>		
Sec 71	<p>working hours of children</p> <ul style="list-style-type: none"> • Working hours shall not exceed 4.5 hours per day • No night shifts are allowed • There shall be only two shifts and they shall not overlap • Cannot work in a factory if already works in another factory • No female child is allowed to work in any factory except between 8 A.M to 7P.M. 		
Sec 72	<p>Notice of periods of work for children</p> <p>A notice showing the period during which children may be required to</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	work daily shall be displayed in the factory.		
Sec 73	Register of child workers A register recording details such as name, nature of work etc. shall be maintained in every factory. No child will be allowed to work if name is not registered in the register		
Rule 80 & 86	Register of adult workers and young persons -young persons who have completed age of 14 years but not completed the age of 18 years and carrying token and certificate laid down in sec 68 and 69 record the particulars of persons -it should be preserved for 3 years after the last entry made	Form 12	
Rule 93	Payment of wages if the worker dies -if a worker dies before resumes work, balance of his pay due for the period of leave with wages not availed shall be paid to nominee within one week of the receipt of intimation of the death of the worker	Nomination in Form 34	
Rule 96	Notification of accidents -occurrence of an accident shall be informed to Inspector -in case of a dangerous occurrence specified in item 1 and 2 of schedule(p.no 547) notice to District Magistrate or sub divisional officer and the officer in charge of police station	Form 18 & for m 18B for report of further details of accident	
Sec 75	Power to require medical examination -where the inspector is of opinion that any person working in factory without certificate of fitness is a young person or		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	-with certificate but no longer fit to work in the capacity, he may serve notice to manager to examine him by certifying surgeon till that he can't work in any factory		
Sec 79	<p>Annual leave with wages</p> <p>Basis of leave</p> <p>Where a worker has worked for a minimum period of 240 days or more during any calendar year, he is entitled to leave with wages</p> <ul style="list-style-type: none"> • For adults - 1 day for every 20 days of work • For child – 1 day for every 15 days of work • If a worker does not in any one calendar year take the whole of the leave allowed to him, any leave not taken by him shall be added to the leave to be allowed to him in succeeding calendar year • A worker in writing may apply to the manager not less than 15 days before the date on which he wishes his leave to begin 		
Sec 80	<p>Wages during leave period</p> <p>-leave allowed u/s 79, a worker shall be allowed at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the month immediately preceding his leave exclusive of DA and cash equivalent of the advantage accruing through concessional sale to the worker of food grains and other articles</p> <p>-if not worked on any day during the calendar month immediately preceding his leave calculated for</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	the days on which he actually worked during the last calendar month preceding his leave		
Sec 81	Payment in advance in certain cases -a worker who has been allowed for leave for not less than 4 days in case of an adult, and 5 days in case of the child shall before his leave begins be paid the wages due for the period of the leave allowed		
Sec 83	Power to make rules -the manager is advised to keep the registers required for inspection and preserved for 3years	Form 15 leave with wages register	
Sec 87	Dangerous operation -operations carried out in factory exposes any person employed in it to a serious risk of bodily injury, poisonous or disease, the certifying surgeon has to give certificate with regard to fitness of employees -pre-employment health register has to be maintained in form 39 and after employment periodical medical check register maintained in form 17	Form 17A Health register & form 27 for certificate of fitness & form 37 for dangerous operation & Form 39 for pre-employment health register as per rule 95 &pre	
Sec 88	Notice of certain accidents -In case of accident resulting in death or physical injury, the person injured is prevented from working for a period of 48hrs, the Manager shall send Notice to such authorities in the prescribed form.	Form 18	
Sec 89	Notice of certain diseases -the Manager shall send notice to the authorities if such workers are affected with diseases mentioned in III schedule		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	-the medical practitioner shall send report to the chief inspector as to his examination of the workers and if not sent shall be punishable with fine extending to Rs.1000		
Sec 91A	Safety and occupational health surveys -the chief inspector or the Director General of Factory Advice Service & Labour Institute or any authorized person after giving notice to the occupier shall undertake safety and occupational health surveys and the occupier shall afford all facilities for survey including examination and testing of plant and machinery and collection of samples		
Sec 92	General penalty for offences -for contravention of any provisions of this act the occupier shall be punishable with imprisonment for a term extending to 2yrs or with fine extending to Rs.1 lakh or both & if contravention continues Rs.1000 for each day of continuance		
Sec 93	Liability of owner of premises in certain circumstances -if separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for maintenance such as roads, drainage, water supply etc. -if independent or self-contained floors or flats are leased to different occupiers, owner of the premises are held liable for common maintenance and fencing, safe means, maintenance of hoists and lifts, precaution in case of fire etc.		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
Sec 96	Penalty for wrongfully disclosing results of analysis u/s91 -if any contravention, shall be punishable with imprisonment extending to 6 months or with fine extending to Rs.10000 or with both		
Sec 96A	Penalty for contravention of the provisions of section 41B,41C,41H -if any contravention of above section, shall be punishable with imprisonment extending to 7 years and with fine extending to Rs.2 lakhs and if it continues Rs.5000 for each day of continuance		
Sec 97	Offences by workers -If the worker contravenes any provision of this act liable to fine of Rs.500		
Sec 98	Penalty for using false certificate of fitness -certificate of fitness granted u/s 70 knowingly an attempt to use it to be made by another person shall be punishable with imprisonment for a term extending to 2 months or fine extending to Rs.1000 or with both		
Sec 99	Penalty for permitting double employment of child -if a child works in a factory on any day on which he has already been working in another factory, parent or guardian shall be punishable with fine extending to Rs.1000 unless it appears to the court the child worked without consent of parent or guardian		
Sec 101	Exemption of occupier in certain cases -if occupier of the factory is charged with an offence punishable under		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<p>this act , he shall be entitled up on complaint duly made by him and on giving to the prosecutor not less than 3 clear days' notice in writing of his intention</p> <p>-he has to prove to the satisfaction of the court</p> <p>-That he has used due diligence to enforce the execution of this act</p> <p>-said person committed the offence without his knowledge, consent</p> <p>-if the offender has not come for hearing the court may adjourn not exceeding 3 months</p>		
Sec 105	<p>Cognizance of offences</p> <p>-no court shall take cognizance of an offence except on complaint or with previous sanction in writing of an inspector</p> <p>-no court below that of a presidency magistrate or magistrate of first class shall try any offence punishable under this act</p>		
Sec 106	<p>Limitation of prosecution</p> <p>-no court shall entertain unless complaint is made within 3 months of the date on which the alleged commission of offence came to the knowledge of an inspector</p> <p>-If the offence consists of disobeying written order made by an inspector, complaint may be made within six months of the date on which the offence is alleged to have been committed</p>		
Sec 108	<p>Display and services of notice-all notices</p> <ul style="list-style-type: none"> • Notice should be in English and another language understood by majority of the workers. 		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules</i>	<i>Document reference</i>	<i>Compliance status</i>
	<ul style="list-style-type: none"> • It should be displayed in a convenient place • It should be clean and legible 		

VARIOUS FORMS TO BE FILED

1. FORM 21 FOR HALF-YEARLY RETURN ENDING 30TH JUNE
2. FORM 22 FOR COMBINED ANNUAL RETURN FOR THE YEAR ENDING 31ST DECEMBER

(Combined Returns as per GO No. 25/16.08.2004 covering Factories Act, Maternity Benefit Act, Payment of Wages Act & Bonus Act)
3. FORM 25-B FOR SERVICE CARD FOR THE MONTH
4. FORM 25-C FOR PHOTO IDENTITY CARD
5. FORM 29 FOR PARTICULARS OF ROOMS IN THE FACTORY
6. FORM 35 FOR CERTIFICATION OF AN ADULT WORKER TO WORK ON SHIFT BELTS, LUBRICATE OR DO OTHER ADJUSTING OPERATIONS
7. FORM 41 FOR REPORT OF PERSONAL ACCIDENT INSURANCE

<i>Rule/Section</i>	<i>Returns to be maintained/filed under the Factories Act</i>	<i>Forms</i>
Rule 14	Record of examination and reexamination of young persons	Form 17
Rule 100(2)	-Annual return	Combined Returns as per GO No. 25/16.08.2004 covering factories Act, Maternity Benefit Act, Payment of Wages Act & Bonus Act
Rule 103	-Muster roll	Form 25
Rule 103A	-Muster roll for overtime weekly work	Form 25 A
Rule 103 B	-Time card	Form 25 B
Rule 104	-Register of accidents	Form 26
Rule 104	-Register of dangerous occurrence	Form 26A
Rule 14	Pre-employment Medical fitness certificate	Form 27

Rule 105(a)	-Register of exemptions	Form 28
Rule 105&106	-Particulars of rooms and factories	Form 29
Rule 93	-Nomination by worker	Form 34
Rule 95	Medical examination register for worker employed in dangerous operations examination once in 6 months	Form 37
Rule 61K(4)	- Record of eye examination	Form 38
Rule 95	-pre-employment health register	Form 39
Rule 95	-Inspection register as per Rule 105 & 106	to include particulars of Form 28,29,7
Rule 99	Abstract of the Act to be displayed	
Rule 113	Display of name board of the factory in Tamil and English	
Section 92	General Penalty: (Chapter X) In case of any contravention of the provisions of the Act or the Rules thereunder or of any order in writing given thereunder, the occupier or the owner of the factory shall be punishable with imprisonment which may extend upto a period of 2 years or fine upto Rs. 1 lakh, or with both, and if the contravention continues with a further fine which may extend upto Rs. 1000/- per day during which the default continues. If any person who has been guilty of a offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction imprisonment upto 3 years or with fine from Rs. 10000/- to Rs. 200000/- Any person who does not comply with the provisions of Sections 41B, 41C or 41H, that is in respect of industries carrying on hazardous processes shall be punishable with imprisonment upto 7 years and with fine upto Rs. 200000 and in case of continued contravention with a further fine of Rs. 5000 per day If any worker contravenes any provisions of the Act or the Rules made there under, he shall be punishable with a fine extending upto Rs. 500/-	

The Industrial Disputes Act, 1947

7.1. Brief on Industrial Disputes Act, 1947

The Industrial disputes Act, 1947 is the backbone of labour law. The noble aims of the act to secure industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations instead of by trial of strength through strikes and lock-outs. This legislation is made to ensure social justice to both employers and employees and thereby promote Industrial progress.

7.2. Obligations of Employers

- a. To constitute works committee if any establishment have one hundred or more workmen employed or have been employed on any day in the preceding twelve month.
- b. Not to make any change in the service conditions of the workmen, without giving a notice as mentioned under section 9A.
- c. Not to declare, support or finance an illegal lock-out, in the establishment.
- d. To assist the conciliation officer/board and the arbitrator in resolving any dispute.
- e. To implement all agreements, settlements and awards.
- f. To maintain a muster-roll of the workmen employed in the establishment, even at the time when workmen have been laid-off, and to ensure that the names of the workmen who present themselves for work at the appointed hours, are entered therein.
- g. Not to lay-off or retrench any workman or close down an undertaking, without obtaining prior approval of the government if so required.

- h. To pay lay-off, retrenchment and closure compensation, and compensation to workmen for illegal lock-out, as prescribed under the provisions of the Act.

7.3. Rights of Employers

- a. Right to appeal against the awards of the labour court or Industrial Tribunal, before the High court.
- b. Right to retrench or lay-off workers declare lock-out and close down an undertaking as per the Act.

7.4. Conditions of service etc., to remain unchanged under certain circumstances during pendency or proceedings

- (1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall -
 - (a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding ; or
 - (b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.
- (2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman-
 - (a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding or
 - (b) for any misconduct not connected with the dispute,

discharge or punish, whether by dismissal or otherwise, that workman;

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application had been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

- (3) No employer shall during the pendency of any such proceeding is pending for approval of the action taken by the employer.
 - (a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings or
 - (b) by discharging or punishing whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.
- (4) In every establishment, the number of workmen to be recognized as protected workmen shall be one percent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen, the appropriate Government may made rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognized as protected workmen.
- (5) Where an employer makes an application to a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application, such order in relation thereto as it deems fit:

Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit .

No proceedings before any such authority shall lapse merely on the ground that any period specified had expired without such proceedings before completed.

7.5. Offences and Penalties

Offence by a company, body corporate or other association, its director, manager secretary, agent or other officer concerned with its management, shall be deemed to be guilty of the offence unless he proves that the offence was committed without his knowledge or consent.

Compliance Checklists

The Industrial Disputes Act, 1947

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	<p>Objectives</p> <ul style="list-style-type: none"> • The Act is enacted as a social security measure and provides for prevention and settlement of Industrial disputes. • The Act envisages collective bargaining, contracts between Union Representing workmen and management, a matter, which is outside the realm of common law. 		
Sec 2(s)	<p>Definitions :</p> <p>Workman :</p> <p>Workman means any person including an apprentice employed in any industry to do any manual, unskilled, skilled work and includes any person who has been discharged, dismissed or retrenched in connection with an industrial dispute and being employed in a supervisory capacity draws wages upto ten thousands rupees.</p> <p>Industrial Dispute :</p> <p>Industrial Dispute means any dispute or differences between employers and employees, employers and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person.</p>		
Sec 3	<p>Constitution of Works Committee A Work Committee, consisting of representatives of employers and employees, shall be constituted to</p>	Refer Rules 3 to 21 of TN Industrial Disputes (Rules) 1958 for provisions	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	promote measures for securing and preserving amity and good relations between the employer and workmen In Industrial Establishments in which 100 or more workmen are employed and where the Government had directed so.	on Election, meetings etc	
Rule 4	Number of employer: -number of members is fixed by the employer and total number of members shall not exceed 20		
Rule 5 & 6	Representatives of the employer and workmen: -the employer can divide the workmen into different electoral constituencies who is entitled to vote		
Rule 8	Qualification of candidates for election: -not less than 19 years of age and service of not less than 5 years in the establishment -service qualification shall not apply to the first election in an establishment in existence for less than 5 years		
Rule 9	Qualification of voters: -workmen employed for more than six months shall be entitled to vote		
Rule 11	Nomination of candidates for election: -every nomination is made in form A -nomination paper shall be signed by the candidate and attested by at least two other voters	Form A	
Rule 18	Number of meetings: -the committee shall meet not less than once in every month		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	-copies of the decision arrived at each meeting shall be sent to the deputy commissioner of labour and labour officer having jurisdiction over the area in which the establishment is situated within 14 days of the date of the meeting		
Rule 25	Memorandum of settlement: -a settlement arrived a tin the course of conciliation proceedings shall be in form B -the conciliation officer shall maintain record of all settlements in a register in form c Form B & form C		
Rule 25-B	Application to labor court by workmen: -the aggrieved individual workman shall apply in form C-1 to the labor court having jurisdiction over the area	Form C-1	
Rule 26	Arbitration agreement: -an arbitration agreement for the reference of an industrial dispute to an arbitrator shall be made in form D and send to secretary to the government of Chennai in charge of labor by registered post	Form D	
Sec 9A	Change in conditions of service Change in conditions of service shall not be undertaken without providing notice to workmen likely to be affected in respect of any matter specified in Fourth Schedule to the Act. A notice period of 21 days shall be provided before effecting any change.		
Sec 9C	Setting up of Grievance Settlement Authorities and reference of certain individual disputes to such authorities.		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	Check if, Where there are fifty or more workmen are employed or have been employed on any day in the preceding twelve months, a Grievance Settlement Authority for the settlement of industrial disputes connected with an individual workman employed in the Factory (establishment).		
Sec 10A	Voluntary reference of dispute to arbitration Any industrial dispute whether existing or which is apprehended, the employer and workmen shall refer to arbitration before the dispute has been referred to Labour Court or Tribunal. The reference shall be to such persons specified as arbitrators in the arbitration agreement.		
Rule 28	Application: -the application for the reference of an industrial dispute to a board, court, labor court or Tribunal shall be made in form E with parties to the dispute, total number of workmen, estimate number of persons affected	Form E	
Rule 30	Notice to parties to nominate representatives: -the state government shall before constituting board issue a notice in form F requiring them to intimate the name of the nominee	Form F	
Rule 36	Summons: -summons to the parties to the dispute form G -summons to witnesses to appear and give evidence in form H	Form G, form H, Form I	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	-summons for production of documents in form I		
Sec 10B	<p>Terms and Conditions of service pending settlement of disputes</p> <p>The employer and the workmen whilst pending settlement of disputes shall observe such terms and conditions of employment as specified in the order, made by the State Government, including payment of money by the employer to the workmen. (Tamil Nadu Amendments inserted in TN Act in 1982)</p>		
Sec 17B	<p>Payment of full wages pending disputes in higher courts</p> <p>Whenever any dismissed workers/ non-employed workers, set-aside by Labour Court/Industrial Tribunal and the matter taken-up by Higher Courts – High Court/Supreme Court, the workmen shall be paid such wages based on latest wages and allowances drawn immediately prior to the dispute provided the workmen had not been employed in any establishment during this period.</p>		
Sec 22	<p>Prohibition of lock-outs</p> <p>Lockouts by employer shall not be made without providing notice of lockout within six weeks before intended lockout. However the notice of lockout shall not be necessary where there is a Lock out already in existence and an intimation shall be sent to the Assistant Labour Commissioner.</p> <p>-No person employed in public utility service shall go on strike in breach of contract without giving to</p>	Report of employer as to lock-out in public utility service form Q	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	<p>the employer notice of strike within 6 weeks before striking or</p> <ul style="list-style-type: none"> - Within 14 days of giving such notice or - Before the expiry of the date of strike specified in such notice or - Any proceedings pending before the conciliation officer and 7 days after the conclusion of such proceedings by form O - In case of employer by Form P 		
Section 23	<p>General prohibition of strikes and lock-outs</p> <p>A workman who is employed shall not go on strike in breach of contract and an employer of any such workman shall not declare a lock-out—</p> <ol style="list-style-type: none"> 1. during the pendency conciliation proceedings before a Board and seven days after the conclusion of such proceedings 2. 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 (3A) of section 10A; 3. during any period in which a settlement or award is operation, in respect of any of the matters covered by the settlement or award <p>Layoff and Retrenchment</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
Sec 25C	<p>Compensation to workmen</p> <p>Every workman who has completed one year of continuous service shall be compensated by employer with wages, which shall be equal to fifty percent of total wages and allowances normally paid (for all days during which he is actually paid off). However if a workman is laid off for more than 45 days no compensation shall be payable in respect of the lay-off after the first 45 days</p>		
Sec 25D	<p>Maintenance of muster rolls of workmen</p> <p>Muster rolls shall be maintained irrespective of the fact that the workmen have been laid off. A register shall be provided for making entries by workmen who may present themselves for work at the establishment.</p>	Register	
Sec 25F	<p>Retrenchment of workmen</p> <p>Workmen who have been in service for minimum of one year shall be retrenched only on fulfillment of following conditions:</p> <ul style="list-style-type: none"> • One month's notice in writing shall be given stating reasons for retrenchment. • The workmen shall be paid compensation equivalent to fifteen days average pay for every completed year of service at the time of retrenchment. • Notice is served on the Appropriate Government 	Form R, Rule 61 notice of retrenchment is given within 3 days from the date on which notice served to workmen	
Sec 25FF	<p>Compensation to workmen in case of transfer of undertaking</p> <p>Where the workmen are retrenched</p>		

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	consequent to transfer of undertaking they shall be compensated as per provisions of sec 25F		
Sec 25FFA Rule 61AA	Notice of intention of closure of undertaking The intention of closure of unit shall be given at least sixty days prior to the decision to the Appropriate Government.	Form R-3	
Sec 25FFF	Compensation in case of closure of undertaking Where an undertaking is closed down on account of unavoidable circumstances beyond the control of the employer the workmen shall be compensated equivalent to a maximum of three months pay.		
Sec 25G	Procedure for retrenchment The employer shall ordinarily retrench workmen in the order of last person in each category.		
Sec 25H	Reemployment of retrenched workmen Opportunity shall be provided to retrenched workmen in case of reemployment. Further the workmen who offer themselves for employment shall have preference over others -arrange for the display on the notice board in the premises of the establishment of the details of the vacancies to be filled -give notice of the vacancies in writing to the eligible retrenched workmen and such notice is dispatched by register post to address of workmen -send notice to the registered trade	refer Rule 63 for further details	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	<p>union or unions of workmen giving the number of vacancies and the names of the retrenched persons</p> <p>-the employer can seek assistance of the Employment exchange in the area for substitution of retrenched employees to suitable candidates</p> <p>- a retrenched workmen has to reply on the receipt of notice of vacancies within 10 days if he fails he will lose all his claims.</p> <p>Special provisions relating to layoff and retrenchment</p> <p>Applicability</p> <p>The provision of the chapter applies to establishments in which not less than 100 workmen are employed on any day.</p>		
Sec 25 K	<p>Application of chapter V B</p> <p>- the provision of this chapter shall apply to an industrial establishment not being an establishment of a seasonal character in which not less than 100 workmen employed on an average per working day for the preceding 12 months</p> <p>- but for seasonal character establishment decision of appropriate government will be final</p>		
Sec 25M Rule 60-8(1)	<p>Prohibition of layoff</p> <p>The employer shall not Lay off workmen without prior permission of Government or any specified authority unless such Lay off is caused due to shortage of power or natural calamity.</p> <p>-where the permission to lay off has been granted by the said authority the employer shall give to the</p>	Form Q3 for Application	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	Commissioner of Labour a notice of commencement in form Q-1, termination of such lay-off in form Q-2		
Sec 25N Rule 61-A	<p>Conditions precedent to retrenchment</p> <p>Only workmen who have been in continuous service of one year on fulfillment of following conditions:</p> <p>The workmen had been given three months' notice in writing indicating reasons for retrenchment.</p> <p>Prior permission of government or appropriate authority is obtained.</p> <p>Application for permission for retrenchment shall be made in Form R-2</p> <p>a copy of such application shall be served by registered post on the president or secretary of registered trade union functioning in the establishment and notice in this regard displayed on notice board at the main entrance to the establishment for the information of all the concerned workmen</p> <p>If permission is not obtained it is deemed to be illegal</p>	Form R-1	
Sec 250-O	<p>Procedure for closure of undertaking</p> <p>Prior permission for closure of unit shall be obtained at least ninety days before the date of intended closure where there are 100 or more workmen during preceding 12 months (in up 300 or more workmen). Copy of such application shall also be served simultaneously on the representatives of workmen.</p> <p>-every employee before the date of</p>	<p>Rule 61-B</p> <p>Application for closure in form R-4</p> <p>By registered post</p>	To check with excel sheet

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	<p>application for permission entitled to receive compensation equal to 15 days average pay for every completed year of continuous service or any part thereof in excess of 6 months</p> <p>-Not applicable to construction work such as buildings, bridges, roads, canals, dams</p>		
Sec 25T	<p>Prohibition of unfair labour practice</p> <p>The employer, workman or trade union registered under the Trade Unions Act 1926 or not (sec 16 of 1926) shall not commit any unfair labour practice.</p>		
Sec 26 (2)	<p>Penalty :</p> <p>-any employer commences or continues any lock out which is illegal under this act shall be punishable with imprisonment of 1 month or fine of Rs.1000 or both</p>		
Sec 33	<p>Conditions of service to remain unchanged during pendency of proceedings :</p> <p>- No employer can alter to the prejudice of the workmen concerned in such dispute, conditions of service applicable to them immediately before the commencement of such proceedings</p> <p>- with the dispute, discharge or punish whether by dismissal or otherwise any or</p> <p>- For any misconduct connected workman concerned in such dispute</p> <p>For alter any matter not connected with dispute the conditions of service applicable to that workman immediately before the</p>	<p>Form S</p> <p>Form T M</p>	

<i>Sections/ Rules</i>	<i>Brief details of Sections/Rules reference</i>	<i>Document status</i>	<i>Compliance</i>
	commencement of proceedings or for any misconduct not connected with dispute, discharge or punish by dismissal or otherwise but the workmen has to be paid one month wages		

The Registration of Foreigners Act, 1939 read with the Registration of Foreigners Rules, 1992 as Amended in 1999

8.1. Brief on expatriate appointment in India

Multinational companies in India are marching towards globalization and bringing the best global practices and benchmarking their products and services to the best standards of the world in order to do business and compete in international market. To achieve this, most of the multinational companies search for the best talented executives from the international market, group companies, parent companies and they bring the expatriate in India to run the business/manage the business. Whenever, an expatriate is appointed as a managerial person in a company, his appointment would also call for approval from the Central Government since he is not a citizen of India. Schedule V of the Companies Act, 2013 (Part I of Schedule V on appointments spells out that the managerial person has to be resident in India.

Hence the appointment is subject to the approval of the Government of India as per the provisions of Companies Act, 2013. However, if an expatriate joins the company as an executive and not in the capacity of a managerial person, then the Government approval is not required for such appointment. Once such expatriate completes one year stay in India, he becomes eligible for the appointment as managerial personnel since one year stay in India would be treated at par with resident of India under Schedule V of the Companies Act, 2013 for this restricted purpose only. For the purposes of appointment only the Companies Act 2013 has the provision spelling out that “for the purpose of this schedule, resident in India includes a person who has been staying in India for a continuous period of not less than twelve months immediately preceding the date of his appointment as a managerial person and who has come to stay in India: - (i) for taking up employment in India, or(ii) for carrying

on a business or vocation in India”). It may also be noted that the subsequent para states that non-resident taking up employment in India should enter India only after obtaining proper employment Visa. The relevant provision is given below for the benefit of the readers: -

“Provided that a person, being non-resident in India shall enter India only after obtaining a proper employment Visa from the concerned Indian mission abroad. For this purpose such person shall be required to furnish, along with the Visa application form, profile of the company, the principal employer and terms and conditions of such person’s appointment”.

In both the cases, whether the expatriate is appointed as managerial personnel or not, they need to get themselves registered in India under the Registration of Foreigners Act of 1939 read with the Registration of Foreigners Rules, 1992. They also need to get the “Resident Permit” in India during their stay providing the necessary details.

8.2. Opportunity for PCS in case of expatriate appointment

Here comes another opportunity for the practicing company secretary professional to practice. The practicing professional could render service to the multinational and other companies where expatriate are employer whether managerial personnel or otherwise (both cases), in getting the registration done for foreign personnel under the Registration of Foreigners Act, 1992 and arrange to organize the required resident permit and as long as they stay, the practicing professional could assist them in getting the resident permit renewed. Before venturing into this area of practice, the practicing professionals of company secretary needs to get familiarized the procedure involved and various submissions of documents and allied matters. In this chapter, the registration procedure and the other related matters are being discussed, in order to provide an overview of the Registration of Foreigners Act, 1992.

8.3. Registration procedure

As per Rule 6 of the Registration of Foreigners Act, 1992, every foreigner entering into India shall be required to present in person or through an authorized representative to the appropriate

Registration Officer specified in Rule 7, a report which is known as Registration report within the time specified in that rule.

8.4. Time Limit within which Registration Report required to be presented

In the case of a foreigner who enters into India on a valid VISA of employment (known as X VISA) he is required to submit the registration report within two weeks from the date of arrival in India.

8.5. Mode of Presenting the Registration Report

As per rule 6.2 every registration report shall be made in writing in English or in Hindi language and in quadruplicate and shall contain a true statement of the foreigner's address in India and of the other particulars specified in item 2 to 10 in Para IV of Form A specified for this purpose and also such of the particulars specified in items 12 to 16 thereof, as may be appropriate.

8.6. Foreigner's Address in India

For the purpose of the above referred rule 6.2 a foreigner's address in India shall be, the place of his residence in India or if he has no residence, the place at which, at the time of making his registration report, he is for the time being living or at which he first intends to live after his arrival in India. Registration Offices/Registration Officers. The Central Government may appoint Registration officers for the purposes of these rules as specified in rule 3 of the Registration of Foreigners Rules, 1992 for such areas the Government thinks fit. In most places - Metropolitan cities -state capital and other important cities, there is an office known as office of the Foreigner's Registration officer's established as a Special Branch at the Deputy Commissioner of Police office.

In Mumbai, the office is of Common Wealth Branch, SB II, CID, Mumbai where the Foreigners Regional Registration officer is functioning. (F.R.R.O as known). Similarly at Pune city, the office is at the Office of Deputy Commissioner of Police as a special branch known as officer of the Foreigner's Registration Officer's. Similarly in other cities, such officers would be there in appropriate places. Submission of form of Registration of

Foreigners Form No. A under Rules 5,6,7 and 8 is specified for the purpose of registration which is a one page simple form which could be obtained from the Foreign Registration Office (FRO) which is generally attached to the Commissioner of Police office.

The "Registration of Foreigners" form is required to be filled up and submitted with the following enclosures to the Foreigners Registration Office (FRO) for the purpose of registration.

- a. Application form in the same format i.e. in Form A under Rules 5,6,7 and for each of the family member also required to be filled and submitted (who would be dependent on the applicant)
- b. Two photographs of each applicant
- c. Agreement of employment/company letter etc. along with details of transfer of skill
- d. Indemnity bond executed on Rs. 100/- stamp paper in the name of President of India along with witness by an Indian person as specified.
- e. Copy of Passport
- f. Copy of VISA

8.7. Issue of residential permit

Once the application for registration of foreigners is submitted to the FRO at the concerned location, the authorities would verify the details; they would call for the original documents such as Passport, VISA and residential proof etc. After the verification of documents, the concerned FRO would issue the Residential permit pursuant to paragraph 7 of the Foreigners order, 1948.

The Residential permit is also known as certificate of registration. In Mumbai, the same is issued in the form of a booklet (a booklet of 32 pages which is also known as the Blue book; an amount of Rs. 100/- payable towards the bluebook and the receipt is issued by the FRO). The cover of the Blue book states "Registration Report and Residential Permit"- issued by Foreigners Regional Registration Officer, Mumbai.

In Pune, the residential permit is issued in a A4 Sheet along with a copy of the application form submitted to them, duly authenticated by the FRO office. The content of the residential permit is the same - in the blue book, issued at Mumbai it is printed in the middle of the book and at Pune, it is in the form of a letter. Similarly, in other cities also, the practice may differ. However, the content is the same as specified under paragraph 7 of the Foreigners Order, 1948. The practice of issuing the permit may differ from State to State and place to place as per the practice followed by the FRO office. However the content of the residential permit which is issued under paragraph 7 of the Foreigners Order, 1948 would basically contain the Registration Number allotted along with the date, specifying the name of the application, nationality and the details passport and VISA. The permit also would state the purpose of the applicant's visit such as Student/Tourist/Business/Social/Employment Visa etc., and the period of permitted stay in India which is in any case could not be beyond his/her VISA period.

Generally, the FRO office would permit the applicant to stay in India for the validity period of the VISA, held by the foreigner which would vary from one year to three years. The resident permit is granted on the strength of the VISA issued to the foreigner. If the VISA is for one year, the resident permit also would be issued for the same period.

8.8. Conditions to be fulfilled upon Issue of Resident Permit

The following rules must be observed by the foreigner upon registration (this is also printed in the blue book issued by Mumbai - provided separately at Pune - In other cities also, the similar practice would be prevalent) as given below:-

- (i) This permit must be surrendered at the time of final departure from India to the Registration Officer of the place from which he/she leaves India.
- (ii) In the event of he/she not departing from India before..... he/she will, unless he/she obtains the permission of the Central Government to remain for a longer period, be liable to prosecution for contravention of the provision of Foreigners Act, 1946 punishable with

imprisonment for a period of FIVE years and with fine and will also be liable to expulsion from India.

(iii) Application for an extension of period must be made at least sixty days before expiry and must be addressed to the Government of India through the State Government. The Government has discretion to reject any application which does not disclose the adequate grounds for extension.

(iv) Change Of Visa Purpose Not Permitted.

8.9. Rules to be observed by the Foreigner

The following rules are required to be observed by the foreigner which is a condition of the registration permit, upon its issue to him/her permitting him/her to stay in India.

1. Every registered foreigner is required: -

- (i) On demand of any Registration Officer or Magistrate or any police Officer not below the rank of Head Constable to produce this certificate and his passport or such other proof of identity as may be required of him by such Magistrate or Officer.
- (ii) To surrender his/her certificate of registration if he/she is about to depart finally from India either to the Registration Officer of the place where he/she is registered or of the place from where he/she intends to depart or to the immigration office at the port/check post of exit from India.
- (iii) To intimate in person or through an authorized representative or by post under certificate of posting the Registration Officer of the district in which his/her registered address is situated:
 - (a) before he/she leaves his/her registered address, if he/she proposes to be absent from his registered address for a continuous period of eight weeks or more, the address or addresses at which he/she proposes to stay and the date on which he/she expects to return to his/her registered address.
 - (b) if he/she proposes to change his/her registered

address or to leave India, the particulars of his/ her new address and the date of the proposed change or departure and

(c) any circumstances which in any way affect the accuracy of any of the particulars set out in his/her certificate of registration.

(iv) If he/she stays for more than eight weeks at any place (other than a hotel or other premises where travelers are accommodated) in any district other than the district in which his/her registered address is situated to report his/her presence in that other district to the Registration Officer thereof within seven days of his/her arrival.

2 Failure to comply with the foregoing provisions will render the holder of this certificate liable to be punishable with imprisonment or fine or both, under section 5 of the Registration of Foreigners Act, 1939 (XVI of 1939).

8.10. Duplicate Certificate of Registration

Registration of Foreigner's Rules 1992, vide rule 17 provides that if any certificate of registration, issued under these Rules is lost or destroyed, the foreigner to whom it was issued, shall make or send to the Registration Officer of the district of his/her registered address a report of circumstances in which it was so lost or destroyed together with an application in writing for the issue of a duplicate copy of the certificate of registration. The concerned FRO, would then issue a duplicate certificate of registration.

8.11. Extension/Renewal of Residential Permit

Upon the expiry of the VISA, the foreigner needs to get a new VISA, in which case an application for the extension of stay in India needs to be made. Once again all the documents referred above at the time of making an application would be required and in addition, the original resident permit needs to be given back to the FRO office. The FRO office, upon verification of the documents would grant the permission to stay in India on the same resident permit for the further period of the VISA validity and the endorsement would be made on the backside of the earlier resident permit which may read.

“The said foreigner entered India on On the strength of new X Visa No I/O I/AV/T and he/she reregistered old registration no.....

Hence as per Visa terms, Permitted to stay in India till

8.12. Surrender of the Residential Permit

The residential permit must be surrendered at the time of departure from India to the Registration Officer of the Place (Port) from which He/She leaves India.

8.13. Consequences of not leaving the Country upon Expiry Date of Permit

In the event of He/She not departing from India on or before the expiry date of the residential permit, he/she would, unless has obtained the permission from Central Government to remain in India for a longer period, be liable for prosecution for contravention of the foreigner Act, 1946 punishable with imprisonment for a period of five years and/or with fine and also liable for expulsion from India.

8.14. Visa application

If the VISA is required to be obtained from the VISA department of the High Commission of India from the country to which the foreigner belongs, then the foreigner needs to be in his country and present the VISA application along with the required documents plus the passport. The VISA department of High Commission of India would then, upon satisfactory documentary evidence for the grant of VISA would issue a VISA for a further period, which again may vary from one year to three years. (by and large, nowadays, the VISAs are being issued for a year).

VISA application form could be obtained in each country with the High Commission of India, in the respective countries.

The application form is required to be filled up giving all the details and accompany the required documents such as employment agreement with the company in India, A letter from the company secretary stating that the respective foreigner is working in India stating the designation and also stating that he is holding resident permit as required. The letter may further

state that the foreigner be granted multiple entry business visa for the period of contract stating that the current visa of the foreigner is expiring on what date

8.15. VISA renewal of foreigners from India itself

Whenever the VISA of the foreigners due to expire, it is not necessary for the expatriate to travel to his / her country and get the VISA renewed. The VISA renewal can be done from India itself by following necessary procedure and making the application – undergoing the police verification etc. The Ministry of Foreign Affairs would extend the VISA and intimates the same to FRO. Then the concerned FRO would put the extension period as per the VISA terms and sign the same. However, while stamping it, they would also give the reference of the Government letter issued by the Ministry of Foreign Affairs, extending the VISA, stating “ As per Government letter no dated Permitted to stay in India till date/month/year.

The practicing professional could get to know this procedure as well so that they could advise the foreign nationals that VISA extension could be done from India itself.

8.16. One more area of challenging practice for professional

Since more and more talent search are looked into by industries and many expatriates are taking up assignment in multinational, larger companies, in joint venture firms etc, these companies look forward in getting the expert’s services in the related area such as registration of foreign national, obtaining resident permit for them, advising then on an ongoing basis the obligations and other issues

Further, no one would like to undertake a travel for getting the VISA renewed from their country – either the foreigner has to incur cost and travel or the sponsoring company has to bear the cost towards such travel. If VISA could be renewed or extended from India itself, there is enormous amount of cost saving and the practicing company secretary professional could advise accordingly and render the service.

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952

9.1. A brief about the Employees' Provident Funds and Miscellaneous Provisions Act, 1952

The objective of the act to establish and provide for the institution of provident funds, pension funds and Employees deposit linked insurance fund for the benefits of the employees working in the factories and other shop and establishments. This act is applicable for all factories and establishment in which 20 or more employees are employed. The act provides benefits to the employees towards the provident fund scheme, pension scheme and employees deposit linked insurance.

Correspondingly, to avail and provide the benefits of the scheme to the employees all three related acts i.e. (i) Employees Provident Fund Scheme 1952, (ii) Employees' Pension Scheme 1995 and (iii) Employees Deposit Linked Insurance 1976 would be applicable.

9.2. Compliance related issues from the point of Practice

Without getting into the details of membership of the scheme, the details of contribution to Provident Fund and Employees' pension scheme, let us look into the duties and responsibilities of the employer so that the required compliance could be discharged as prescribed by the act and regulated by the regulator.

9.3. Duties and responsibilities of the employer (returns)

The employer is required to furnish / provide the following information relating to the provident fund scheme in respect of his organization.

- (a) Ownership and names of responsible persons of the organization
- (b) Form No.2 Declaration and nomination

- (c) Form no. 5 whenever a new member Joining the scheme upon service
- (d) Form No 10 whenever any member leaving the service of the company
- (e) Form 12A with monthly challans of deposit made to the PF scheme
- (f) Form 9 for details of employees
- (g) Form 3A/6A at the end of the financial year – each year
- (h) Any other information as may be required under Para 76 of the scheme.

9. 4. Scheme Certificate

The scheme Certificate shows the service and the family details of a member and the scheme certificate is issued if the member has not attained the age of 58 while leaving an establishment and he applies for this certificate. When the members joins another establishment, they can surrender the scheme certificate issued and the service stated in the certificate is added with the service he is gaining from the new establishment.

After attaining the age of 50 or above, the member can apply for Pension by surrendering this scheme certificate (if total service is at least 10 years)

If a member dies holding a valid scheme certificate, his family will get pension (Death when NOT in service)

9.5. Death benefits

Upon death of the member the members family or to nominee would get the provident fund amount accumulated in his account and the family would get pension (or parent / nominee). Capital return of the pension facility is also available. Insurance amount through employees deposit linked insurance (EDLI) would be paid to the family or to his nominee- the EDLI contribution is entirely made by the employer and no amount is taken from the member.

9.6. Compliance

Member is submitting the information relating to his nominee and the nominee is determined as per the information submitted by the member and the prescribed form for submitting the nomination is FORM-2.

**The Employees' Provident Funds and
Miscellaneous Provisions Act, 1952**

COMPLIANCE CHECKLISTS

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Schedule I	<p>Applicability</p> <ul style="list-style-type: none"> -the factory in which 20 or more persons employed (5 or more in case of cinema theatres) -any other establishment employing 20 or more persons as per notification of Central Government -any establishment employing less than 20 persons covered voluntarily u/s 1(4)of the act C.P.F number to contractors by home workers Eligibility -at the time of joining employment wages up to Rs. 15,000/- 		
Sec 2A	<p>Establishments inclusive of branches and departments</p> <ul style="list-style-type: none"> -it includes branches or departments situated in same or different location 		
Sec 6	<p>Contributions to PF fund</p> <ul style="list-style-type: none"> -12% of basic wages (dearness allowance + retaining allowance if any) by employer who on his own motion may pay PF on more amounts -inspection charge by employer .18% of wages (DA +retaining allowance) -employees contribution equals to the employers contribution -the government contributes 1.16% of maximum 15,000/- <p>Loan Facility :</p> <ul style="list-style-type: none"> -Advance for purchase or construction of house property 		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<p>-Advance for illness (non ESI employee)</p> <p>-Advance for marriage and education etc.</p>		
Sec 8	<p>Mode of recovery of money due from employers</p> <p>-contribution payable to insurance fund</p> <p>-damages recoverable u/s14-B</p> <p>-accumulation required to be transferred u/s15(2) or 17(5)</p> <p>-any charge payable by him under any provision of this act</p> <p>-recovered u/s 8-B to 8-G</p>		
8A	<p>Recovery of money by employers and contractors</p> <p>-in case of contract basis employer recovers from contractors employer's and employees' contribution and cost of administering fund either by deduction from any amount payable to contractors or as a debt payable to the contractor</p> <p>-a contractor recovers from such employee the employee contribution by deduction from the basic wages, DA, retaining allowance</p>		
Sec 8-B	<p>Issue of certificate to the recovery officer</p> <p>-if any arrears as to above the authorized officer issues certificate to Recovery officer who recovers the amount specified from the establishments on the following</p> <p>(i) attachment and sale of movable or immovable property of the establishment</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	(ii) arrest of the employer and his detention in prison (iii) appointing a receiver for the management of the movable or immovable properties of the establishment or as the case be the employer		
Sec 16	Act not apply to certain establishments -company registered under Co-operative Societies Act, 1912 -the establishment of companies under Central or State Government entitled to the benefit of contributory PF or old age pension in accordance with the scheme or rule framed by state or central government governing such benefits -to any other establishment newly set up under any central, provincial or state act		
Sec 16-A	Authorizing certain employers to maintain PF accounts -more than 100 or more employees in the establishment maintain PF account -no authorization shall be made if the employer had committed an default in the payment of provident fund contribution or had committed any other offence under this act during the three years immediately preceding the date of such authorization.		
Sec 17-A	Transfer of accounts : -employees finds the job in other establishment, such PF account shall be transferred	Form 13 revised	

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Sec 17-B	<p>Liability in case of transfer of establishment :</p> <p>-in case of transfer of establishment by sale, gift, lease or license the person to whom such transfer is made is liable jointly and severally to pay the contribution and other sums due from the employer under this act in respect of the period up to the date of such transfer</p> <p>-liability of the transferee shall be limited to the value of the assets obtained by him by such transfer</p>		
Paragraph - 33	<p>Under Employees' Provident fund scheme :</p> <p>Declaration by persons already at the time of institution of the fund:</p> <p>-the person has to declare for membership and his nominee to the commissioner</p> <p>- signature or thumb-impression of the employee has to be obtained</p>	Form 2	
Para - 34	<p>Declaration by person taking up employment after the fund has been established :</p> <p>-before making employment of person to state in writing to check whether he is a member of the fund if so get the account number</p> <p>-if he is unable to furnish a/c number he will require such person as to particulars of him and his nominee which shall be entered in Declaration form by the employer and obtain the signature or thumb-impression of the person concerned</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 35	Preparation of contribution cards: -preparation of contribution card for an employee becoming member of the fund	Form 3 or Form 3A	
Para 36	Duties of employers : -submission of consolidated return of employee entitled to become members within 15 days of close of each month -if employee leaves service 'Nil' return has to be submitted -recoveries to be sent within 25 days of the close of the month -maintenance of inspection notebook	Form 5 together with form 2	
Para 36-A	Employers to furnish particulars of ownership : -submission of form as to particulars of all branches and departments, owners, occupiers, directors, partners, manager to Regional commissioner -if any change in such particulars within 15 days of such change intimate to Regional commissioner	Form 5A	
Para 36-B	Duties of contractors : -within 7 days of close of every month submit to the principal employer as to recovery of contribution from employees		
Para 38	Mode of payment of contribution : -deposit of amount to the fund by separate bank drafts or cheque within 15 days of close of every month -if payment is by cheque, it should be drawn only on local bank	Form 6A	

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<p>-monthly abstract has to be submitted within 25 days of close of month</p> <p>-submission of consolidated Annual contribution statement within one month of close of the period as to recovery and contribution</p> <p>-monthly statement of contribution</p> <p>-statement of accounts to be issued to the employees by the employer</p> <p>-the employer shall send a NIL return if no such recoveries have been made from the employees</p>		
Para 40-A	<p>Supply of Pass Books to the members :</p> <p>-provide pass book to every employee becoming member of the fund</p>		
Para 41	<p>Currency of contribution cards</p> <p>-the contribution cards issued under the scheme shall be current for one year</p>		
Para 43	<p>Submission of contribution cards to the Commissioner :</p> <p>-within 1 month from the date of expiry of period of currency of the contribution cards send it to Commissioner with a statement</p> <p>- it includes coverage of family pension scheme also</p>	Form 6	
Para 45	<p>Inspection of records by members:</p> <p>-employee by request in writing is allowed to inspect within 72 hrs of making such request and not entertained more than once in every two months</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 57	<p>Inter state transfer of accounts :</p> <p>-where a member of fund ceases to be employed in one region and secure employment in either another region or same region in an establishment to which this scheme applies or an exempted establishment or not covered under the act apply to the commissioner for transfer of account</p>	Form 13	
Para 64	<p>Assignment of policies to the fund:</p> <p>-policy shall within 6 months of the first payment be assigned by endorsement to the central board and delivered to the commissioner</p> <p>-if policy isn't assigned for financing of member's life insurance policies any amount paid from the fund in respect of such policy with interest is repaid by the member, if not, the employer has to deduct in lump sum or in such installments as per the commissioner instruction</p> <p>-the amount so repaid or recovered shall be credited to the member's account in the fund</p>		
Para 68 - J	<p>Advance from the fund for illness in certain cases :</p> <p>-a member is allowed non-refundable advance from his account in the fund in cases of hospitalization lasting for one month or more or major surgical operation in a hospital or suffering from TB, leprosy, (paralysis, cancer, mental, derangement or heart ailment)</p>	Form 31	

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<p>and granted leave for treatment by his employer</p> <p>- the advance shall be granted if the employer certifies that employees' state Insurance scheme facility and benefits aren't available to the employee</p> <p>- a member may be allowed non-refundable advance from his account for treatment of his family as to above diseases</p> <p>-amount advanced shall not exceed member's basic wages +DA for six months or his own share of contribution with interest in the fund whichever is less</p>		
Para 68-NN	<p>Withdrawal within one year before the retirement :</p> <p>-the member can claim up to 90% standing to his credit at time after attainment of age of 54 years or within one year before his actual retirement whichever is later</p>	Form 10 C	
Para 70	<p>Accumulations of a deceased member to whom payable :</p> <p>-on the death of member the amount standing to his credit becomes payable to nominee</p> <p>-if no nominee, payable to members of his family in equal shares</p>	Form 20	
Para 73	<p>Annual statement of member's account :</p> <p>-annual return as to statement of his account showing opening balance, amount contributed, total amount of interest has been given through employer of establishment where the employee last worked</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 76	<p>Punishment for failure to pay contribution :</p> <ul style="list-style-type: none"> -fails to submit any return or -deduct from wages or other remuneration of a member or any part of the employer's contribution -non compliance with any other requirement -punishable with imprisonment extent to one year or fine extent to Rs.4000 or with both 		
Sec 6-A	<p>Employees' pension scheme</p> <ul style="list-style-type: none"> -applicable to every employee who is the member of Employee provident fund -employee not required to contribute to the scheme - eligibility for pension scheme is completion of membership for 10 years -sum payable to such pension scheme from employer's contribution not exceeding 8.33% of wages -sum payable by the employers of exempted establishments u/s 17(6) -net assets of the Employees' family pension fund as on the date of establishment o the pension fund -sums as the Central Government after due appropriation by parliament by law in this behalf specify -Minimum Pension of Rs. 1000/- per month. 		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 3	<p>Employees pension fund :</p> <p>-a part of contribution representing 8.33% of the employees' pay shall be remitted to the Employees' pension fund within 15 days of the close of the every month by a separate bank draft or cheque on account of EPF contribution by the employer</p>		
Para 5	<p>Recovery of damages for default in payment of any contribution :</p> <p>-<2 months = 5%</p> <p>-2< but <4 months = 10%</p> <p>- 4< but <6 months = 15%</p> <p>-> 6 months = 25%</p>		
Para 11	<p>Determination of pensionable salary :</p> <p>-pensionable salary shall be average monthly pay drawn including piece rate basis during the contributory period of service in the span of 12 months preceding the date of exit from the membership of the EPF</p>		
Para 12	<p>Monthly member's pension</p> <p>-a member shall be entitled to superannuation pension if he has rendered service of 10 years or more and retires on attaining age of 58 years</p> <p>-early pension ceases to be in the employment before attaining the age of 58 years</p>		
Para 14	<p>Benefits on leaving service before being eligible for monthly member's pension :</p> <p>-if member hasn't rendered eligible service on the date of exit or attaining age of 58 years whichever is earlier, he will be entitled to a withdrawal benefit</p>	Form 10-C	

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 16	<p>Benefits to the family on the death of a member :</p> <ul style="list-style-type: none"> -pension to the family shall be admissible from the date of following the death of the member if the member dies -while in service provided that at least one month's contribution has been paid to the EPF -after the date of exit but before attaining age of 58, from the employment having rendered service entitling to monthly member's pension -after commencement of payment of monthly member's pension -the monthly widow pension shall be in cases equal to the monthly member's pension admissible as if the member had retired on the death of death or Rs.450 whichever is more -monthly children pension shall be equal to 25% of the amount admissible to the widow or deceased member as monthly widow pension payable and not less than Rs.150p.m until the child attains age of 25 years -if deceased member is not survived by any widow but by children or if the widow pension is not payable the children shall be entitled to a monthly orphan pension equal to 75% of amount of monthly widow pension provided minimum monthly orphan pension for each orphan shall be not less than Rs. 250p.m. 		
Para 19	<p>Preparation of contribution cards:</p> <ul style="list-style-type: none"> -preparation of Employees pension fund contribution card of 		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	employee becoming member of the Employees pension fund		
Para 20	<p>Duties of employers :</p> <ul style="list-style-type: none"> -submission of consolidated return to commissioner within 3 months of commencement of scheme -if no employee entitled to become a member NIL return has to be submitted -a return of employees leaving services has to be submitted within 15 days of close of each month -maintenance of such accounts in relation to amount contributed -submission of electronic format of returns specified by the commissioner 		
Para 21	<p>Employer to furnish particulars of ownership :</p> <ul style="list-style-type: none"> -submission of particulars of branches and departments, owners, occupiers, directors, partners, managers and any other person who has control over factory to the commissioner -if any change in above intimation to commissioner has to be made within 15 days of such change 		
Para 22	<p>Duties of contractors :</p> <ul style="list-style-type: none"> -within 7 days of close of every month submission of statement by contractors as to particulars of employee of whom Employees' Pension fund are payable 		
Para 24	<p>Declaration by persons taking up employment after the fund has been established :</p> <ul style="list-style-type: none"> -obtain scheme certificate from employees as to past employment 		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 31	<p>Rounding up of the benefits :</p> <p>-all items of benefits shall be calculated to the nearest rupee, 50 paise or more to be counted as next higher rupee and fraction of rupee less than 50 paise shall be ignored</p>		
Para 39	<p>Exemption from the operation of the pension scheme :</p> <p>-if exemption is granted by the appropriate government to any establishment, withdrawal benefits available to the credit of the employees under the ceased family pension scheme shall be paid subject to the consent of the employees to the pension fund of establishments so exempted</p> <p>-pending disposal of application for exemption employer's share of the contribution shall not be remitted to the pension fund</p>		
Para 39-A	<p>Submission of return :</p> <p>-submission of the monthly return in electronic format by exempted establishment to the commissioner</p>	Form I	
Para 42	<p>Punishment for failure to submit return :</p> <p>-deducts from wages or fails to submit return or submit false return or fails to produce any record</p> <p>-non compliance with any other requirement, punishable with imprisonment extent to one year or with fine of Rs.5000 or with both</p>		
Sec 6-C	<p>Employees' Deposit-Linked Insurance Scheme</p> <p>-payable by employer not being</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<p>more than 1% (one-fourth of the contribution) of basic wages, DA, Retaining allowance</p> <p>-contribution @.50% required to be paid up to maximum limit of 15,000</p> <p>-administrative charge payable by employer .01% of 15,000, in case of exempted establishment .005% total wages paid</p> <p>-the insurance scheme provide matters specified in Schedule IV</p> <p>-if any contravention penalty will be not less than 6 months extent to one year or fine of Rs.5000</p>		
Para 8-A	<p>Recovery of damages for default in payment of any contribution :</p> <p>-where the employer makes any default in payment it may be recovered from the employer by way of penalty, damages at below rates</p> <p>-<2 months = 5%</p> <p>-2< but <4 months = 10%</p> <p>- 4< but <6 months = 15%</p> <p>-> 6 months = 25%</p>		
Para 9	<p>Employer's contribution not to be deducted from the wages of employees :</p> <p>-not entitled to deduct employer's contribution from wages of employee</p>		
Para 10	<p>Duties of employers :</p> <p>-submission of consolidated return of employees, who is ,along with nomination made by him and leaving service of the employer during preceding month entitled to become members of Insurance</p>	Form 5	

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<p>scheme within 15 days of commencement of the scheme</p> <p>-if no employee qualifying to become member of Insurance fund NIL return has to be submitted</p> <p>-submission of monthly abstract of aggregate amount of wages of members on which contribution is payable by employer to the commissioner within 25 days of the close of the month</p> <p>-maintenance of records as to amount contributed to Insurance fund</p>		
Para 13	<p>Administration account :</p> <p>-contribution shall be credited to separate account called Insurance Fund Central Administration Account</p>		
Para 14	<p>Deposit – linked Insurance Fund account :</p> <p>-amount received as employer’s contribution and Central Government contribution to Insurance fund is credited to Deposit-linked Insurance fund account</p>		
Para 19	<p>Forms and manner of maintenance of accounts :</p> <p>-central board maintain its accounts of its income and expenditure including its administrative account and accounts shall be prepared for financial year and books shall be balanced on 31st March each year</p> <ul style="list-style-type: none"> • Form I – receipts and payments(contribution a/c) 		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<ul style="list-style-type: none"> • Form II – receipts and payments(administration a/c) • Form III- balance sheet 		
Para 22	<p>Scales of assurance benefit and the minimum average balance to be maintained by an employee :</p> <p>-on death of employee, the person is entitled to receive the Provident fund accumulation equal to average balance in account of deceased in the fund during preceding 12 months or during the period of membership whichever is less except average balance exceeds 50000+40% of amount excess of 50,000 subject to ceiling of one lakh or The average monthly wages drawn (subject to a maximum of rupees six thousands five hundred) during the twelve months preceding the month in which he died, multiplied by twenty times. Whichever is higher. Now further increased by 20% in addition to the Benefits.</p>		
Para 23	<p>Assurance benefit to whom payable :</p> <p>-assurance amount shall be payable to the nominee and if nominee eligible for only a part rest to the members of his family but not applicable to son who attained majority and married daughters whose husbands are alive</p>	Form -5(IF)	
Para 24	<p>Assurance amount to be paid</p> <p>-nominee send a written application to the commissioner through the employer</p>		
Para 25	<p>Registers and records etc.</p> <p>-maintenance of registers and</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
Para 29	<p>records in the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the benefit</p> <p>Punishment for failure to submit returns etc.,</p> <p>-deducts from wages or fails to submit return or submit false return or fails to produce any record</p> <p>-non compliance with any other requirement, punishable with imprisonment extent to one year or with fine of Rs.4000 or both</p>		
Sec 14 (1A)	<p>Penalties :</p> <p>-whoever for the purpose of avoiding any payment to be made under this act knowingly makes any false statement of false representation, he shall be punishable with imprisonment of one year or fine of Rs.5000 or both</p> <p>-any employer who doesn't comply with the requirement of depositing the contribution deducted from the employees salaries shall be punishable with imprisonment from 1 year to 3 years or fine of Rs.5000 or both</p> <p>-in any other case shall be imprisonment from 6 months to 3 years and also with a fine of Rs.5000</p> <p>- Contributions received by the Trust shall be invested by the Board of Trustees in accordance with the investment pattern approved by the Government of India. The rate of interest shall be declared in conformity with the provisions of the Act.</p>		

<i>Section/Clause</i>	<i>Description</i>	<i>Forms</i>	<i>Compliance status</i>
	<ul style="list-style-type: none">- Loans and Advances to employees shall be provided as per the provisions of the Act.- the Bye-Laws created for operation of the Trust relating to the aspects of Audit of Accounts, Approval of Payments etc. shall be complied with.		

Payment of Gratuity Act, 1972

10.1. A brief about the Payment of Gratuity Act, 1972

The gratuity act provides for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments.

The Act enforces the payment of 'gratuity', a reward for long service, as a statutory retiral benefit. Every employees respective of his wages is entitled to receive gratuity if he has rendered continuous service of five years or more.

As per the decided case between *Delhi Cloth and General Mills Co; Ltd. Vs the Workmen*, the gratuity is not paid to an employee gratuitously or merely as a matter of boon and the gratuity is paid for the service rendered by him to the employer. Payment of gratuity arises to an employee at the time of separation from his employment after he has rendered continuous service for not less than five years: Separation could be of termination of service or upon attaining superannuation or on resignation or on the employee's death or disablement due to employment injury or disease.

One may like to note at this juncture that the "Working Journalists and Other Newspaper Employees (Conditions of service) and Miscellaneous Provisions Act, 1955", provides for payment of gratuity if the employee has put in three years of continuous service as eligibility condition.

10.2. Compliance related issues vis-à-vis responsibility of employer

Since we are on the compliance related issues from the point of practicing company secretary professional, let us look into the duties and responsibilities of the employer so that the compliance could be well addressed.

(a) Every employer, other than an employer or an establishment

belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), which talks about the employee.

- (b) obtain an insurance in the manner prescribed, for his liability for payment towards the gratuity under this Act, from the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (31 of 1956) or any other prescribed insurer:
- (c) The appropriate Government may, subject to such conditions as may be prescribed, exempt every employer who had already established an approved gratuity fund in respect of his employees and who desires to continue such arrangement and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed.
- (d) Where an employer fails to make any payment by way of premium to the insurance or by way of contribution to all approved gratuity fund, he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.

10.3. Compliance required – the forms and other requirements

The following are prescribed by the act, which needs to be complied with

- (a) Form A Rule 3(1)
 - Notice of opening (basically providing the information about organization and number of people employed – industry details – seasonal or otherwise)
- (b) Form B Notice of change
- (c) Form C Notice of closure
- (d) Form D Notice for excluding husband from family
- (e) Form E Notice of withdrawal of notice for excluding husband from family
- (f) Form F Nomination
- (g) Form G Fresh Nomination

- (h) Form H Modification of nomination
- (i) Form I Application of Gratuity by an Employee
- (j) Form J Application for gratuity by a Nominee.
- (k) Form K Application for gratuity by a Legal Heir.
- (l) Form L Notice for payment of gratuity
- (m) Form M Notice rejecting claim for payment of gratuity
- (n) Form N Application for direction to controlling Authority.
- (o) Form O Notice for appearance before the Controlling Authority
- (p) Form P Summons to appear before Controlling Authority.
- (q) Form Q Particulars of application under Section 16
- (r) Form R Notice for Payment of Gratuity
- (s) Form S Rule 18(8) : Notice for payment of gratuity as determined by Appellate Authority

The Payment of Gratuity Act, 1972
STATUTORY COMPLIANCE CHECKLISTS

<i>Sections / Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 1(3)	Applicability It shall apply to every factory, mine, oil field, plantation, port, railways, company, shop, establishment in which 10 or more employees employed or were employed on any day of preceding twelve months.		
Sec 2A(1)	Continuous Service Continuous service means un-interrupted service, which may be interrupted on account of:	Check whether employee is in continuous service or not.	
Sec 2A(2)	<ol style="list-style-type: none"> 1. sickness, 2. accident, leave, 3. absence from duty without leave, 4. lay-off, strike or a lock-out or 5. cessation of work not due to any fault of the employee, <p>whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act.</p> <p>If an employee is not in continuous service for a period of one year, he shall be deemed to be in continuous service, if the employee has, during immediately preceding 12 calendar months, worked under the employer for not less than-</p> <p>[1] 190 days if the employee was employed below the ground, say in a mine.</p> <p>[2] 190 days if the employee was employed in a establishment which works less than 6 days in a week.</p> <p>[3] 240 days in any other cases.</p> <p>If an employee is not in continuous service for a period of 6 months, he</p>	Check whether limit specified in Sec 2A(2) is complied with	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 2A(3)	<p>shall be deemed to be in continuous service, if the employee has, during immediately preceding 6 calendar months, worked under the employer for not less than-</p> <p>[1] 95 days if the employee was employed below the ground, say in a mine.</p> <p>[2] 95 days if the employee was employed in a establishment which works less than 6 days in a week.</p> <p>[3] 120 days in any other cases.</p> <p>For the purposes of clause (2), the number of days on which an employee has actually worked under an employer shall include the days on which—</p> <p>(i) He has been laid- off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 or under the Industrial Disputes Act, 1947 or, under any other law applicable to the establishment;</p> <p>(ii) he has been on leave with full wages, earned in the previous year;</p> <p>(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and</p> <p>(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.</p> <p>Where an employee, employed in a seasonal establishment, is not in</p>	Check whether limit specified in Sec 2A(2) is complied with.	

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
Sec 4	<p>continuous service of 1 year or 6 months, he shall be deemed to be in continuous service for such period if he has actually worked for not less than 75% of the number of days on which the establishment was in operation during such period.</p> <p>Payment of gratuity The amount of Gratuity shall be paid in the following cases to the employee on the termination of his employment after he has rendered continuous service for not less than five years,--</p> <p>(a) on his superannuation, or</p> <p>(b) on his retirement or resignation, or</p> <p>(c) on his death or disablement (Five year Service not required) due to accident or disease:</p> <p>In case of the death of the employee, gratuity shall be paid to</p> <ol style="list-style-type: none"> 1. His nominee or 2. If no nomination is made, to his heirs 3. No nomination is made and heirs are minor: The minor share shall be deposited with the controlling authority who shall invest the same for the benefit of the minor with Banks or Financial Institution till such minor attains majority. 	Check whether employee is discontinued of service for reasons mentioned under SEC 4.	
Sec. 4(2)	<p>Wages calculation 15 days' wages for every completed year as if the month comprises of 26 days at the last drawn wages. i.e 15/26 NO.OF COMPLETED YEAR OF SERVICE SALARY= BASIC SALARY+DEARNESS ALLOWANCE</p>	Check whether the of gratuity is paid as per the formula	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>A. Calculation Piece-rated employee @ 15 days wages for every completed year on an average of 3 months' wages</p> <p>LAST DRAWN WAGES*15/26 *COMPLETED YEAR OF SERVICE. LAST DRAWN WAGES = TOTAL WAGES OF LAST 3 MONTHS (before termination)</p>	Check whether the gratuity is calculated as per the formula.	
	<p>B. Calculation Seasonal employee @ 7 days' wages for every completed year of service.</p>	Check whether the of gratuity is calculated as per the formula	
	<p>C. Calculation of Monthly rated employee</p> <p>In case of monthly rated employee, 15 days wages shall be calculated by dividing the monthly rate of wages last drawn by him by 26 and multiplying the quotient by 15.</p> <p>= Monthly rate of wages last drawn by him/26*15</p>		
Sec 4(3)	Maximum limit on gratuity		
	The maximum amount shall not exceed Rs. 10,00,000/- (Ten Lakhs) w.e.f 24th May 2010.	Check whether the amount of gratuity calculated is within limit	
Sec 4(4)	For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.	Check whether computation is in accordance with Sec 4(4).	
Sec 4(6)	<i>Note</i> : Nothing in this section shall affect the right of an employee receive better terms of gratuity under		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	any award or agreement or contract with the employer.		
	Notwithstanding anything contained in sub-section (1),--		
	(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;	Check whether any gratuity is forfeited on account of reason mentioned under Sec 4(6)	
	(b) the gratuity payable to an employee 1[may be wholly or partially forfeited]—		
	(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act violence on his part, or		
	(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.		
Sec 4A	COMPULSORY INSURANCE		
	(1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, obtain an insurance in the manner prescribed, for:	Check whether employer has registered with the controlling Authority.	
Sec 4A(3)	His liability for payment towards the gratuity under this Act, from (a) Life Insurance Corporation of India established or	Check whether any default is made by the employer under sec 4A(5).	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 4A(5)	(b) any other prescribed insurer.		
Sec 4A(6)	<p>Duty of the Employer:</p> <p>1. Every employer shall within such time as may be prescribed get his establishment registered with the controlling authority in the prescribed manner</p> <p>2.No employer shall be registered under the provisions of this section unless he has taken an insurance or has established an approved gratuity fund.</p> <p>Liability of Employer: Where an employer fails to make any payment by way of premium to the insurance or by way of contribution to an approved gratuity fund, he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.</p> <p>Penalty:</p> <p>Whoever contravenes the provisions of sub- section (5) shall be punishable with fine which may extend to Rs.10000/- and</p> <p>In the case of a continuing offence with a further fine which may extend to Rs.1000/- for each day during which the offence continues.</p>	Check whether employer has obtained any insurance mentioned under Sec 4A.	
Sec 5	POWER TO EXEMPT.-		
Sec 5(1)	The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies		Check whether any exemption is given by government as per Sec 5(1)

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	from the operation of the provisions of this Act if, in the opinion of the appropriate Government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.		
Sec 5(2)	The appropriate Government may, by notification and subject to such conditions as may be specified in the notification, exempt any employee or class of employees employed in any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act, if, in the opinion of the appropriate Government, such employee or class of employees are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.		
Sec 5(3)	A notification issued under sub-section (1) or sub-section (2) may be issued retrospectively a date not earlier than the date of commencement of this Act, but no such notification shall be issued so as to prejudicially affect the interests of any person	Check whether any exemption is given by government as per Sec 5(1)	
Sec 6	Nomination.-		
Sec 6(1)	Each employee, who has completed one year of service, shall make, within such time, in such form and in such manner, as may be prescribed, nomination for the purpose of the second proviso to sub-section (1) of section 4.	Check whether nomination has been made within time stipulated in Sec 6(1).	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
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Note:

1. An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.

2. If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.

3. If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, a fresh nomination in favour of one or more members of his family.

4. A nomination may, subject to the provisions of sub- sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so.

5. If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.

6. Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 7	<p>Determination of amount of gratuity</p> <p>1. The employer shall determine the amount of Gratuity and intimate the persons eligible to receive and also to the Controlling Authority as soon as it becomes payable.</p> <p>2. The payment shall be made within 30 days from date on which it becomes payable.</p> <p>3. Interest such rate of notified by the central government from time to time shall be paid for any delay.</p> <p>Note: (1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.</p> <p>(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.</p> <p>(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.</p> <p>4. If the amount of gratuity payable is not paid by the employer within the period specified, the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple</p>	Check whether employer has performed as per the section 7.	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:</p> <p>5. Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.</p> <p>6. If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.</p>		
Sec 8	<p>RECOVERY OF GRATUITY-</p> <p>Note:</p> <p>If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon 1[at such rate as the Central Government may, by notification, specify], from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto</p>		Check whether any application is filed under Sec 8.

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 9	Penalties		
	<ul style="list-style-type: none"> • Imprisonment for 6 months or fine upto Rs.10,000 or with both for avoiding to make payment by making false statement or representation. • Imprisonment not less than 3 months and upto one year or with fine not less than 10,000 which may extend to 20,000 on default in complying with the provisions of Act or Rules. • Where the offence relates to non-payment of gratuity employer shall be punishable with imprisonment not less than 6 months, which may extend to 2 years 	Check whether employer committed any default mentioned in Section 9.	
Sec 10	Exemption of employer from liability in certain cases.-		
	<p>Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days' notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court--</p> <ol style="list-style-type: none"> 1.that he has used due diligence to enforce the execution of this Act, and 2.that the said other person committed the offence in question without his knowledge, consent or connivance. 		
Sec 11	Cognizance of Offences		
	Note:		
	No court shall take cognizance of any offence punishable under this		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	Act save on a complaint made by or under the authority of the appropriate Government: Provided that where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time.		
	PAYMENT OF GRATUITY RULES, 1973		
Rule 3(1)	Notice of opening, Change or Closure of the establishment: Within 30 days of the rules becoming applicable to the company a notice in Form A has to be submitted to the controlling authority of the area by the employer.	Check whether Form A is filed with in time i.e. 30 days.	
3(2)	Within 30 days of change in name, address, or nature of the employer a notice in Form B is required to be filed by the Employer with the controlling authority of the area.	Check whether Form B is filed with in time mentioned in Rule 3.	
3(3)	Where an employer intends to close down the business, Within 60 days of intended closure a notice in Form C shall be filed with the controlling Authority.	Check whether Form C is filed with in time mentioned in Rule 3.	
Rule 4	Display of Notice The employer shall display a notice near the main entrances or at a place easy to attract the employees, in bold letters in English language as well as in language understood by the majority of employees, Specifying the name of the office with designation authorised by the employer to receive notice under the said Act or Rules.	Check whether notice is displayed at a place mentioned in Rule 4.	
Rule 5	5. Form of notice under proviso to Section (2)(h)(ii) (Definition of family for women) (1) A notice under Rule 5 shall be in Form 'D' and sent in triplicate by	Check whether a notice in	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	the employee to the employer, who shall, after recording its receipt on one copy thereof, return the copy to the employee and send the second copy to the controlling authority of the area.	Form D given by employee to employer.	
	(2) An employee may withdraw the notice referred to in sub-rule (1) by giving another notice in triplicate in Form 'E' to the employer, who shall follow the same procedure as in sub-rule (1).	Check whether a notice in Form E given by employee to employer	
Rule 6	Nomination: A nomination shall be submitted in Form F by the employee in duplicate: (i) In case of employees who is already in employment for one or more year on the date of commencement of these rules within 90 days from such date, (ii) In case employee completes one year of service after the date of commencement of these rules within 30 days from the completion of one year of service. Note: The employer shall accept Form F, even though it is filed beyond the time limit mentioned above, provided that on producing sufficient grounds for delay.	Check whether Form F is submitted within Stipulated time mentioned under rule 6. Check whether Form G is submitted within Stipulated time mentioned under rule 6.	
	(2) Duty of the Employer: Within 30 days of receipt of nomination in Form F, the employer shall 1. collect the service particulars of employee, 2. verify with records of the establishment, 3. After obtaining a receipt thereof, the employer or person authorised by the employer shall return the	Check whether Form H is submitted within Stipulated time mentioned under rule 6.	

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
	<p>duplicate copy of Form F duly attested to the employee as a token of recording the nomination.</p> <p>(3) An employee who has no family at the time of making a nomination shall, within ninety days of acquiring a family, submit in the manner specified a fresh nomination, as 6 in duplicate in Form 'G' to the employer,</p> <p>(4) A notice of modification of a nomination, including cases where a nominee predeceases an employee, shall be submitted induplicate in Form 'H' to the employer.</p> <p><i>Note:</i></p> <p>1. A nomination or a fresh nomination or a notice of modification of nomination shall be signed by the employee or, if illiterate, shall bear his thumb-impression, in the presence of two witnesses, who shall also sign a declaration to that effect in the nomination, fresh nomination or notice of modification of nomination, as the case may be.</p> <p>2. A nomination, fresh nomination or notice of modification of nomination shall take effect from the date of receipt thereof by the employer.</p>		
Rule 7	7. APPLICATION FOR GRATUITY		
7(1)	<p>An employee who is eligible for payment of gratuity under the Act, or any person authorized in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in Form 'I' to the employer</p>	<p>Check whether Form I is submitted within Stipulated time mentioned under rule 7(1).</p>	
7(2)			

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
7(3)	A nominee of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of Section 4 shall apply, ordinarily within thirty days from the date the gratuity became payable to him, in Form 'J' to the employer :	Check whether Form J is submitted within Stipulated time mentioned under rule 7(2).	
Rule 8	(3) A legal heir of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of Section 4 shall apply, ordinarily, within one year from the date the gratuity became payable to him, in Form 'K' to the employer. Note: The employer shall accept Form F, even though it is filed beyond the time limit mentioned above, provided that on producing sufficient grounds for delay.	Check whether Form K is submitted within Stipulated time mentioned under rule 7(2).	
	NOTICE FOR PAYMENT OF GRATUITY		
Rule 9	(1) Within fifteen days of the receipt of an application under Rule 7 for payment of gratuity, the employer shall, - (i) If the claim is found admissible on verification, issue a notice in Form 'L' to the applicant employee, nominee or legal heir, as the case may be, specifying the amount of gratuity payable and fixing a date, not being later than the thirtieth day after the date of receipt of the application, for payment thereof, or (ii) if the claim for gratuity is not found admissible, issue a notice in Form 'M' to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible	Check whether a notice in Form L is issued by the employer to employees as per Rule 8(i) Check whether a notice in Form M is issued by the employer to employees as per Rule 8(ii)	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
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MODE OF PAYMENT OF GRATUITY

Note:

The gratuity payable under the Act shall be paid in cash or,

if so desired by the payee, in demand draft or bank cheque to the eligible employee, nominee or legal heir, as the case may be :

Provided that in case the eligible employee, nominee or legal heir, as the case may be, so desires and the amount of gratuity payable is less than one thousand rupees, payment may be made by postal money order after deducting the postal money order commission there for from the amount payable :

Provided further that intimation about the details of payment shall also be given by the employer to the controlling authority of the area.

The Employees' State Insurance Act, 1948

11.1. A brief about ESI

Employees State Insurance Act is a social welfare legislation enacted with the object of providing certain benefits to employees in case of sickness, maternity and employment injury.

Under the Employees State Insurance Act, employees will receive medical relief, cash benefits, maternity benefits, pension to dependents of deceased workers and compensation for fatal or other injuries and diseases.

11.2. Compliance required under ESI

There are specified documents to be maintained for the purpose of inspection and also various forms are required to be submitted as specified and the employer obvious would have his responsibilities and duties to ensure that the necessary things are done in relation to documents, submission of forms and other compliance.

Let us look into these entire aspect one after another to have a better understanding so that the practicing company secretary professional could help / assist / render necessary services to the needing employer.

11.3. The duties and responsibilities of the employer

- (a) The starting point is registration with the ESI Corporation for the coverage of the benefits and the employer should get his factory or establishments registered with the ESI Corporation.
- (b) The registration is required to be done within 15 days after the Act becomes applicable to it, and obtain the employers code number from the ESI Corporation.

- (c) Employer is required to obtain the declaration form, from the employees covered under the Act and submit the same along with the return of declaration forms, to the ESI office. He should arrange for the allotment of Insurance Numbers to the employees and their Identity Cards.
- (d) Employer should deposit the employees' and his own contributions to the ESI Account as per the due date based on contribution period in the prescribed manner, whether he has sufficient resources or not, his liability under the Act cannot be disputed. He cannot justify non-payment of ESI contribution due to non-availability of finance.
- (e) Employer should furnish a Return of Contribution along with the challans of monthly payment, within 30 days of the end of each contribution period.
- (f) Employer should not reduce the wages of an employee on account of the contribution payable by him (employer).
- (g) Employer should cause to be maintained the prescribed records/registers namely the register of employees, the inspection book and the accident book.
- (h) Employer should report to the ESI authorities of any accident in the place of employment, within 24 hours or immediately in case of serious or fatal accidents. He should make arrangements for first aid and transportation of the employee to the hospital. He should also furnish to the authorities such further information and particulars of an accident as may be required.
- (i) Employer should inform the local office and the nearest ESI dispensary/hospital, in case of death of any employee, immediately.
- (j) Employer must not put to work any sick employee and allow him leave, if he has been issued the prescribed certificate.
- (k) Employer should not dismiss or discharge any employee during the period he/she is in receipt of sickness/maternity/temporary disablement benefit, or is under medical treatment, or is absent from work as a result of illness duly certified or due to pregnancy or confinement.

11.4. Record requirement under ESI Act

Since the ESI authorities carries out the inspection periodically, the act has prescribed that the following records would be required to be maintained and produced for inspection as and when inspection takes place to the inspector of ESIC.

1. Attendance Register / Muster Roll
2. Salary / Wage Register / Payroll
3. EC (Employee's & Employer's Contribution) Statement
4. Employees' Register
5. Accident Book
6. Return of Contribution
7. Return of Declaration Forms
8. Receipted Copies of Challans
9. Books of Account viz.
 - Cash/Bank
 - Expense Register
 - Sales Register
 - Purchase Register
 - Petty Cash Book
 - Ledger
 - Supporting Bills and Vouchers
 - Delivery Challans (if any).
10. Form of annual information on company

11.5. Various forms prescribed under the ESI Act (Important ones)

Form 01	Employers' Registration Form
Form 01(A)	Form of Annual Information on Factory/ Establishment
Form 1	Declaration Form

Form 1A	Family Declaration Form
Form 1B	Changes in Family Declaration Form
Form 3	Return of Declaration Forms
Form 4	Identity Card
Form 4(A)	Family Identity Card
Form 5	Return of Contributions
Form 6	Register of employees
Form 8	Special Intermediate Certificate
Form 10	Abstention verification in r/o Sickness Benefit/ Temporary Disablement Benefit/MB
Form 12	Sickness of Temporary Disablement Benefit
Form 12	A Maternity Benefit for Sickness
Form 13	Sickness or Temporary disablement or maternity benefit for sickness
Form 13	A Maternity benefit for sickness
Form 14	Sickness or temporary disablement or maternity benefit for sickness
Form 14	A Maternity Benefit for Sickness
Form 16	Accident report from employer
Form 17	Dependent's or funeral benefit (Death Certificate)
Form 18	Dependent's Benefit (Claim Form)
Form 18	A Dependent's Benefit (Claim for periodical payments)
Form 19	Maternity Benefit (Notice of Pregnancy)
Form 20	Maternity Benefit (Certificate of Pregnancy)
Form 21	Maternity Benefit (Certificate of expected confinement)
Form 22	Claim for Maternity Benefit
Form 23	Maternity Benefit (Certificate of confinement or miscarriage)
Form 24	Maternity Benefit (Notice of work)
Form 25	Claim for Permanent Disablement Benefit
Form 26	Certificate for permanent disablement benefit
Form 27	Declaration and certificate for dependant's benefit

11.6 Rate of contribution of the wages:

For employer- 4.75%

For employee:- 1.75%

But in those areas where the act is implemented first time, initially contribution for first twenty-four months as under Rate of contribution of the wages:

For employer- 3% of wages

For employee- 1% of wages

(W.e.f. 6th Oct., 2016)

The Payment of Wages Act, 1936

12.1. Brief and applicability of the Act

The Payment of Wages Act will apply to persons employed in any factory or employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration, and to persons employed in an industrial or other establishment.

In this act "factory" means a factory as defined in section 2(m) of the Factories Act, 1948 and includes any place to which the provisions of that Act have been applied under section 85(1) thereof.

"Industrial or other establishment" means any-

- (a) Tramway service, or motor transport service engaged in carrying passengers or goods or
- (b) both by road for hire or reward;
- (c) Air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India;
- (d) Dock, Wharf or Jetty; Inland vessel, mechanically propelled;
- (e) Mine, Quarry or Oil-field;
- (f) Plantation;
- (g) Workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;
- (h) Establishment in which any work relating to the construction,

development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation, or to the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on.

This Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed Rs 18000/- per month or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify."

12.2. Employer's responsibility for Payment of wages

Every employer shall be responsible for the payment of all wages required to be paid under the payment of wages act to persons employed by him and in case of persons employed,-

- (a) In factories, if a person has been named as the manager of the factory under clause (f) of subsection (1) of section 7 of the Factories Act, 1948 (63 of 1948);
- (b) In industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;
- (c) Upon railways (other than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned;
- (d) In the case of contractor, a person designated by such contractor who is directly under his charge; and
- (e) In any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act, the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

12.3. Maintenance of registers and records

It is the responsibility of the employer to maintain such registers and records giving particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages and such other particulars. Every record and register maintained shall be preserved for a period of 3 years after the date of last entry made therein.

- (a) Register of wages in form no. II
- (b) Register of deductions for damage or loss in form no. III
- (c) Register of advance in form no. IV
- (d) Inspection book is required to be maintained

12.4. Display requirement

Abstract of the act is required to be displayed always

Notice of dates of payment to be displayed always

Display of rates of wages to be displayed always

12.5 Compliance requirement (return)

Annual return submission in form no. V

Due date of submission is on or before 15th of February of each year

The Payment of Wages Act, 1936

COMPLIANCE CHECKLISTS

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objective</p> <p>Regulate the payment of wages to certain classes of employed persons</p> <p>Coverage of employees</p> <p>Drawing average wage up to Rs.18,000/- p.m.</p>		
Sec 3	<p>Responsibilities for payment of wages</p> <p>Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed under this Act such as</p> <ul style="list-style-type: none"> -as manager of factory under clause (f) u/s 7(1) of factories act -person responsible to employer for supervision and control of the establishment -in case of contractor a person designated by such contractor directly under his charge -in any other case, a person designated by the employer as a person responsible for complying with provisions 		
Sec 4	<p>Fixation of wage periods</p> <p>The wage period fixed for payment of wages shall not exceed one month</p>		
Sec 5	<p>Time of payment of wages</p> <p>1. The wages of every factory in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day</p>		

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
Sec 7(3)	<p>&When more than 1000 workers, before the expiry of the 10th day</p> <p>2. where the employment of any person is terminated by or on behalf of the employer, the wages earned shall be paid before the expiry of the second working day from the day on which his employment is terminated</p> <p>Limits on total amount of deductions:</p> <p>-in cases where such deductions are wholly or partly made for payments to the co-operative societies*75% of wages</p> <p>-in any other case 50% of wages</p>	Form I	
Sec 8 &	<p>Fines</p> <p>-appropriate Government approval is required</p> <p>-fine amount shouldn't exceed the amount equal to 3% of the wages payable to him in respect of that wage period</p> <p>-no fine to employed person below age of 15 years</p> <p>-no fine imposed on any employed person shall be recovered by installments or after the expiry of 90 days from the date on which it was imposed</p> <p>-all fines and all realizations shall be recorded in a register to be kept by the person responsible for payment of wages under section 3 in such a form as may be prescribed</p>	Form I	
Rule 3	<p>Register of fine</p> <p>-no register of fine is maintained</p>		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	unless particulars required in Form XIII are contained in any other records maintained by the paymaster under any other labour law		
Sec 9	Deduction for absence from duties for unauthorized absence -Absence for whole or any part of the day if 10 or more persons absence without reasonable cause, deduction of wages up to 8 days		
Sec 10	Deduction for damage or loss For default or negligence of an employee resulting into loss, show cause notice to be given to the employee.	Form II as per rule 4 (register of damage or loss kept for 3 years)	
Rule 5	Register of wages -details of person employed -the work performed by the employed person -the gross wages earned by each person -the total of all deductions made from these wages -the wages actually paid to each person employed for each wage period -date of payment -signature or left thumb-impression of the person		
Rule 5-B	Wage slip -wage slip containing provisions in rule 5 issued to employed person -such wage slip is not needed if the paymaster issues wage slip under		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	rule 27(2) of Tamilnadu minimum wages rules 1953		
Rule 6-A	<p>Notice of rates wages to be paid to workers</p> <p>-notice is displayed near main entrance of the factory specifying rates of wages payable to different classes of workers</p> <p>-notice shall be in English and in the language of the majority of the persons employed</p> <p>-if more than 100 persons displayed in each section in the department.</p>	Form VI	
Rule 17	<p>Advances</p> <p>-an advance of wages not already earned shall not without previous permission of Inspector exceed an amount equal to the wages earned during preceding two calendar months or if not employed twice the wages he likely is to earn</p> <p>-any advance may be recovered in installments by deduction from wages spread over not more than 12 months</p> <p>-no installment by which an advance is repaid shall exceed 1/3 or where the wages for any wage period aren't more than Rs.20, ¼ of the wages for any wage period in respect of which the deduction is made</p>	Form III	
Sec 11-A	<p>Deduction in respect of house accommodation :</p> <p>Deduct the amount from wages as per specification of State Government for house accommodation in writing</p>		
Rule 17-A	Loan granted to an employed person		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	for the purchase of house-building sites as per u/s7(2)(fff) shall not exceed 10000 and interest chargeable shall not exceed 6% p.a		
Rule 18-A	<p>Display of notice prescribed under Rule 6-A:</p> <p>-copies of notice under rule 6-A shall be sent to Inspector in duplicate within whose jurisdiction the factory is situated every year not later than 15th January</p> <p>-if change in notice, intimation made no later than fortnight from the date onwhich such alteration was made</p>		
Rule 18-B	<p>Notice to Inspector</p> <p>-every paymaster shall send a notice in form VII so as to reach the inspector whose jurisdiction the factory is situated not later than 31st January every year</p>	Form VII	
Sec 11-C	<p>Deductions in respect of profession tax</p> <p>-required by the local authority in writing to deduct the amount from employed person</p>		
Sec 13-A	<p>Maintenance of registers and records</p> <p>-Maintain records and registers for persons employed and preserve it for 3 years after the date of last entry made therein.</p>		
Sec 15 (2)	<p>Claims arising out of deductions from wages or delay in payment of wages</p> <p>-Form A for individual application (within 12 months from the date of deduction)</p> <p>-Form B for group application</p>		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	-Form C for application by an inspector or person permitted by the authority or authorised to act -Form D for certificate of authorization		
Sec 15(3)	Refund along with compensation not exceeding 10 times the amount deducted and not exceeding 3000 but not less than 1500	Form E & Form F for record of order of direction	
	-wages paid before the disposal of application not exceeding Rs.2000		
Sec 17	Appeal -by the employer or person responsible for payment of wages, compensation exceeds Rs.300 OR -by employed person or any legal practitioner or any inspector or any person authorised to act u/s 15(2) wages withheld Rs.20 OR from unpaid group to which employed person belongs exceeds Rs.50 -within 30 days of the date order was made	Form G	
Sec 20	Penalties : -contravention of section 5, section 7, section 8 except sub section (8) and section 11 to 13 shall be punishable with fine not less than Rs.1500 which may extend to Rs.7500 -contravention of section 4, section 5 & 6 and section 25 shall be punishable with fine which may extend to Rs.3750 -contravention of section 3 shall be punishable with fine which may extend to Rs.3000 -fail to maintain record or register or furnish information or gives false answer to question necessary for obtaining information shall be		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>punishable with fine not less than Rs.1500 which may extent to Rs.7500</p> <p>-willfully obstructs an inspector in discharge of his duties or refuses to accord an Inspector any facility for making any entry, inspection, supervision or refuses to produce on demand of Inspector any register or other document shall be punishable with fine not less than Rs.1500 which may extent to Rs.7500</p> <p>-any person convicted of any offence punishable under this act is again guilty of an offence involving contravention of same provision shall be punishable with fine not less than Rs.3750 which may extent to Rs.22500</p> <p>-fails to pay the wages of any employed person by the date fixed by the authority shall be punishable with an additional fine extent to Rs.750 for each day.</p>		
	<p>Rule 22 & sec 25 Abstract of the act :</p> <p>-a notice containing such abstracts of this act and of rules made there under in English and in the language of the majority of persons employed in the establishment</p>	Form V	
Sec 25-A	<p>Payment of undisbursed wages in cases of death of employed person :</p> <p>-to be paid to the person nominated by him</p> <p>-if no nomination or cannot be paid to the nominated person such amount so deposited with prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed</p>		

The Minimum Wages Act, 1948

13.1. A brief introduction

The minimum wages act would like to ensure making the wage payment as set by the government to skilled and unskilled workmen. The minimum wages is set taking into consideration of a 'living wage' that is the level of income for a worker which will ensure a basic standard of living including good health, dignity, comfort, education and provide for any contingency.

13.2. Display requirement

Form IXA Abstract of the Act and Rules to be displayed Form

13.3. Record requirement

Form V Muster roll cum wage register

(unless registers in Form 17 & 19 appended to Maharashtra Factories Rules 1963 and a register in form II appended to the Maharashtra Payment of Wages Rules 1963 are maintained)

Form I Register of Fines

Form II Register of deduction for damage or loss caused to the employer by neglect or default of the employed person

Form IV Overtime register for workers for month ending.....

Form X Register of Wages Form Inspection book

13.4. Compliance required (return)

Annual return is required to be submitted in Form III every year on or before 15th February

13.5. Other prescribed forms under the Minimum Wages Act

- Form VI Form of Claim by an Employee for payments lesser than the stipulated Minimum Wages
- Form VIA Form of Group Application by Employees for payments lesser than the stipulated Minimum Wages
- Form VII Form of application by an Inspector or person acting with the permission of the authority for complaint against the wages paid Form
- Form VIII Form of Authority in favour of a Legal Practitioner or any Official of a Registered Trade Union Form
- Form IX Form of summons subsection to the Opponent to appear before the Authority Form
- Form XI Wage Slip Form

MINIMUM WAGES ACT, 1948**COMPLIANCE CHECKLISTS**

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objective</p> <p>To provide for fixing minimum rates of wages in certain employments</p>		
Sec. 3	<p>Fixing of minimum rates of wages</p> <p>The appropriate Government shall fix Minimum Wages for employees in an employment specified in Part I or Part II of the Schedule and in an employment added to either part by notification under section 27.</p> <p>The appropriate Government may in respect of employment specified in part II of the Schedule may fix minimum rates of wages for a part of the state or for any specified class or classes of such employment in the whole state or part thereof</p> <p>The appropriate Government may fix-</p> <ul style="list-style-type: none"> • a minimum rate of wages for time work • a minimum rate of wages for Piece work at piece rate • Piece work for the purpose of securing to such employees on a time work basis • Overtime work done by employees for piece work or time rate workers. 		
Sec. 4	<p>Minimum Rates of Wages</p> <p>Such as Basic rates of wages, special allowance and with or without the cost of living allowance and cash value of the concessions</p>		
Sec. 5	<p>Procedure for fixing and revising Minimum Rates of Wages</p> <p>Appointing Committee in case of scheduled employment and sub-committee to hold enquiries and advise</p>		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	in respect of fixation and revision and by notification publishing its proposals not less than 2 months from the date of notification for taking proposals into consideration		
Sec. 9	<p>Composition of Committee</p> <p>Appropriate Government may nominate Representatives of employer and employee in scheduled employment in equal number and independent persons not exceeding 1/3rd of its total number and one such independent person to be appointed as the Chairman.</p>		
Sec 11	<p>Wages in kind</p> <p>-wages paid normally in cash but partly can be paid by cash and kind with the appropriate government notification</p>		
Sec.12	<p>Payment of Minimum Rates of Wages</p> <p>Employer to pay to every employee engaged in scheduled employment at rate not less than minimum rates of wages as fixed by Notification without making deduction other than those prescribed.</p>		
Rule 20	<p>Mode of computation of the cash value of wages:</p> <p>-average retail prices at the nearest market for the period of 3 months immediately preceding the month for which wages is computed taken into account for cash value of wages paid in kind</p> <p>Time and conditions of payment of wages and the deductions permissible from the wages.</p> <p>Payment of wages:</p> <p>- The wages of a worker shall be paid on a working day</p> <p>- In the case of establishments in which less than 1000 persons are employed before the expiry of the seventh day</p>		

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
Rule 21	<p>- In the case of other establishments wages shall be paid before the expiry of the 10 of the day after the last day of wage period.</p> <p>- In case of termination of employment by or on behalf of the employer or due to resignation of employee, wages shall be paid within two days after termination of such employment.</p> <p>- Notices in Form IX-A containing the minimum rate of wages fixed, together with abstracts of the Act, the rules and the name and address of the Inspector shall be displayed in English and in a language understood by the majority of the workers at the main entrance and maintained in a clean and legible condition.</p> <p>Deduction from wages:</p> <p>-In case of scheduled employment the following may be deducted</p> <ul style="list-style-type: none"> • Fines in respect of such Acts and Omissions as may be specified by the Central Government • Deductions for Absence of duty • Deductions for damage to or loss of goods or money where damage is directly attributed to his neglect or default. • Deductions for house accommodation supplied by the employer or by a State Government or any authority constituted by the State Government for providing housing accommodation • Deductions for such AMENITIES & SERVICES supplied by the employer as specified by the Central Government. (AMENITIES & SERVICES do not include the supply of tools and protectives required for the purposes of employment) • Deductions for recovery of advances 		

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
	<p>or for adjustment of over – payments of wages.(Provided such advances does not exceed an amount equal to wages for 2 calendar months & in no case shall the monthly installments of deductions exceed one fourth of the wages earned in that month & the entire advance shall be recovered within a period of 12 months)</p> <ul style="list-style-type: none"> • Deductions of income tax payable • Deductions made by the order of Court or other competent authority • Deductions for subscription to and for repayment of advances from any provident fund under Provident Fund Act 1925 • Deductions for payment to co-operative societies • Deductions made with written authorization for payment of any premium on his life insurance policy to LIC under Life Insurance Corporation Act, 1956. <p>-in case of fine the amount imposed shouldn't exceed on wage period or an amount equal to 3% and in case of damage the amount shouldn't exceed the cost of replacement or book value of the article whichever is less and if exceeds amount equal to 1/3 of the wages payable the deduction shall be made in installments</p> <p>-register in form I (register of fine)and form II (register of deduction for loss or damage caused to the employer)and form III annual return submitted by the employer and form III isn't required if combined annual return submitted in form no.22 as per TN rules 1950</p>		
Sec. 13	Fixing Hours for Normal Working day		
	<ul style="list-style-type: none"> • The appropriate Government may fix- 		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Rule 24	<p>e number of hours of work constituting a normal working day inclusive of one or more specified intervals.</p> <ul style="list-style-type: none"> • 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 <p>Number of Hours of work which shall constitute a normal working day</p> <p>(1)The normal Working hours are as follows</p> <ul style="list-style-type: none"> • In the case of an adult 9 hours • In the case of a child 4 ½ hours & • In the case of an adolescent employed in any plantation 6 ¼ hours <p>(2) No worker shall be allowed to work for more than 9 hours in any day & 48hours in any week and allowed to work more than limit fixed but not exceeding 10hrs in a day and weekly 54hrs</p> <p>(3) The period of work shall never exceed 5hrs with adequate interval of half an hour</p> <p>(4) Period of work of an adult apart from others than employment in any plantations inclusive of his interval for rest under sub-rule(3), they shall not spread over more than twelve hours in any day</p> <p>(5) he is certified to work as an adult or a child by a competent medical practitioner approved by the Government</p> <p>These provisions in the case of workers in agricultural employment including in plantations be subject to modifications notified by the Government.</p> <p>Fixation of Minimum Rates of Wages</p> <ul style="list-style-type: none"> • The appropriate government to fix 		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>minimum rates of wages. The employees employed in para 1 or B of Schedule either at 2 or either part of notification u/s 27.</p> <ul style="list-style-type: none"> • To make review at such intervals not exceeding five years the minimum rates or so fixed and revised the minimum rates. 		
Sec 14	<p>Overtime</p> <p>-in case minimum rate of wages is fixed by the hour basis Overtime has to be paid on the time exceeding the normal working hours or the rate mentioned by the government.</p>	Form IV	
Rule 26	<p>Extra Wages for overtime</p> <p>When a worker works on any day and for more than 48 hrs in any week he shall be entitled to wages in respect of overtime work</p> <ul style="list-style-type: none"> • In the case of any other scheduled employment, at double the ordinary rate of wages. 		
Rule 24-B	<p>Night Shifts</p> <p>Where a worker works on shift which extends beyond midnight</p> <ul style="list-style-type: none"> • 'a holiday for the whole day' for the purpose of rule 23, mean a period of 24 consecutive hrs beginning from the time when his shift ends • The following day in such a case shall be deemed to be the period of 24hrs beginning from the time when such shift ends, and the hours after mid-night during which the worker was engaged in work shall be counted towards the previous day. <p>Weekly Holiday</p> <ul style="list-style-type: none"> • Unless permitted by Government no worker shall be allowed to work on the 		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>first day of the week except where he has a holiday for the whole day on one of the 3 days immediately before or after the said day.</p>		
Rule 23	<ul style="list-style-type: none"> Any worker who has worked on the said day and has had a holiday on one of the five days immediately preceding it, the said day shall be included in the preceding week for the purpose of calculating his weekly hours of work. (For this purpose "WEEK" shall mean a period of seven days beginning at midnight on Saturday night) <p>No substitution of the weekly holidays shall be made in the case of any plantation if it is to result in any worker working for more than 54 hours in a week under Plantations Labour Act 1951</p>		
Sec.15	<p>Wages of workers who works for less than normal working days</p> <p>The worker would 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: Provided he shall not be entitled to receive wages for a full normal working day</p> <ul style="list-style-type: none"> In any case where his failure to work is caused by his unwillingness to work and not by the omission of the employer to provide him with work & <p>The following are the circumstances where an employee employed for a period of less than the requisite number of hours constituting a normal working day shall not be entitled to receive wages for a full normal working day</p>		
Rule 25	<ul style="list-style-type: none"> Tempest, fire, rain, breakdown of machinery or stoppage of or any cut in the supply of power, epidemic, civil commotion or other causes beyond the control of the employer. 		

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
	<ul style="list-style-type: none"> • Refusal to work • Strike or stay - in – strike <p>(2) if the work has been interrupted for the reasons stated above and, if the employee has started work for the day, he shall be paid wages at half the minimum rates of wages fixed for normal working day if the interruption occurs before the interval and if the interruption occurs after the interval he shall be paid wages for full normal working day.</p>		
Sec. 16	Wages for two class of work		
	Where an employee does two or 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. 17	Minimum time rate wages for piece work		
	If an employee is employed on piece work for which minimum time rate and not minimum piece rate is fixed, he shall be paid wages not less than minimum time rate		
Sec. 18	Maintenance of Registers and records		
	<ul style="list-style-type: none"> • Register of Fines – Form I Rule 21(4) • Annual Returns – Form III Rule 21 (4-A) • Register for Overtime – Form IV Rule 25 • Register of Wages–Form X, Wages slip–Form XI, Muster Roll–Form V Rule 26 • Representation of register – for three year Rule 26-A Sec. 18 <p>-shall be preserved for 1 yr.</p> <p>Form of registers and records</p> <ul style="list-style-type: none"> • A register of wages shall be maintained by every employer at the work spot or the principal office attached to it and shall include- • The minimum rates of wages payable to each employed person 		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Rule 27	<ul style="list-style-type: none"> • Total overtime worked in the wage period • Overtime earnings in the wage period • Gross wages of each person • All deductions made from wages • The wages actually paid to each person and the date of payment • Wage slip containing the above particulars shall be issued by the employer • Every employer shall get the signature or thumb impression of the employee at the time of payment of wages. • Entries in the Wage books and wage slips shall be authenticated by the employer or any person authorised by him. • A muster roll shall be maintained by every employer at the work spot or principal office attached to it and it shall be written up every day on which work is performed. 	Form XI	
Sec 20	<p>Claims</p> <p>(2) If the employee has any claim, he himself, or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf or any Inspector or any person acting with the permission of the authority Under sub-section (1) may apply to such authority for a direction</p> <p>Provided that every such application shall be presented within 6 months from the date on which the minimum wages become payable and if presented with delay sufficient cause has to be given</p> <p>(4) When application is entertained the authority shall hear the applicant and the employer or give them an opportunity of being heard.</p>	Form V (muster roll)	

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
	<p>(5) If the Authority hearing any application under this Section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding fifty rupees be paid to the employer by the person presenting the application.</p>		
	<p>(6) Any Amount directed to be paid under this section may be recovered If the Authority is a Magistrate, by any Authority as if it were a fine imposed by the Authority as a magistrate, or</p>		
	<p>If the Authority is not a Magistrate, by any Magistrate to whom the Authority makes application in this behalf, as if it were a fine imposed by such Magistrate.</p>		
	<p>(7) Every direction of the Authority under this Section shall be final.</p>		
	<p>Applications</p>		
	<p>An application by or on behalf of an employed person or group of employed persons shall be made in duplicate.</p>		
	<p>Each application in form VI or form VII shall contain the following</p>		
	<ul style="list-style-type: none"> • Name of Applicant • Period of service of each applicant • Minimum wages payable in respect of each applicant • Wages actually paid in respect of each applicant • Difference between the minimum wages payable & the wages actually paid in respect of each applicant 		
	<p>Authorization</p>		
	<p>The Authorization to act on behalf of an employed person shall be given in form VII by an instrument which shall be</p>		

Sections/ Rules	Brief Details of Sections/Rules	Document Reference	Compliance status
	<p>presented to the Authority bearing the application & shall form part of the record</p> <p>Appearance of Parties</p> <p>(1) The Authority shall serve upon the employer by registered post a notice to appear before him on a specified date.</p> <p>(2) If the employer or representative fails to appear on the specified date the Authority may hear and determine the application ex parte.</p> <p>(3) If the applicant or representative fails to appear on the specified date the Authority may dismiss the application.</p>	<p>Form VI by employee or Form VII by inspector or person acting with consent of authority</p>	
Rule 30	<p>Preservation of records</p> <p>Files relating to the claims U/S 20 of the Act shall be preserved for a period of 3 years from the date of final decisions.</p> <p>Destruction of records</p> <p>The records may be destroyed either by way of tearing or by burning in the presence of head of the office provided that records of secret or confidential nature shall be destroyed by way of burning only</p>	<p>Form VIII in favour of legal practitioner</p> <p>Form IX by opponent</p>	
Sec. 22	<p>PENALTIES</p> <p>Any employer shall be levied penalty</p> <ul style="list-style-type: none"> - For paying less than minimum rates of wages - For contravention of any provisions pertaining to fixing hours for normal working day etc. - For contravening any rule or order made U/S 13 		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Shall be punishable with imprisonment upto 6 months or with fine upto Rs.500/ - or with both</p>		
Sec 22A & 22B	<p>General provisions for punishment of other offences</p> <p>Any employer who contravenes any provisions of this Act or Rules shall be punishable with fine which may extend to Rs.500/-</p> <p>-no cognizance of an offence is made unless complaint is made within 6 months of the date of offence</p>		
Sec 22D	<p>Payment of undisbursed amounts due to employees</p> <p>Such amounts could not or cannot be paid to the employee on account of his death before payment or on account of his whereabouts not being known, be deposited with the prescribed authority who shall deal with the money so deposited in state treasury within one month from the date of expiry of 3 months from the date of realization of an amount</p> <p>-send original challan to the authority within a week from the date of deposit with statement in duplicate in form A</p> <p>-the authority with intervals of 6 months publish a statement in form B</p> <p>-can be claimed within 3 years from the date of deposit of the money with application in form C</p>		

The Payment of Bonus Act, 1965

14.1. Brief of Payment of Bonus Act

The payment of Bonus Act provides for payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith. It extends to the whole of India and is applicable to every factory and to every other establishment where 20 or more workmen are employed on any day during an accounting year or 10 or more workmen in case they are employed in Maharashtra State. As discussed earlier, this is one of the acts relating to the payment of wages / remuneration related act to workmen.

14.2. Duties of Employer

- To calculate and pay the annual bonus as required under the Act
- To submit an annual return of bonus paid to employees during the year, in Form D, to the Inspector, within 30 days of the expiry of the time limit specified for payment of bonus.
- To co-operate with the Inspector, produce before him the registers/records maintained, and such other information as may be required by them.
- To get his account audited as per the directions of a Labour Court/Tribunal or of any such other authority

14.3. Records required to be maintained

- a. Register A : For Available and Allocable Surplus
- b. Register B : For Set Off and Set on
- c. Register C : For Bonus Payment

In addition to the above unclaimed bonus register is also required to be maintained.

Inspector book is another requirement under the Payment of Bonus Act 1965. Audited annual accounts would be required to be shown at the time of inspection when demanded by the bonus inspector.

14.4. Compliance required

There is only one requirement of submission of annual return each year within 30 days from the date of payment / disbursement of bonus to the employee in Form No. D

The bonus is required to be made within eight months of the financial years ending or within one month from the date of enforcement of the award or coming into operation of a settlement following an industrial dispute regarding payment of bonus. However if there is sufficient cause extension may be applied for.

The Payment of Bonus Act, 1965

COMPLIANCE CHECKLISTS

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objectives :</p> <ol style="list-style-type: none"> 1. provide for payment of bonus to persons employed in certain establishments 2. Allow employee to share prosperity of establishments <p>Applicability</p> <p>-Every Factory and every other establishment employing not less than 20 persons on any day during an accounting year.</p> <p>-The state government can however extend its provisions to any establishment employing less than 20 persons but more than 10 persons.</p> <p>-the employee has worked not less than 30 working days in that year.</p> <p>-Employee means any person (other than an apprentice) employed on a salary or wage not exceeding twenty one thousands rupees per month in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.</p>		
Sec 2(21)	<p>Definition :</p> <p>-A register showing the computation of the allocable surplus referred to in clause (4) of Section 2</p> <p>- A register showing the details of the amount of bonus due to each of the employees, the deduction u/s 17 (like puja bonus) and 18 (like loss due to</p>	<p>Form A - as per rule 4(a)</p> <p>Form C - as per rule 4(c)</p>	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	fraud) and the amount actually disbursed.		
Sec 8	Eligibility for bonus and its payment Employees who are in services for not less than 30 working days in an accounting year and shall also include the seasonal worker who had worked for more than 30 working days.		
Sec 9	Disqualification Workmen dismissed for reasons of fraud, violent behavior, theft, misappropriation & sabotage of any property of the establishment etc.		
Sec 10	Minimum Bonus Payment of minimum bonus at 8.33% of salary or wage earned or Rs.100 whichever is higher whether or not the employer has any allocable surplus in the accounting year Rs.100 in case of employees above 15 years & Rs.60 in case of employees below 15 years .		
Sec 11	Maximum bonus Where the allocable surplus after adjusting carry forward losses exceed the minimum limit, bonus shall be paid at 20% of salary or wages.		
Sec 12	Calculation of bonus The salary or wage of an employee exceeds seven thousand rupees or the minimum wage for the scheduled employment as fixed by the appropriate government, whichever is higher per mensem, the bonus payable to such employee under sec 10 or, as the case may be under sec 11 shall be calculated as if his salary or wages were seven thousands rupees or the minimum wage for the scheduled employment, as fixed by the appropriate government, whichever is higher.		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 13	Deductions in certain cases The Bonus shall be paid in accordance with attendance and deductions are made for days of leave		
Sec 14	Computation of number of working days The employee is deemed to have worked on all the following days during the accounting year 1. Days of layoff of establishment 2. leave with salary or wages 3. Absence due to temporary disablement caused by accident during his employment 4. the employee has been on maternity leave with salary or wage		
Sec 15	Set-on and set-off of allocable surplus where allocable surplus exceed amount of maximum bonus payable to employees, the excess shall subject to 20% of total salary be carried forward for being set-on in subsequent years up to 4th accounting year as per schedule IV	Form B - as per rule 4(b)	
Sec 17	Adjustment of interim bonus : -any interim or puja bonus paid during the year are eligible for deduction from bonus payable under this act		
Sec 18	Deduction from bonus : -the loss caused by employee shall be liable for deduction in the same accounting year		
Sec 19	Time limit for payment of bonus -Within 8 months from the close of accounting year. -within one month from the date on which the award becomes enforceable or the settlement comes into operation in respect of dispute		
Sec 26	Maintenance of registers and records : -registers of computation of allocable		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	surplus, set on and off register, details of bonus payment, deduction u/s 17,18 and amount actually disbursed		
Sec 28	Penalty. -If any person-- (a) contravenes any of the provisions of this Act or any rule made there under and any direction or requisition made there under, shall be : -Punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.		
Sec 31A	Payment of bonus with regard to production -If before or after commencement of the act if agreement between employee or employer as to production basis bonus doesn't exceed 20% but sec 10 will not apply		
Rule 5	Submission of return Under Section 19, within 30 days of expiry of the time limit specified in Sec. 19 for payment of bonus to the inspector .	Form D	

The Employees' Compensation Act, 1923

15.1. The purpose / objective of the Act

Employees' Compensation Act, aims to provide workmen and/or their dependents some relief in case of accidents arising out of and in the course of employment and causing either death or disablement of workmen. It provides for payment by certain classes of employers to their workmen compensation for injury by accident. Act does not apply where workman is covered under ESI Act - Since a workman is entitled to get compensation from Employees State Insurance Corporation, a workman covered under ESI Act is not entitled to get compensation under Employees' Compensation Act, as per section 53 of ESI Act, 1948.

15.2. Employers Liability for Compensation (Accidents)

The employer of any establishment covered under this Act, is required to compensate an employee:

- (a) Who has suffered an accident arising out of and in the course of his employment, resulting into
 - (i) death
 - (ii) permanent total disablement
 - (iii) permanent partial disablement, or
 - (iv) temporary disablement whether total or partial, or
- (b) Who has contracted an occupational disease?

15.3. Employer shall not be liable

- (a) In respect of any injury which does not result in the total or partial disablement of the workmen for a period exceeding three days;

- (b) In respect of any injury not resulting in death, caused by an accident which is directly attributable to
 - (i) the workmen having been at the time thereof under the influence or drugs, or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) The willful removal or disregard by the workmen of any safeguard or other device which he knew to have been provided for the purpose of securing the safety of workmen. The burden of proving intentional disobedience on the part of the employee shall lie upon the employer.
 - (iv) when the employee has contracted a disease which is not directly attributable to a specific injury caused by the accident or to the occupation; or
 - (v) when the employee has filed a suit for damages against the employer or any other person, in a Civil Court.

15.4. Records prescribed / required to be maintained

- a. Form A Deposit of Compensation for fatal accident (death)
- b. Form AA Deposit of Compensation for non-fatal accident to a woman or a person under legal disability
- c. Form B Receipt of Compensation
- d. Form C Statement of Disbursements
- e. Form D Compensation for non-Fatal Accidents
- f. Form E Receipt of Compensation Deposited under Section 8(2) of the Act
- g. Form F Application for Compensation by Workman
- h. Form G Application for Order to Deposit Compensation
- i. Form H Application for Commutation
- j. Form J Notice where indemnity is claimed - Rule 39(1)

- k. Form JJ Notice where indemnity is claimed - Rule 39(3)
- l. Form K Memorandum of Agreement Temporary Disablement
- m. Form L Memorandum of Agreement Permanent Disablement
- n. Form M Memorandum of Agreement Half Monthly Wages on Temporary Disablement
- o. Form N Notice to record a Memorandum of Agreement
- p. Form O Notice of refusal of Registration of agreement
- q. Form P Show cause Notice for Registration of agreement
- r. Form Q Show cause Notice for Registration of agreement to both the parties

The Employees' Compensation Act, 1923 has also specified for a register in Form R showing the Agreements to be maintained by the Commissioner Known as "Register of Agreements"

15.5. Compliance required

Reporting of the fatal accident in prescribed Form EE

There is no other requirement of any periodical returns since this act is applicable based on unforeseen event / circumstances.

**The Employees' Compensation Act, 1923
(Being followed in lieu of ESI Act)**

COMPLIANCE CHECKLISTS

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objectives :</p> <ol style="list-style-type: none"> 1. The act is a social security legislation 2. Provides for payment of compensation for workmen for injuries by accidents 3. The accidents and injuries include those arising out of and during the course of employment 4. Covers workmen and contractors employed by the company <p>Note : Establishment/Employees covered by ESI Act would not be covered by this act</p>		
Words and expressions	The word 'workman' and 'workmen' in the Act are substituted by the words 'employee' or 'employees' wherever they occur.		
Schedule II	Clerks were not covered for compensation under the Act. But now, Clerks are covered for compensation. Please refer to schedule-II for specified employments.		
Sec.4(a)	<p>Amount of compensation</p> <p>The minimum ceiling limit of compensation is Rs.1,20,000/- or 50% of the monthly wages of deceased multiplied by the relevant factor, whichever is more.</p>		
Sec.4(b)	The minimum ceiling limit of compensation for permanent total disablement is Rs.1,40,000/- or 60% of the monthly wages of deceased multiplied by the relevant factor, whichever is more		
Sub-Sec.2A of Sec. 4	Entitles an employee to reimbursement of actual medical expenditure incurred		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	by him for injuries caused during the course of employment.		
Explanation (a)&(b) of Sec.4	The Explanation II was omitted and a new sub-section (1B) has been added after Sub-section 1A of sec.4 whereby the maximum wage limit has been revised to Rs. 8000/-p.m.		
Sub-sec.(4) of Sec.4	The existing limit of funeral expenses has been revised to Rs.5000/-		
Sec 8	Distribution of compensation Compensation in respect of a fatal injury or lump sum payment to women/ legally disabled must be distributed only through the commissioner Payment made directly by the employer shall not be considered payment of compensation		
Sec 9	Compensation not to be assigned, attached or charged No lump-sum or half monthly payment payable under this Act shall in anyway be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law nor shall any claim be set off against the same		
Sec 10	Notice and claim No claim for compensation shall be entertained by a commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or in case of death within two years from the date of death		
Sec 10 A	Power to require from employers Statement regarding fatal accidents A statement giving circumstances of	Statement	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	death, indicating whether employer is liable to deposit compensation or not should be submitted within 30 days of notice served by Commissioner		
Sec 10 B Rule 11	Reports of fatal accidents and serious bodily injuries A notice in Form EE of any accident or bodily injury be given within 7 days from the date of accident	Form EE	
Sec 16	Return as to compensation Return specifying number of injuries in respect of which compensation has been paid in the previous year shall be made before the 15th February every year(1st Jan to 31st Dec) containing particulars provided in Notification GO MS No 1858/25.10.1989	Return	
Rule 12	Right of employer to present memorandum Information regarding results of investigation of inquiry made into circumstances or causes of the accident may be presented to the Commissioner by the Employer		
Sec 18A	Penalties Whoever fails to maintain a notice book required under u/s 10(3) or Fails to send to the commissioner a statement required u/s10A(1) or Fails to send a report required u/s 10B or Fails to make return required u/s 16 shall be punishable with fine extending to Rs.5000 No prosecution shall be instituted except by or with the previous sanction of a commissioner		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	No court shall take cognizance of any offence unless complaint is made within six months of the date on which the alleged commission of the offence came to the knowledge of the Commissioner		
Sec.25A	Time limit for disposal of cases relating to compensation Commissioner shall dispose of the matter relating to compensation within 3 months from the date of reference		
Rule 6 (1)	Deposit under Section 8(1) If injury results in death the statement shall be in Form A. In any other case the statement shall be in Form AA For both case the receipt shall be in Form B	Form A Form AA Receipt in Form B	
Rule 6 (3)	Statement of disbursements to be furnished on application by the employer shall be in Form C	Form C	
Rule 9	Deposit of compensation for non-fatal accidents, other than to a woman or person under legal disability to be submitted by the employer as & when an injury occurs. Receipt for compensation to be given by the Commissioner to the employer on receipt of form D in Form E	Form D Receipt in Form E	
Rule 11	Report of fatal accidents Within 7 days of death or serious bodily injury.	Form EE	
Rule 20	Application for compensation by workman to be presented in duplicate to Commissioner by Regd. Post or in person. Application for order to deposit compensation. Application for commutation to be made by the applicant and sent to the commissioner.	Form F Form G Form H	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Rule 48	Memorandum of Agreement concerning injury resulting in	Form K	
	a) temporary disablement	Form M	
	b) Permanent disablement to be sent by the employer to the commissioner.	Form L (each in duplicate)	
Rule 49	Notice to record memorandum of agreement to be issued by the commissioner to the parties concerned on receiving a memorandum of agreement.	Form N	
Rule 49	Notice to not record memorandum of agreement to be issued by the commissioner to the parties concerned on receiving a memorandum of agreement , stating reasons for failure to record the memorandum of agreement	Form O	
Rule 50	Notice of showcause to be issued by the commissioner to the parties stating a date for hearing the parties and giving them an opportunity to show cause why the said agreement ought not to be registered.	Form P	
	Notice of showcause to be issued by the commissioner to the parties stating a date for hearing the parties and giving them an opportunity to show cause why the said agreement ought not to be registered and directing them to make all representations on the scheduled date	Form Q	
Rule 52	Registration of Memorandum accepted for record to be maintained by the commissioner in a Register bin Form R	Form R	

Maternity Benefit Act, 1961

16.1. Brief on Maternity Benefit Act

Motherhood is a very special experience in a woman's life. A woman needs to be able to give quality time to her child without having to worry about whether she will lose her job and her source of income. That is where the concept of maternity leave and the benefits it entails, comes in handy. The Maternity Benefits Act, 1961, gives her the assurance that her rights will be looked after while she is at home to care for her child.

The object of the Act is to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits and certain other benefits.

16.2. Display Requirement

Abstract of the act is required to be displayed always

16.3. Records to be maintained

(a) Form A – Muster roll

(b) Form 10 - Maternity Benefit Register

Inspection book is required to be maintained in addition to the above.

16.4. Compliance required

Annual return in form 11 is required to be submitted on or before 15th January every year

The Maternity Benefit Act, 1961**COMPLIANCE CHECKLISTS**

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objectives :</p> <ul style="list-style-type: none"> • To regulate employment of woman for certain periods before and after child birth and to provide for maternity benefit • Payment of maternity benefit shall apply to women workers to whom ESI Act does not apply. • The Act applies to all establishments in which ten or more people are employed 		
Sec 4	<p>Employment of, or work by, women prohibited during certain period</p> <p>-An employer is prohibited from the employment of women during the six weeks subsequent to their delivery or miscarriage.</p>		
Sec 5	<p>Right to payment of maternity benefit</p> <p>-The maternity benefit shall be at the rate of average daily wage for the period of actual absence.</p> <p>-The maximum period of entitlement shall be 80 working days in the 12 months immediately preceding the date of her expected delivery and giving written notice to employer about 7 weeks before the date of her delivery that she is absent for 6 weeks before and after delivery.</p> <p>-A woman worker shall not be entitled to maternity benefit if she had actually worked in an establishment of the employer from whom she claims maternity benefit for a period of less than 80 days in the 12 months immediately preceding the date of her expected delivery.</p>	Form A & E	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>- Women earning less than 15000 may be offered ESI scheme will not be eligible for maternity benefit and will receive the maternity benefit under ESI scheme as per amendment bill 2007 no XXXVIII of 2007 dated on 1st May</p> <p>-qualifying period will not be applicable to a woman who has immigrated into the state of Assam and was pregnant at the time of the immigration</p>		
Sec 6	<p>Notice of claim for maternity benefit and payment thereof.</p> <p>-Maternity benefit shall be payable to employee or any other persons as per the nomination.</p> <p>-whenever the payment is made as above, a receipt shall be obtained by the employer in FORM E from the person to whom the payment is made</p> <p>-The amount of benefit up to the period-expected delivery shall be paid in advance. The balance due for the subsequent period shall be paid within 48 hours form delivery of child</p> <p>-if notice is not given, she can give notice after the delivery</p> <p>- failure of notice to be given will not disentitle the women for the maternity benefit, she can approach the Inspector who is by own motion or by written application order such payment of benefit</p>	Form 'D'	
Sec 7	<p>Payment or maternity benefit in case of death of a woman</p> <p>-Payment of maternity benefit shall be made to the nominee or legal heir in case of death of employee</p>	Form C	
Sec 8	<p>Payment of medical bonus</p> <p>Every women entitled to receive maternity benefit for medical bonus of</p>		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	Rs 2500/- to Rs 3500/- to if no pre-natal confinement and post-natal care provided by employer free of charge, The Central government before every 3 years by notification in the official gazette increase the amount of medical bonus subject to the maximum of 20000.		
Sec 9	Leave with wages for miscarriage	Form D	
	Leave for six weeks at the rate of maternity benefit shall be payable on proof of miscarriage being shown.		
Sec 9A	Leave with wages for tubectomy operation	Form B	
	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 10	Leave for illness arising out of pregnancy delivery, premature birth of child, or miscarriage		
	-Leave for a maximum period of one month shall be payable at the rate of maternity benefit.		
Sec 11	Nursing breaks		
	Women workers after delivery shall be allowed two breaks of apart from normal rest periods until the child attains the age of 15 months.		
Sec 18	Forfeiture of maternity benefit.		
	After authorized absence as per section 6, she can forfeit her claim to the maternity benefit.		
Sec 19	Abstracts of Act and rules there under to be exhibited	Form J	
	An abstract of the provisions of this Act and the rules made there under in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	the establishment in which women are employed.		
Rule 15	Display of provisions -An abstract of act and provisions shall be displayed in the local language		
Sec 20	Registers, etc. Registers, records and muster-rolls shall be maintained and Records shall be preserved for a period of two years from the date of last entry made therein		
Rule 14	Maintenance of records -Records should be preserved for 2 years from the date of last entry:		
Rule 16	Annual returns The employer of every establish-ment shall on or before 31st day of January in every year submit to the Inspector returns in Form K giving information as to the particulars specified in respect of the preceding year.		
Article 19 Under constitution of India 42 and 43	State policy The temporary workers and workers engaged on muster roll basis also are eligible to get the benefit		

The Equal Remuneration Act, 1976

17.1. The purpose / objective of the Act

The Equal Remuneration Act is a gift of “the International Women’s year” to women workers. It is made to give effect to the provision of Article 39 of the Constitution of India which contains a directive principle of equal pay for equal work for both men and women. The Act provides for the payment of equal remuneration to men and women workers for the same work or work of a similar nature and for the prevention of discrimination on the ground of gender against women in the matter of employment.

17.2. Penalties

If any employer (a) makes any recruitment in contravention of the provisions of the Act, or ((b) makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of similar nature, or (c) makes any discrimination between men and women workers in contravention of the provisions of the act, he would be punished with fine upto Rs 10,000/-

17.3. Registers to be maintained

Every employer shall maintain up to date a register in relation to the workers employed by him in Form D at the place where workers are employed.

17.4. Various forms under this act

- s. Form A Complaint form regarding contravention of the act
- t. Form B Claim regarding non-payment of wages
- u. Form C Authorization form to whom authorization given

The Equal Remuneration Act, 1976

COMPLIANCE CHECKLISTS

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objectives :</p> <p>To provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against woman, in the matter of employment and for connected or incidental thereto</p>		
Sec 4	<p>Payment of Remuneration at Equal Rates to Men and Women Workers</p> <ul style="list-style-type: none"> • The employer shall pay equal remuneration to men and women for same work or work of similar nature and the equality shall not be achieved by reducing the rate of remuneration of any worker but by increasing it. • The employer shall not for the purpose of complying with the provisions of sub section (1) reduce the rate of remuneration of any worker. 		
Sec 5	<p>No discrimination to be made while recruiting men and women workers</p> <ul style="list-style-type: none"> • Discrimination shall not be made by the employer against women in the matter of employment such as on promotion, training or transfer etc. • This section shall not affect any priority or reservation for SC or ST, ex-serviceman, retrenched employees in the matter of recruitment to the posts in an establishment or employment. 		
Sec 8	<p>Maintaining of Register</p> <p>The employers shall maintain register upto date for all workers employed in Form D at the place where the workers are employed</p>	<p>Rule 6</p> <p>Form D</p>	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 10	<p>Penalty</p> <p>A. When any employer omits or fails to maintain any register or other document in relation to workers, Simple imprisonment up to one month or fine up to Rs. 10,000 or both.</p> <p>B. If the employer :</p> <ul style="list-style-type: none"> • makes any recruitment In contravention to the provisions of the Act, or • makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or • makes any discrimination between men and women workers in contravention of the provisions of the Act, or • Omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of section 6. • Fine shall be not less than Rs. 10,000 which may extend to Rs. 20,000 or imprisonment not less than 3 months which may extend up to one year or with both for 1st offence, and up to two years for second and subsequent offences. 	Imprisonment up to 1 month	

The Industrial Employment (Standing Orders) Act, 1946

18.1. The purpose / objective of the Act

The purpose of the Industrial employment (Standing Order) Act, 1946, is to uniform the service conditions of workmen employed in the industrial Establishments.

Prior to the enactment of the Act, the employer was free to fix the service conditions of his workmen according to his own will and wish. As a result of this there were existed different sets of service conditions in different industrial establishments. This act has taken away the freedom of the employer to unilaterally fix the service conditions of his workmen. It has replaced contractual terms of service by statutory terms of service.

18.2. Applicability of the Act

Every Industrial establishment in which one hundred or more workmen are employed on any day of the preceding 12 months.

In the state of Maharashtra fifty or more workmen are employed in preceding 12 months and every establishment covered by the Bombay Shops and Establishments Act, 1948.

18.3. Model Standing order

“Model standing order” means the standing orders prescribed by the central Government or a state government for the purposes of the act to serve as a model.

18.4. Obligations of Employers

- a. Submission of draft standing orders for certification
- b. Not to Modify Standing orders without approval of the Certifying officer
- c. Display of standing orders: The employer should display the text of certified standing orders in English and in the language

understood by the majority of his workmen, at or near the factory gate and in all departments where the workmen are employed.

d. *To pay subsistence allowance*

When any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance. For the first 90 days of the suspension period- 50% of his wages For the remaining day of the suspension period- 75% of his wages, if the delay in the completion of domestic enquiry against such workman is not directly attributable to his conduct. In the State of Maharashtra beyond the 180 day of suspension period 100% of his wages.

No subsistence allowance is payable to a suspended workman if he takes up any employment during the period of suspension.

e. *To comply with the Standing Orders*

The employer should act in conformity with the certified standing orders, in dealing with day-to-day affairs of the workmen. Certified standing orders have the law like any other statutory instrument.

18.5. Penalties

- a. If employer does not submit draft standing orders as required or makes any change in the standing orders without following the proper procedure, he would be punished with fine up to Rs 5000. if continues the offence the fine would be Rs 200 per day after the first offence.
- b. if any employer does any act contravention of the certified standing orders, he would be punished with fine upto Rs 100. if he continues the offence, the fine would be Rs. 25 per day.

The Industrial Employment (Standing Orders) Act, 1946

COMPLIANCE CHECKLISTS

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objectives :</p> <p>1. Employer to define with precision the conditions of employment.</p> <p>2. The conditions be made known to workmen and conditions shall not be changed prejudicial to workmen</p>		
Sec 3	<p>Submission of Draft Standing Order</p> <p>Within 6 months from the date of the Act becoming applicable, the Employer shall submit to the certifying officer 5 copies of the draft Standing Order proposed by him for adoption in his industrial establishment.</p> <p>It should be accompanied by a statement giving prescribed particulars of workmen employed</p>		
Sec 5 & Rule 6	<p>Notice under section 5 to be sent by the certifying officer, on receipt of draft standing orders to the trade union requiring any objections from their end.</p> <p>If it is not possible to follow the procedure under Rule 6, he shall require the Employer to publish a copy of the draft standing order and a notice in Form AA on the notice board.</p>	Form A	
		Form AA	
Sec 8	<p>Register of Standing Orders</p> <p>A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a Register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying there for on payment of the prescribed fee.</p>	Form B	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Sec 9	<p>Posting of Standing Orders</p> <p>The text of Certified Orders shall be prominently posted. The language of text shall be both in English and a language understood by a majority of workmen or at near the entrance where the majority of the workmen enter the industrial establishment.</p>		
Sec 10A	<p>Payment of subsistence allowance</p> <p>Payment of allowance to suspended workmen pending investigation. The rate of wages shall be 50% of normal wages for first 90 days of suspension, and thereafter at 75% for remaining period of suspension.</p> <p>If any dispute arises regarding the subsistence allowance payable to a workman under subsection (1), the workman or the employer concerned may refer the dispute to the Labour Court constituted under the Industrial Disputes Act, 1947.</p>		
Sec 13	<p>Penalties and procedure</p> <p>An employer who fails to submit draft standing orders as required by Sec. 3, or who modifies his standing orders otherwise than in accordance with Sec. 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.</p>		
Standing order 1 of schedule I-B	<p>Service Records</p> <p>Maintenance of particulars of each workman.</p> <p>Certification of service</p> <p>Certificate specifying the nature of work and period of employment shall be provided on discharge of workmen.</p>	Form V	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	Confirmation		
	Issue of letter of confirmation in accordance with conditions in appointment letter. The letter to be served within 30 days from confirmation		
	Transfer		
	Reasonable Notice to be given to workman and reasonable joining time shall be allowed		
Rule 7-A(1)	Appeal to be made by any person desiring to prefer an appeal and forward it in quintuplicate to the appellate authority accompanied by a certified copy of standing orders.	Form IV	
Rule 7-A of Schedule I	Notice of changes in shift working. Any notice of discontinuance or of restarting of a shift working shall be displayed conspicuously by the employer on a notice board at the main entrance to the establishment. A copy of such notice to be given to the secretary of the registered union.	Form IV-A	

MATTERS TO BE PROVIDED IN STANDING ORDER UNDER THIS ACT

1. Classification of workmen, e.g. whether permanent, temporary, apprentices, probationers, or badlis or fixed term employment.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of procedure in applying for, and the authority which may grant, leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and re-opening of sections of the industrial

establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising there from.

8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions, which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
- 10-A. Age for retirement or Superannuation vide Bombay Act No. XXI of 1958.
- 10-B. Employment or re-employment of probationers or temporary or casual workmen, and their conditions of service Maharashtra Act LIV of 1974.

The Contract Labour (Regulation and Abolition) Act, 1970

19.1. The purpose / objective of the Act

The purpose of the contract labour(Regulation and Abolition) Act, 1970 is to prevent the exploitation of contract worker (if abolition),Regulate the employment of Contract labour and ensure health and welfare provision of contract labour.

19.2. Registration of establishment

Principal employer means the owner or occupier or the person who exercises ultimate control and supervision and manages the affairs of the establishment employing 20 or more workers through the contractor or the contractor(s) on deposit of required fees with Form 1 for registration of establishment.

19.3. Prohibition of employment of contract labour (SEC 10)

The appropriate government may after consultation with the central board or state board prohibit by notification in the official gazette employment of contract labour in any process, operation or other work in any establishment. Means the central government or a state government can prohibit any establishment from employing contract labour for performing any work after considering.

- a. Whether the conditions of work and benefit is satisfactory.
- b. Whether work is incidental (non essential) or Necessary.
- c. Whether perennial(recurrent) nature
- d. Whether it is done ordinarily through regular workmen
- e. Whether it is sufficient to employ whole time workmen.

19.4. Liability of principal employer

- a. Basically a contractor is responsible for payment of wages

to workmen employed by him as contract labour, before the expiry of the specified period. Every principal employer is required to nominate a representative duly authorized by him to present at the time of disbursement of wages by the contractor and it is the duty of such representative to certify the amounts paid as wages. In case the contractor fails to make payment of wages within the prescribed period or makes short payment, the principal employer is made liable to make payment of wages in full or the unpaid balance and recover from the contractor.

- b. To ensure provision for canteen, restrooms, sufficient supply of drinking water, latrines and urinals, washing facilities.
- c. Principal employer entitled to recover from the contractor for providing such amenities or to make deductions from amount payable.

19.5 Registers and other records to be maintained.

By Principal Employer: To maintain a register of contractors in Form XII

By Contractor: To maintain a register of contract labour a register in Form XIII and

- a. Display Notices in English and local languages
 - Rate of wages
 - Hour of work
 - Wage period
 - Date of payment of wages
 - Names and addresses of the inspectors having jurisdiction
- b. Muster Roll
- c. Register of wages
- d. Register of deduction
- e. Register of Over Time
- f. Register of Fines
- g. Register of advances
- h. Wage slips

19.6. Compliance required

- a. Every principal employer has to send yearly return not later than the 15th Feb following the end of the year. FORM "XXV" Rule 82(2)
- b. Every Contractor has to send half yearly return not later than 30 days in duplicate copy to the Licensing Officer. FORM "XXIV" Rule 82(1).

THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970**COMPLIANCE CHECKLISTS**

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>Objectives</p> <p>An act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstance and for matters connected therewith.</p> <p>Applicability</p> <ul style="list-style-type: none"> • To every contractor who employs in preceding 12 months 20 or more workmen. • To every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour. 		
Section 7 read with rule 17	<ul style="list-style-type: none"> • The principal employer who intends to appoint Contract Labour through contractors is required to make his establishment registered with the registering officer of the area in which the establishment sought to be registered is located. • Application has to be made before appointing such labour for which the registering officer shall grant certificate of registration. 		
Section 9	<p>If the registration is not done or if the registration has been revoked, the principal employer cannot employ contract labour.</p> <p>Licensing of Contractors</p> <ul style="list-style-type: none"> • The contractor engaged to supply workmen shall possess valid license which shall be in force at all times during his tenure as contractor with the establishment. 	Form IV – Application	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<ul style="list-style-type: none"> • Form of certificate of principal employer that the contractor has been engaged by him 	Form V	
	<ul style="list-style-type: none"> • Notice of commencement & completion of work done by the contractor 	Form VIA	
	<ul style="list-style-type: none"> • To be submitted by the contractor within 15 days 		
	<ul style="list-style-type: none"> • To be submitted by the principal employer within 15 days. 		
	<p>Renewal of license</p> <p>Contractor has to file an application for temporary registration of establishments employing contact labour</p>	Form VIB	
	<p>Licence to Contractors</p> <ul style="list-style-type: none"> • The Contractors can undertake or execute any work through contract labour only after receiving licence from the Registering Officer. • Application has to be made in the prescribed form and shall contain the particulars regarding the location, nature of process, operation or work which contract labour is to be employed (Sec 13). • Licence shall be valid for such period as may be prescribed in the licence and shall be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed. 		
Section 13	Canteens		
	<p>Provision for canteen facility where the strength of contract workers employed exceed 100 If the contractor fails to provide the canteen within the time laid down the same shall be provided by the principal employer within sixty days of the expiry of the timer allowed to the contractor.</p>		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Section 17 Rule 41(1)	<p>Rest rooms</p> <p>Provision for rest rooms where the contract labour are required to halt at night in connection with work.</p> <p>If the amenity referred to in above sub-rule (1) is not provided by the contractor within the period prescribed the principal employer shall provide the same within a period of Sixty days of the expiry of the period.</p>		
Section 19 r/w Section 20 & Rules 43 & 44	<p>First Aid Facility</p> <p>If first aid facility has not been provided for by the contractor within 60 days of the applicability of the act to the establishment or 30 days after the employment of contract labour, the Principal Employer had to provide for the same with 30 days of the expiry of the period described.</p> <p>Provision of First Aid Box accessible during working hours. Where the above facilities are not provided by contractor the establishment shall provide them and recover the expenses from the contractor. Refer Rules 58 – 62</p>		
Section 20	<p>Liability of principal Employer in certain cases</p> <p>If any amenity required to be provided under section 16, section 17, section 18 or section 19 for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed therefore, such amenity shall be provided by the principal employer within such time as may be Prescribed.</p>		
Section 21	<p>Payment of Wages</p> <ul style="list-style-type: none"> • The establishment (Principal employer) shall nominate its authorized representative to be present at the time of disbursement of wages. • The objective is to ensure proper 		

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
	<p>payment of wages to contract workers. Refer Rules 63 – 73.</p> <ul style="list-style-type: none"> • If contractor fails to make the payment to the contract labourers, then the principal employer shall make the payment to the labourers and the same to be deducted from contract employer. 		
Section 29 r/w Chapter VII of the Rules	<p>Maintenance of Records and Registers</p> <ul style="list-style-type: none"> • Register of contractors in Form No. XII are to be maintained. Within seven days of commencement and completion of work under each contractor, the Principal Employer has to submit a return in Form XIII to the inspector indicating the actual date of commencement or the completion of work by the contract labour. • Annual returns in Form XXV in duplicate to be sent to the registering officer concerned by the 15th of February of the following year. 	Form No. XII	
Rule 74	- Register of Contractors	Form XII	
Rule 75	- Register of workmen maintained by the Contractor	Form XIII	
Rule 76	-Employment Card	Form XIV	
Rule 77	-Service certificate	Form XV	
	- Annual Return to the Registered Officer before 15th of February	Form XXV	
Rule 78(1)(a)	- Muster Roll	Form XVI	
Rule 78(2)	- Register of Wages and issue of wage slips	Form XVII	
Rule 78(2)(a)	- Register of Wages cum Muster roll (In case wage period does not exceed a fortnight)	Form XVIII	
Rule 78(2)(b)	- Wage Slip	Form XIX	
Rule 78(2)(a)	- Register of Deduction	Form XX	
Rule 78(2)(a)	- Register of Fines	Form XXI	

<i>Sections/ Rules</i>	<i>Brief Details of Sections/Rules</i>	<i>Document Reference</i>	<i>Compliance status</i>
Rule 78(2)(d)	- Register of Advances	Form XXII	
Rule 78(1)(a)	- Register of Overtime	Form XXIII	
Rule 82(2)	-Annual Return by the principal employer	Combined Returns as per GO No. 25/16.08. 2004 covering factories Act, Maternity Benefit Act, Payment of Wages Act & Bonus Act	
	Exhibition of Notices		
	1. Hours of work		
	2. Nature of duty		
	General Note		
A	It is suggested that the Manual designed by the Company for the appointment of Contract Labour may be referred.		
B	EID Parry's Policy is to restrict the appointment of Contract Labour below the age of 18 years.		
Section 24	if any person contravenes any of the provisions of this Act or the Rules made thereunder, shall be punishable with imprisonment upto 3 months or with fine upto Rs. 1000/- or with both.	Imprisonment - 3 months.	

<i>Sl No</i>	<i>Particulars</i>	<i>Complied</i>	<i>Remarks</i>
		<i>(Yes/ No)</i>	
1.	Whether employer has obtained registration number to employ contractors		
2.	Whether contractor has obtained licence to employ contract labourers		
3.	Whether licence of all contractors has been verified		
4.	Whether the contractor has filed form VI-A with the Inspector within 7 days of commencement/ completion of work		
5.	Whether the form VI-A has been verified for all applicable contractors		
6.	Whether application has been made 60 days before expiry of licence in Form VII		
7.	Whether Register of Contractors is maintained in form VII		
8.	Whether contractor is maintaining Register in Form IX of contract labourers employed by him		
9.	Whether identity card is issued by contractor to contract labour in Form X		
10.	Whether employer has filed return in Form XIX-A within 7 days of the commencement/completion of work		
11.	Whether half yearly return has been filed by the contractor on or before 31st July and 31st December		
12.	Whether half yearly return has been filed by all contractors		
13.	Whether annual return has been filed		

<i>Sl No</i>	<i>Particulars</i>	<i>Complied</i>	<i>Remarks</i>
		<i>(Yes/ No)</i>	
	by the employer on or before 15th February		
14.	Whether the number of contract labourers appointed by contractor is within the maximum limit mentioned in the licence		
15.	Whether payment is made by contractor to contract labourers within 7 days		
16.	Whether authorised representatives of the employer was present when wages are paid to contract labourers by contractor		
17.	Whether contractor is registered with PF department		
18.	Whether contractor regularly deposits money with PF. Whether all obligations under the said act have been complied		
19.	Whether the contractor pays minimum wages as per the Minimum Wages Act to its contract labours		
20.	Whether minimum wages rates prescribed by the state government has been obtained and verified with the payment made by the contractors		
21.	Whether the contractor has issued insurance policy to cover all contract labourers employed by him		
22.	Whether the contractor has deposited half yearly contribution towards labour welfare fund		
23.	Whether contractor has obtained certificate under the Inter State Migrant Workmen... Act, if applicable		

<i>Sl No</i>	<i>Particulars</i>	<i>Complied</i>	<i>Remarks</i>
		<i>(Yes/ No)</i>	
24.	Whether the company has obtained indemnity bond, undertaking etc from contractor before issuing certificate in Form V		
25.	Whether contractor is registered under ESI		
26.	Whether all statutory ESI deduction is made and payment (including bonus) made within prescribed time		
27.	Whether returns under ESI is regularly filed		
28.	Whether Administration Department has certified the attendance		
29.	Whether returns under ESI is regularly filed		
30.	Whether Administration Department has certified the attendance		
31.	Whether payment is made as per the contract		
32.	To verify whether the contract agreement is valid		
33.	To verify whether the contents of contract agreement does not violate any issues		
34.	Whether complaint has been received from any contract labour or concerned authority		
35.	Whether an Abstract of Act and rules as approved by Commissioner has been displayed at the place of work by the contractor		
36.	Whether contractor has displayed the notice of wages at the place of work		

<i>SI No</i>	<i>Particulars</i>	<i>Complied</i>	<i>Remarks</i>
		<i>(Yes/ No)</i>	
37.	Whether payment to cease contact labours is made by next day		
38.	Whether any remarks were made by Inspector during inspection and comments thereupon		
39.	Whether records are kept for the period of three calendar years		
40.	Status on disputes between contract labours and contractors		

Annexure – I**Month wise checklist for submission of various returns under labour laws**

Given below is a month wise submission requirement of various returns under labour law

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
January			
15	Challans - The Employees Provident Fund & MP Act, 1952	Remittance of contribution	Through State Bank of India
15	ER-1 - The Employment Exchange Act, 1959	Quarterly return	Assistant employment officer Church gate
15	A-1 - The Mumbai Labour Welfare Act, 1953	Statement of contribution of return along with cheque	Welfare Commissioner Elphinstone Road Mumbai
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying/ leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
30	XXIV - The Contract Labour (R & A) Act, 1970	Half yearly return by contractor	Assistant Labour commissioner Tardeo Mumbai
31	27 - The Factories Act, 1948	Annual Return	Directorate of Industrial Safety and Health Tardeo Mumbai
31	11 - The Maternity Benefit Act, 1961	Annual Return	Directorate of Industrial Safety and Health Tardeo Mumbai

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
31	V - The (National and Festival) Holidays Act, 1963	Annual Return	Directorate of Industrial Safety and Health Tardeo Mumbai
February			
1	III - The Minimum Wages Act, 1948	Annual Return	
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
15	XXI - The Contract Labour (R & A) Act, 1970	Annual Return by employer	Assistant Labour commissioner Tardeo Mumbai
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
15	V - Payment of Wages Act, 1936	Annual Return	
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
28	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
March			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
April			
15	APP-2 - The Apprenticeship Act, 1961	Half yearly return March ending	Deputy Apprentice Advisor SION Mumbai
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
15	ER-1 - The Employment Exchange (CNV) Act, 1959	Quarterly return	Assistant employment officer Church gate
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
30	3A and 6A - The Employees Provident Fund Act, 1952	Annual Individual Returns and Returns of Contributions	Regional PF Commissioner
May			
12	6 - The Employees State Insurance Act, 1948	Summary of contributions in quadruplicate challans	Respective local office
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying/ leaving monthly remittance statement	Concerned region of the provident office

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
30	Form III -The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
June			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
July			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
15	ER-1 - The Employment Exchanges Act, 1959	Quarterly return	Assistant employment officer Church gate
15	28 - The Factories Act, 1948	Half yearly Return	Directorate of Industrial Safety and Health Tardeo Mumbai
15	A-1 - The Mumbai Labour Welfare Act, 1953	Statement of contribution of June	Welfare Commissioner Elphinstone Road Mumbai
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
15	XXIV - The Contract Labour (R & A) Act, 1970	Half early Return by contractor	Asst Labour commissioner Tardeo Mumbai
August			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
September			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
October			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
15	APP-2 - The Apprenticeship Act, 1961	Half yearly return September ending	Deputy Apprentice Advisor SION Mumbai

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
15	ER-1 - The Employment Exchange Act	Quarterly return	Assistant employment officer Church gate Mumbai
21	Challans - The Employees' State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees' Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
30	3 - The Factories Act, 1948	Application for renewal of licence	Directorate of Industrial Safety and Health Tardeo Mumbai
31	VII - The contract Labour (R & A) Act, 1970	Application for renewal of licence	Asst Labour commissioner Mumbai
November			
12	6 - The Employees' State Insurance Act, 1948	Summary of contributions in quadruplicate challans	Respective local office
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees' Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank

<i>Month and due date</i>	<i>Form-Name of the statute</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
30	I & IV - The (National and Festival) Holidays Act, 1963	Application for approval of holidays with list	Directorate of Industrial Safety and Health Tardeo Mumbai
December			
15	Challans - The Employees Provident Fund Act, 1952	Remittance of contribution	Through State Bank of India
15	B - The Bombay Shops and Establishment Act, 1948	Renewal of Registration certificate	Respective Municipal Ward office
21	Challans - The Employees State Insurance Act, 1948	Remittance of contribution	Through State Bank of India
25	5, 10 and 12A - The Employees Provident Fund Act, 1952	Return of employees qualifying / leaving monthly remittance statement	Concerned region of the provident office
30	Form III - The Professional Tax Act, 1975	Monthly return along with cheque	Any schedule bank
30	D - The Payment of Bonus Act, 1965	Annual Return	Asst. Labour commissioner Mumbai

Annexure – II**Event based compliance**

<i>Date</i>	<i>Name of the statute</i>	<i>Form</i>	<i>Name of return / compliance</i>	<i>To be sent to</i>
When event occurred	The Employment Exchange Act	Form 6	Notification of vacancies	Assistant employment officer Church gate Mumbai
Occurrence of dangerous / fatal accidents	The Factories Act, 1948	24A	Immediate Intimation within 12 hours	Concerned factory inspector
Any accident	The Factories Act, 1948	24	As and when takes place	Concerned factory inspector
Immediately fatal/ death & within 48 hrs. in case of minor	The Employees' State Insurance Act, 1948	16	Accident report	E.S.I. Local Office Dispensary

Annexure – III
Notice to be displayed

<i>Sl. No.</i>	<i>Legislations</i>
Factories Acts	
1	Annual Return of Holidays
2	First Aid Boxes and its in-charges and training to the employees.
3	Notice of period of work for adult workers (Form-14)
4	Abstract of Factories Act, Form No. 23
Maternity Benefit Act	
5	Abstract of Maternity Act (Form - K)
Minimum Wages Act	
6	Abstract, Rate of Minimum Wages (Form - XI) and Address of Inspector (Form-XI)
Payment of Wages Act	
7	Abstract of the Act and Rules (Form-V)
8	Notice of wage period, Date of Payment and Name and address of the Inspector appointed under the Act.
Payment of Gratuity Act	
9	Display notice specifying the names of the officer with designation to receive notices on company's behalf. Rule - 4(i)
10	Display of Abstract Form-U Rule-19
Contract Labour Act	
11	Notice to display section 29(2)
	(i) Wage Time
	(ii) Time & Place for disbursement of wages

<i>Sl. No.</i>	<i>Legislations</i>
12	Payment to be made in presence of company's representative/ authorized person and the candidate
13	Display in English & Vernacular Language
13.1	Rate of wages
13.2	Working Hrs.
13.3	Date of payment
13.4	Name & address of contractor under Rule - 81(1) (i) Copy of above notice to the LO
14	Abstract to be displayed in English / Vernacular Language
