THE PAYMENT OF WAGES ACT, 1936

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THE PAYMENT OF WAGES ACT, 1936

ACT NO. 4 OF 1936[1]

[23*rd April*,1936.]

An Act to regulate the payment of wages of certain classes to [2][employed persons].

WHEREAS it is expedient to regulate the payment of wages to certain classes of [2][employed persons].

It is hereby enacted as follows:—

1. Short title, extent, commencement and application.—(*1*) This Act may be called the Payment of Wages Act, 1936.

[3][(*2*)It extends to the whole of India [4]***].

(*3*) It shall come into force on such date[5]as the Central Government may, by notification in the Official Gazette, appoint.

(*4*) It applies in the first instance to the payment of wages to persons employed in any [6][factory, to persons] 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 [7][,and to persons employed in an industrial or other establishment specified in sub-clauses (*a*) to (*g*) of clause (*ii*) of section 2].

(*5*) [8][Appropriate Government] may, after giving three months' notice of its intention of so doing, by notification in the Official Gazette, extend the provisions of [9][this Act] or any of them to the payment of wages to any class of persons employed in [10][any establishment or class of establishments specified by [11][appropriate Government] under sub-clause (*h*) of clause (*ii*) of section 2]:

[12][Provided that in relation to any such establishment owned by the Central Government no such notification shall be issued except with the concurrence of that Government.]

[13][(*6*) 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 [14][twenty four thousand rupees] 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.]

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

[15][(*i*) "appropriate Government" means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government;]

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1. The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, s. 3 and the Schedule to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and the First Schedule to Pondicherry by Reg. 7 of 1963, s. 3 and the First Schedule and to Lakshadweep by Reg. 8 of 1965, s. 3 and the Schedule.
2. Subs. by Act 38 of 1982, s. 2 for "persons employed in industry" (w.e.f. 15-10-1982).
3. Subs. by the A.O. 1950, for sub-section (*2*).
4. The words "except the State of Jammu and Kashmir" omitted by Act 51 of 1970, s. 2 and the Schedule (w.e.f. 1-9-1971).
5. 28th March 1937, *see* Gazette of India, 1937, Pt. I, pg. 626.
6. Subs. by Act 38 of 1982, s. 3, for "factory and to persons" (w.e.f. 15-10-1982).
7. Ins. by s. 3, *ibid.* (w.e.f. 15-10-1982).
8. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
9. Subs. by Act 68 of 1957, s. 2, for "the Act" (w.e.f. 1-4-1958.)
10. Subs. by Act 38 of 1982, s. 3, for "any industrial establishment or in any class or group of industrial establishments" (w.e.f. 15-10-1982).
11. Subs. by Act 41 of 2005, s. 3, for "the Central Government or a State Government" (w.e.f. 9-11-2005).
12. Subs. by Act 38 of 1982, s. 3, for the proviso (w.e.f. 15-10-1982).
13. Subs. by Act 41 of 2005, s. 2, for sub-section (*6*) (w.e.f. 9-11-2005).
14. Subs. by S.O. 2806 (*E*), dated 28-8-2017, for "eighteen thousand rupees", *see* Gazette of India, Extraordinary, Part II, s. 3(*ii*).
15. Ins. by s. 4, *ibid.* (w.e.f. 9-11-2005).

[1][[2][(*ia*)] "employed person" includes the legal representative of a deceased employed person;

[2][(*ib*)]"employer" includes the legal representative of a deceased employer;

[2][(*ic*)] "factory" means a factory as defined in clause (*m*) of section 2 of the Factories Act, 1948 (63 of 1948), and includes any place to which the provisions of that Act have been applied under sub-section (*1*) of section 85 thereof;]

(*ii*) [3]["industrial or other establishment" means] any—

[4][(*a*) tramway service, or motor transport service engaged in carrying passenger or goods or both by road for hire or reward;

(*aa*) 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;]

(*b*) dock, wharf or jetty;

[5][(*c*) inland vessel, mechanically propelled;]

(*d*) mine, quarry or oilfield;

(*e*) plantation;

(*f*) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

[6] [(*g*) establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operation connected with navigation, irrigation, development or maintenance of buildings, roads, bridges or mission and distribution of electricity or any other form of power is being carried on;]

[7][(*h*) any other establishment or class of establishment which [8][appropriate Government] may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by notification in the Official Gazette;]

[9][(*iia*) "mine" has the meaning assigned to it in clause (*j*) of sub-section (*1*) of section 2 of the Mines Act, 1952 (35 of 1952);]

[10][(*iii*) "plantation" has the meaning assigned to it in clause (*f*) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);]

(*iv*) "prescribed" means prescribed by rules made under this Act;

[11][(*v*) "railway administration" has the meaning assigned to it in clause (*32*) of section 2 of the Railways Act, 1989(24 of 1989);]

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1. Subs. by Act 53 of 1964, s. 3, for clause (*i*) (w.e.f. 1-2-1965).
2. Clauses (*i*), (*ia*) and (*ib*) renumbered as clauses (*ia*), (*ib*) and (*ic*) thereof by Act 41 of 2005, s. 4 (w.e.f. 9-11-2005).
3. Subs. by Act 38 of 1982, s. 4, for ' "industrial establishment" means' (w.e.f. 15-10-1982).
4. Subs. by Act 53 of 1964, s. 3, for sub-clause (*a*) (w.e.f. 1-2-1965).
5. Subs. by Act 68 of 1957, s. 3, for item (*c*) (w.e.f. 1-4-1958.)
6. Ins. by s. 3, *ibid.* (w.e.f. 1-4-1958.)
7. Ins. by Act 38 of 1982, s. 4 (w.e.f. 15-10-1982).
8. Subs. by Act 41 of 2005, s. 3, for "the Central Government or a State Government" (w.e.f. 9-11-2005).
9. Ins. by Act 53 of 1964, s. 3 (w.e.f. 1-2-1965).
10. Subs. by s. 3, *ibid.*, for clause (*iii*) (w.e.f. 1-2-1965).
11. Subs. by Act 41 of 2005, s. 4, for clause (*v*) (w.e.f. 9-11-2005).

[1][(*vi*) "wages" means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(*a*) any remuneration payable under any award or settlement between the parties or order of a Court;

(*b*) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

(*c*) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

(*d*) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

(*e*) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force,

but does not include—

(*1*) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;

(*2*) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of [2][appropriate Government];

(*3*) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(*4*) any travelling allowance or the value of any travelling concession;

(*5*) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or

(*6*) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (*d*).]

[3][**3. Responsibility for payment of wages.—**(*1*) Every employer shall be responsible for the payment of all wages required to be paid under this 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 sub-section (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;

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1. Subs. by Act 68 of 1957, s. 3, for clause (*vi*) (w.e.f. 1-4-1958.)

2. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).

3. Subs. by s. 5, *ibid.*,for section 3 (w.e.f. 9-11-2005).

(*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.

(*2*) Notwithstanding anything contained in sub-section (*1*), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment.]

4. Fixation of wage-periods.—(*1*) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(*2*) No wage-period shall exceed one month.

5. Time of payment of wages.—(*1*) The wages of every person employed upon or in—

(*a*) any railway, factory or [1][industrial or other establishment] upon or in which less than one thousand persons are employed, shall be paid before expiry of the seventh day,

(*b*) any other railway, factory or [1][industrial or other establishment], shall be paid before the expiry of the tenth day,

after the last day of the wage-period in respect of which the wages are payable:

[2][Provided that in the case of persons employed on a dock, wharf or jetty or in a mine, the balance of wages found due on completion of the final tonnage account of the ship or wagons loaded or unloaded, as the case may be, shall be paid before the expiry of the seventh day from the day of such completion.]

(*2*) Where the employment of any person is terminated by or on behalf of the employer, the wages, earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated:

[2][Provided that where the employment of any person in an establishment is terminated due to the closure of the establishment for any reason other than a weekly or other recognised holiday, the wages earned by him shall be paid before the expiry of the second day from the day on which his employment is so terminated.]

(*3*) [3][Appropriate Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) [4][or to persons employed as daily-rated workers in the Public Works Department of [5][appropriate Government]] from the operation of this section in respect of the wages of any such persons or class of such persons:

[4][Provided that in the case of persons employed as daily-rated workers as aforesaid, no such order shall be made except in consultation with the Central Government.]

(*4*) [6][Save as otherwise provided in sub-section (*2*), all payments] of wages shall be made on a working day.

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1. Subs. by Act 38 of 1982, s. 6, for "industrial establishment" (w.e.f. 15-10-1982).

2. Added by Act 53 of 1964, s. 5 (w.e.f. 1-2-1965).

3. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).

4. Ins. by Act 53 of 1964, s. 5 (w.e.f. 1-2-1965).

5. Subs. by Act 41 of 2005, s. 3, for "the Central Government or a State Government" (w.e.f. 9-11-2005).

6. Subs. by Act 53 of 1964, s. 5, for "All payments" (w.e.f. 1-2-1965).

[1][**6. Wages to be paid in current coin or currency notesor by cheque or crediting in bank account.—**All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee:

Provided that the appropriate Government may, by notification in the Official Gazette, specify the industrial or other establishment, the employer of which shall pay to every person employed in such industrial or other establishment, the wages only by cheque or by crediting the wages in his bank account.]

STATE AMENDMENT

Kerala

*Amendment of section 6***.—**In the Payment of Wages Act, 1936 (Central Act 4 of 1936), in section 6, after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that notwithstanding anything contained in this Act, the State Government may, by notification in the Gazette, specify the industrial or other establishment, the employers of which shall pay to the person employed therein, the wages either by cheque or by crediting the wages in his bank account, without obtaining any authorisation of the employed person."

[*Vide* Kerala Act 11 of 2016, sec. 2.]

7. Deductions which may be made from wages.—(*1*) Notwithstanding the provisions of [2][the Railways Act, 1989 (24 of 1989)], the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

[3][*Explanation* I].-Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

[4][*Explanation* II.-Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely:—

(*i*) the withholding of increment or promotion (including the stoppage of increment at an efficiency bar):

(*ii*) the reduction to a lower post or time scale or to a lower stage in a time scale: or

(*iii*) suspension,

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf by [5][appropriate Government] by notification in the Official Gazette.]

(*2*) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

(*a*) fines;

(*b*) deductions for absence from duty;

(*c*) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

[6][(*d*) deductions for house-accommodation supplied by the employer or by Government or any housing board set up under any law for the time being in force (whether the Government or the board is the employer or not) or any other authority engaged in the business of subsidizing house-accommodation which may be specified in this behalf by [5][appropriate Government] by notification in the Official Gazette;]

(*e*) deductions for such amenities and services supplied by the employer as the [7]*** [5][appropriate Government] [8][or any officer specified by it in this behalf] may, by general or special order, authorise;

Explanation—The word "services" in [9][this clause] does not include the supply of tools and raw materials required for the purposes of employment;]

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1. Subs. by Act 1 of 2017, s. 2, for section 6 (w.e.f. 28-12-2016).
2. Subs. by Act 41 of 2005, s. 6, for "sub-section (*2*) of section 47 of the Indian Railways Act, 1890 (9 of 1890)" (w.e.f. 9-11-2005).
3. *Explanation* renumbered as *Explanation* I thereof by Act 68 of 1957, s. 5 (w.e.f. 1-4-1958).
4. Ins. by s. 5, *ibid.* (w.e.f. 1-4-1958).
5. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
6. Subs. by Act 68 of 1957, s. 5, for clause (*d*) (w.e.f. 1-4-1958).
7. The words "Governor-General in Council or" omitted by the A.O. 1937.
8. Ins. by Act 53 of 1964, s. 6 (w.e.f. 1-2-1965).
9. Subs. by Act 56 of 1974, s. 3 and the Second Schedule, for "this sub-clause" (w.e.f. 20-12-1974).

[1][(*f*) deductions for recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;

(*ff*) deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by [2][appropriate Government], and the interest due in respect thereof;

(*fff*) deductions for recovery of loans granted for house-building or other purposes approved by [2][appropriate Government] and the interest due in respect thereof;]

(*g*) deductions of income-tax payable by the employed person;

(*h*) deductions required to be made by order of a Court or other authority competent to make such order;

(*i*) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies or any recognized provident fund as defined [3][in clause (*38*) of section 2 of the Income-tax Act, 1961 (43 of 1961)], or any provident fund approved in this behalf by [2][appropriate Government], during the continuance of such approval; [4]***

[5][(*ii*) deductions made with the written authorisation of—

(*i*) the employed person; or

(*ii*) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed,

for contribution to the National Defence Fund or to any Defence Savings Scheme approved by [2][appropriate Government];]

(*j*) deductions for payments to co-operative societies approved by [2][appropriate Government] [6][or any officer specified by it in this behalf] or to a scheme of insurance maintained by the Indian Post Office; [7][and]

[7][[8][(*k*) deductions, made with the written authorisation of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or for the purchase of securities of the Government of India or of any [2][appropriate Government] or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such Government.]]

[9][(*kk*) deductions made, with the written authorisation of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Union Act, 1926 (16 of 1926), for the welfare of the employed persons or the members of their families, or both, and approved by [2][appropriate Government] or any officer specified by it in this behalf, during the continuance of such approval;

(*kkk*) deductions made, with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under the Trade Unions Act, 1926 (16 of 1926);]

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1. Subs. by Act 53 of 1964, s. 6, for clause (*f*) (w.e.f. 1-2-1965).
2. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
3. Subs. by s. 6, *ibid.*, for "in section 58A of the Indian Income-tax Act, 1922" (w.e.f. 9-11-2005).
4. The word "and" omitted by Ordinance 3 of 1940, s. 2.
5. Ins. by Act 42 of 1971, s. 6 (w.e.f. 4-12-1971).
6. Ins. by Act 53 of 1964, s. 6 (w.e.f. 1-2-1965).
7. Added by Ordinance 3 of 1940, s. 2
8. Subs. by Act 68 of 1957, s. 5, for clause (*k*) (w.e.f. 1-4-1958).
9. Ins. by Act 38 of 1982, s. 7 (w.e.f. 15-10-1982).

[1][(*l*) deductions for payment of insurance premia on Fidelity Guarantee Bonds;

(*m*) deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;

(*n*) deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration whether in respect of fares, freight, demurrage, wharfage and carnage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;

(*o*) deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;]

[2][(*p*) deductions, made with the written authorisation of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette, specify;]

[3][(*q*) deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employees.]

[4][(*3*) Notwithstanding anything contained in this Act, the total amount of deductions which may be made under sub-section (*2*) in any wage-period from the wages of any employed person shall not exceed—

(*i*) in cases where such deductions are wholly or partly made for payments to co-operative societies under clause (*j*) of sub-section (*2*), seventy-five percent. of such wages, and

(*ii*) in any other case, fifty percent. of such wages:

Provided that where the total deductions authorised under sub-section (*2*) exceed seventy-five percent. or, as the case may be, fifty percent. of the wages, the excess may be recovered in such manner as may be prescribed.

(*4*) Nothing contained in this section shall be construed as precluding the employer from recovering from the wages of the employed person or otherwise any amount payable by such person under any law for the time being in force other than [5][the Railways Act, 1989 (24 of 1989)].]

STATE AMENDMENT

Kerala

Amendment of section 7.—In section 7 of the Payment of Wages Act, 1936 (Central Act 4 of 1936), in sub-section (2), after clause (o), the following clause shall be inserted, namely.—

"(p) deductions for repayment to the State Government of the amount of financial and granted under the Kerala Financial And (to the Discharged or Dismissed Labour) Rules, 1958"

[*Vide* Kerala Act 34 of 1969, sec. 2.] (w.e.f. 8-10-1969).

Karnataka

Amendment of section 7.—In section 7 of the principal Act in sub-section (2), after clause (p), the following clauses shall be added namely:—

"(q) deductions to recover from a person re-employed after the termination of his former employment any amount paid to him from a provident fund or as a gratuity on such termination:

Provided that such recovery shall not exceed 20 per cent of total earnings. Re-employment in this context means employment under the same employer;

(r) deduction specially authorised by the State Government for purposes beneficial to the employed person".

[*Vide* Karnataka Act 2 of 1977, s. 3].

1. Ins. by Act 53 of 1964, s. 6 (w.e.f. 1-2-1965).
2. Ins. by Act 29 of 1976, s. 4 (w.e.f. 12-11-1975).
3. Ins. by Act 19 of 1977, s. 2 (w.e.f. 30-6-1977).
4. Ins. by Act 53 of 1964, s. 6 (w.e.f. 1-2-1965).
5. Subs. by Act 41 of 2005, s. 6, for "the Indian Railways Act, 1890" (w.e.f. 9-11-2005).

Karnataka

Amendment of section 7.—In section 7 of the Payment of Wages Act, 1936 (Central Act 4 of 1936) (hereinafter referred to as the principal Act), clause (r) shall be omitted.

[*Vide* Karnataka Act 2 of 1982, s. 2].

8. Fines.—(*1*) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of [1][appropriate Government] or of the prescribed authority, may have specified by notice under sub-section (*2*).

(*2*) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of person employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(*3*) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(*4*) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to [2][three per cent.] of the wages payable to him in respect of that wage-period.

(*5*) No fine shall be imposed on any employed person who is under the age of fifteen years.

(*6*) No fine imposed on any employed person shall be recovered from him by installments or after the expiry of [3][ninety days] from the day on which it was imposed.

(*7*) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(*8*) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory or [4][industrial or other establishment] are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9. Deductions for absence from duty.—(*1*) Deductions may be made under clause (*b*) of sub-section (*2*) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(*2*) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a large proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by [5][appropriate Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

[6][*Explanation*.—For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

1. Subs. byAct 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
2. Subs. by Act 38 of 1982, s. 8, for "half-an-anna in the rupee" (w.e.f. 15-10-1982).
3. Subs. by Act 41 of 2005, s. 7, for "sixty days" (w.e.f. 9-11-2005).
4. Subs. by Act 38 of 1982, s. 8, for "industrial establishment" (w.e.f. 15-10-1982).
5. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
6. Added by Act 22 of 1937, s. 2 (w.e.f. 14-4-1937).

10. Deductions for damage or loss.— [1] [(*1*) A deduction under clause (*c*) or clause (*o*) of sub-section (*2*) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person.

(*1A*) A deduction shall not be made under clause (*c*) or clause (*m*) or clause (*n*) or clause(*o*) of sub-section (*2*) of section 7 until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.]

(*2*)All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. Deductions for services rendered.—A deduction under clause (*d*) or clause (*e*) of sub-section (*2*) of section 7 shall not be made from the wages of an employed person, unless the house-accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of a deduction under the said clause (*e*), shall be subject to such conditions as [2]*** [3][appropriate Government] may impose.

12. Deductions for recovery of advances.—Deductions under clause (*f*) of sub-section (*2*) of section 7 shall be subject to the following conditions, namely:—

(*a*) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

[4][(*aa*) recovery of an advance of money given after employment began shall be subject to such conditions as [3][appropriate Government] may impose;]

(*b*) recovery of advances of wages not already earned shall be subject to any rules made by [3][appropriate Government] regulating the extent to which such advances may be given and the installments by which they may be recovered.

[5][**12A. Deductions for recovery of loans.—**Deductions for recovery of loans granted under clause (*fff*) of sub-section (*2*) of section 7 shall be subject to any rules made by [3][appropriate Government] regulating the extent to which such loans may be granted and the rate of interest payable thereon.]

13. Deductions for payments to co-operative societies and insurance schemes.—Deductions under clause (*j*) [6] [and clause (*k*)] of sub-section (*2*) of section 7 shall be subject to such conditions as [3][appropriate Government] may impose.

STATE AMENDMENTS

Karnataka

Amendment of section 13.—In section 13 of the principal Act,—

(1) for the heading the following heading shall be substituted, namely:—

"13. Other deductions."

(2) for the words, letters and brackets, "under clause (j) and clause (k)" the words, letters and brackets" under clause (j), clause (k), clause (q) and clause (r)" shall be substituted.

[*Vide* Karnataka Act 2 of 1977, s. 4].

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1. Subs. by Act 53 of 1964, s. 7, for sub-section (*1*) (w.e.f. 1-2-1965).
2. The words "the Governor-General in Council or" omitted by the A.O. 1937.
3. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
4. Ins. by Act 53 of 1964, s. 8 (w.e.f. 1-2-1965).
5. Ins. by s. 9, *ibid*. (w.e.f. 1-2-1965).
6. Ins. by Ordinance 3 of 1940, s. 3.

Karnataka

Amendment of section 13.—In sub-section (2) of section 13 of the principal Act for the words, letters and brackets "clause (q) and clause (r)", the words, letter and brackets "and clause (q)" shall be substituted.

[*Vide* Karnataka Act 2 of 1982, s. 3].

[1][**13A. Maintenance of registers and records.**—(*1*) Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed.

(*2*) Every register and record required to be maintained under this section shall, for the purposes of this Act, be preserved for a period of three years after the date of the last entry made therein.]

14. Inspectors.—(*1*) An Inspector of Factories appointed under [2][sub-section (*1*) of section 8 of the Factories Act, 1948 (63 of 1948)], shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(*2*) [3][Appropriate Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(*3*) [3][Appropriate Government] may, by notification in the Official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and [4][industrial or other establishments] in respect of which they shall exercise their functions.

[5][(*4*) An Inspector may,—

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed;

(*b*) with such assistance, if any, as he thinks fit, enter, inspect and search any premises of any railway, factory or [6][industrial or other establishment] at any reasonable time for the purpose of carrying out the object of this Act;

(*c*) supervise the payment of wages to persons employed upon any railway or in any factory or [6][industrial or other establishment];

(*d*) require by a written order the production at such place, as may be prescribed, of any register or record maintained in pursuance of this Act and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;

(*e*) seize or take copies of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

(*f*) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(*4A*) The provisions of the [7][Code of Criminal Procedure, 1973 (2 of 1974)] shall, so far as may be, apply to any search or seizure under this sub-section as they apply to any search or seizure made under the authority of a warrant issued under [8][section 94] of the said Code.]

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1. Ins. by Act 53 of 1964, s. 10 (w.e.f. 1-2-1965).
2. Subs. by Act 68 of 1957, s. 6, for "sub-section (*1*) of section 10 of the Factories Act, 1934" (w.e.f. 1-4-1958).
3. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005)
4. Subs. by Act 38 of 1982, s. 9, for "industrial establishments" (w.e.f. 15-10-1982).
5. Subs. by Act 53 of 1964, s. 11, for sub-section (*4*) (w.e.f. 1-2-1965).
6. Subs. by Act 38 of 1982, s. 9, for "industrial establishment" (w.e.f. 15-10-1982).
7. Subs. by s. 9, *ibid.,* for "Code of Criminal Procedure, 1898" (w.e.f. 15-10-1982).
8. Subs. by s. 9, *ibid.,*for "section 98" (w.e.f. 15-10-1982).

(*5*) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

[1][**14A. Facilities to be afforded to Inspectors.—**Every employer shall afford an Inspector all reasonable facilities for making any entry, inspection, supervision, examination or inquiry under this Act.]

15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.—[2]**[**(*1*) The appropriate Government may, by notification in the Official Gazette, appoint—

(*a*) any Commissioner for Workmen's Compensation; or

(*b*) any officer of the Central Government exercising functions as,—

(*i*) Regional Labour Commissioner; or

(*ii*) Assistant Labour Commissioner with at least two years' experience; or

(*c*) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or

(*d*) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(*e*) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate,

as the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims:

Provided that where the appropriate Government considers it necessary so to do, it may appoint more than one authority for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.]

(*2*) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (*1*), may apply to such authority for a direction under sub-section (*3*):

Provided that every such application shall be presented within [3][twelve months] from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of [3][twelve months] when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

[4][(*3*) When any application under sub-section (*2*) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount

1. Ins. by Act 53 of 1964, s. 12 (w.e.f. 1-2-1965).

2. Subs. by Act 41 of 2005, s. 8, for sub-section (*1*) (w.e.f. 9-11-2005).

3. Subs. by Act 53 of 1964, s. 13, for "six months" (w.e.f. 1-2-1965).

4. Subs. by Act 41 of 2005, s. 8, for sub-section (*3*) (w.e.f. 9-11-2005).

deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any *bona fide* reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(*a*) a*bona fide* error or *bona fide* dispute as to the amount payable to the employed person; or

(*b*) the occurrence of an emergency, or the existence of exceptional circumstances, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

(*c*) the failure of the employed person to apply for or accept payment.]

[1][(*4*) If the authority hearing an application under this section is satisfied—

(*a*) that the application was either malicious or vexatious, the authority may direct that a penalty [2][not exceeding three hundred seventy-five rupees] be paid to the employer or other person responsible for the payment of wages by the person presenting the application; or

(*b*) that in any case in which compensation is directed to be paid under sub-section (*3*), the applicant ought not to have been compelled to seek redress under this section, the authority may direct that a penalty [2][not exceeding three hundred seventy-five rupees] be paid to [3][appropriate Government] by the employer or other person responsible for the payment of wages.

(*4A*) Where there is any dispute as to the person or persons being the legal representative or representatives of the employer or of the employed person, the decision of the authority on such dispute shall be final.

(*4B*) Any inquiry under this section shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).]

(*5*) Any Amount directed to be paid under this section may be recovered—

(*a*) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(*b*) if the authority is not a Magistrate, by the Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

STATE AMENDMENT

Karnataka

Amendment of section 15.—In section 15 of the principal Act.—

(1) in sub-section (2), after the word, brackets and figure "sub-section (3)", the following shall be inserted, namely:—

1. Subs. by Act 53 of 1964, s. 13, for sub-section (*4*) (w.e.f. 1-2-1965).

2. Subs. by Act 41 of 2005, s. 8, for "not exceeding fifty rupees" (w.e.f. 9-11-2005).

3.Subs. by s. 3, *ibid.,* for "the State Government" (w.e.f. 9-11-2005).

"and in case of death of the employed person, it shall be lawful for his legal representatives to make and application for such direction";

(2) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Any amount directed to be paid under this section may be recovered by the authority as an arrear of land revenue and the authority shall for that purpose be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890".

[*Vide* Karnataka Act 2 of 1977, s. 5].

Insertion of new section 15A.—After section 15 of the Principal Act, the following section shall be inserted, namely:—

"15A. Liability for payment of court fees.—(1) In any proceedings under section 15, the applicant shall not be liable to pay any court fees (other than fees payable for the service of process) in respect of such proceedings:

Provided that when the application is presented by an Inspector he shall not be liable to pay the process fees also.

(2) Where the applicant succeeds in such proceedings, the authority hearing the application shall calculate the amount of court fees which would have been payable by the applicant but for sub-section (1) and direct the employer or other person responsible for the payment of wages under section 3 to pay such amount to the State Government. Such amount shall, without prejudice to any other mode of recovery be recoverable as an arrear of land revenue.

(3) When an appeal is preferred under section 17 by a person making an application under section 15, the provisions of sub-sections (1) and (2) shall *mutatis mutandis* apply with the modification that such person, not being an Inspector, shall pay court fees of an amount of five rupees, but that such amount shall be refunded to him in the event of his succeeding in the appeal."

[*Vide* Karnataka Act 2 of 1977, s. 6].

16. Single application in respect of claims from unpaid group.—(*1*) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if [1][deductions have been made from their wages in contravention of this Act for the same cause and during the same wage period or periods or if] their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(*2*) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case [2][every person on whose behalf such application is presented may be awarded maximum compensation to the extent specified in sub-section (3) of section 15].

(*3*) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (*2*) of this section, and the provisions of that sub-section shall apply accordingly.

17. Appeal.—(*1*) [3][An appeal against an order dismissing either wholly or in part an application made under sub-section (*2*) of section 15, or against a direction made under sub-section (*3*) or sub-section (*4*) of that section] may be preferred, within thirty days of the date on which [4][the order or direction] was made, in a Presidency-town [5]*** before the Court of Small Causes and elsewhere before the District Court—

1. Ins. by Act 53 of 1964, s. 14 (w.e.f. 1-2-1965).
2. Subs. by s. 14, *ibid.*, for "the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head" (w.e.f. 1-2-1965).
3. Subs. by Act 68 of 1957, s. 7, for "An appeal against a direction made under sub-section (*3*) or sub-section (*4*) of section 15" (w.e.f. 1-4-1958).
4. Subs. by s. 7,*ibid.*, for "the direction" (w.e.f. 1-4-1958).
5. The words "or in Rangoon" omitted by the A.O. 1937.

(*a*) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees [1][or such direction has the effect of imposing on the employer or the other person a financial liability exceeding one thousand rupees], or

[2][(*b*) by an employed person or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act, or any other person permitted by the authority to make an application under sub-section (*2*) of section 15, if the total amount of wages claimed to have been withheld from the employed person exceeds twenty rupees or from the unpaid group to which the employed person belongs or belonged exceeds fifty rupees, or]

(*c*) by any person directed to pay a penalty under [3][sub-section (*4*)] of section 15.

[1][(*1A*) No appeal under clause (*a*) of sub-section (*1*)] shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited the amount payable under the direction appealed against.]

[4][(*2*) Save as provided in sub-section (*1*) any order dismissing either wholly or in part an application made under sub-section (*2*) of section 15, or a direction made under sub-section (*3*) or sub-section (*4*) of that section shall be final.]

[5][(*3*) Where an employer prefers an appeal under this section, the authority against whose decision the appeal has been preferred may, and if so directed by the court referred to in sub-section (*1*) shall, pending the decision of the appeal, withhold payment of any sum in deposit with it.

(*4*) The court referred to in sub-section (*1*) may, if it thinks fit, submit any question of law for the decision of the High Court and, if it so does, shall decide the question in conformity with such decision.]

STATE AMENDMENT

Karnataka

Amendment of section 17.—In section 17 of the principal Act,—

(1) in sub-section (2), after the words, brackets and figure "sub-section (4) of that section" the words, brackets, figures and letter, "or any order made under sub-section (1) of section 17A" shall be inserted.

(2) after sub-section (4), the following sub-section shall be added, namely:—

"(*5*) the provisions of section 5 of the Limitation Act, 1963 shall be applicable to appeals under this section."

[*Vide* Karnataka Act 2 of 1977, s. 7].

[6][**17A. Conditional attachment of property of employer or other person responsible for payment of wages.—**(*1*) Where at any time after an application has been made under sub-section (*2*) of section 15 the authority, or where at any time after an appeal has been filed under section 17 by an employed person or [7][any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf or any Inspector under this Act or any other person permitted by the authority to make an application under sub-section (*2*) of section 15] the Court referred to in that section, is satisfied that the employer or other person responsible for the payment of wages under section 3 is likely to evade payment of any amount that may be directed to be paid under section 15 or section 17, the authority or the court, as the case may be, except in cases where the authority or court is of opinion that the ends of justice would

1. Ins. by Act 53 of 1964, s. 15 (w.e.f. 1-2-1965).
2. Subs. by s.15, *ibid.*, for clause (*b*) (w.e.f. 1-2-1965).
3. Subs. by Act 20 of 1937, s. 2 and the First Schedule, for "sub-section (*5*) (w.e.f. 14-4-1937).
4. Subs. by Act 68 of 1957, s. 7, for sub-section (*2*) (w.e.f. 1-4-1958).
5. Ins. by Act 53 of 1964, s. 15 (w.e.f. 1-2-1965).
6. Ins. by Act 68 of 1957, s. 8 (w.e.f. 1-4-1958).
7. Subs. by Act 53 of 1964, s. 16, for "any official of a registered trade union authorised in writing to act on his behalf"' (w.e.f. 1-2-1965).

be defeated by the delay, after giving the employer or other person an opportunity of being heard, may direct the attachment of so much of the property of the employer or other person responsible for the payment of wages as is, in the opinion of the authority or court, sufficient to satisfy the amount which may be payable under the direction.

(*2*) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to attachment before judgment under that Code shall, so far as may be, apply to any order for attachment under sub-section (*1*).]

18. Powers of authorities appointed under section 15.—Every authority appointed under sub-section (*1*) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court of all the purposes of section 195 and of[1][Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)].

19.[*Power to recover from employer in certain cases*].—*Omitted by the Payment of Wages* (*Amendment*) *Act,* 1964 (53 *of* 1964), *s.* 17 (*w.e.f.* 1-2-1965).

20. Penalty for offences under the Act.—(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following section, namely, [2][section5 except sub-section (*4*) thereof, section 7, section 8 except sub-section(*8*) thereof, section 9, section 10 except sub-section (*2*) thereof, and sections11 to 13], both inclusive, shall be punishable [3][with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees].

(*2*) Whoever contravenes the provisions of section 4,[4][sub-section(*4*) of section 5, section 6, sub-section (*8*) of section 8, sub-section (*2*) of section 10] or section 25 shall be punishable [5][with fine which may extend to three thousand seven hundred fifty rupees].

[6][(*2A*) Whoever being required to nominate or designate a person under section 3 fails to do so, such person shall be punishable with fine which may extend to three thousand rupees.]

[7][(*3*)Whoever being required under this Act to maintain any records or registers or to furnish any information or return—

(*a*) fails to maintain such register or record; or

(*b*) wilfully refuses or without lawful excuse neglects to furnish such information or return; or

(*c*) wilfully furnishes or causes to be furnished any information or return which he knows to be false; or

(*d*) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act,

shall for each such offence, be punishable[3][with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees].

(*4*) Whoever—

(*a*) wilfully obstructs an Inspector in the discharge of his duties under this Act; or

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1. Subs. by Act 38 of 1982, s. 10, for "Chapter XXVI of the Code of Criminal Procedure, 1973" (w.e.f. 15-10-1982).
2. Subs. by Act 53 of 1964, s. 18, for "section 5 and sections 7 to 13" (w.e.f. 1-2-1965).
3. Subs. by Act 41 of 2005, s. 9, for "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees" (w.e.f. 9-11-2005).
4. Subs. by Act 53 of 1964, s.18, for "section 6" (w.e.f. 1-2-1965).
5. Subs. by Act 41 of 2005, s. 9, for "with fine which may extend to five hundred rupees" (w.e.f. 9-11-2005).
6. Ins. by Act 41 of 2005, s. 9 (w.e.f. 9-11-2005).
7. Ins. by Act 53 of 1964, s.18 (w.e.f. 1-2-1965).

(*b*) refuses or wilfully neglects to afford an Inspector any reasonable facility for making any entry, inspection, examination, supervision, or inquiry authorised by or under this Act in relation to any railway, factory of [1][industrial or other establishment]; or

(*c*) wilfully refuses to produce on the demand of an Inspector any register or other document kept in pursuance of this Act; or

(*d*) prevents or attempts to prevent or does anything which he has any reason to believe is likely to prevent any person from appearing before or being examined by an Inspector acting in pursuance of his duties under this Act,

shall be punishable [2][with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees].

(*5*) If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment for a term [3][with fine which shall not be less than three thousand seven hundred fifty rupees but which may extend to twenty-two thousand five hundred]:

Provided that for the purpose of sub-section, no cognizance shall be taken of any conviction made more than two years before the date on which the commission of the offence which is being punished came to the knowledge of the Inspector.

(*6*) If any person fails or wilfully neglects to pay the wages of any employed person by the date fixed by the authority, in this behalf, he shall, without prejudice to any other action that may be taken against him, be punishable with an additional fine which may extend to [4][seven hundred fifty rupees] for each day for which such failure or neglect continues.]

21. Procedure in trial of offences.—(*1*) No Court shall take cognizance of a complaint against any person for an offence under sub-section (*1*) of section 20 unless an application in respect of the facts constituting the offence has been presented under section 15 has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(*2*) Before sanctioning the making of a complaint against any person for an offence under sub-section (*1*) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

(*a*) a*bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(*b*) the occurrence of an emergency or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(*c*) the failure of the employed person to apply for or accept payment.

(*3*) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rules made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

[5][(*3A*) No Court shall take cognizance of any offence punishable under sub-section (*3*) or sub-section (*4*) of section 20 except on a complaint made by or with the sanction of an Inspector under this Act.]

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1. Subs. by Act 38 of 1982, s. 11, for "industrial establishment" (w.e.f. 15-10-1982).
2. Subs. by Act 41 of 2005, s. 9, for "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees" (w.e.f. 9-11-2005).
3. Subs. by s. 9, *ibid.*, for "with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees" (w.e.f. 9-11-2005).
4. Subs. by s. 9, *ibid.*,for "one hundred rupees" (w.e.f. 9-11-2005).
5. Ins. by Act 53 of 1964, s.19 (w.e.f. 1-2-1965).

(*4*) In imposing any fine for an offence under sub-section (*1*) of section 20 the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

STATE AMENDMENTS

Karnataka

Amendment of section 21.—In section 21 of the principal Act,**—**

(1) in sub-section (1), for the words "and the authority empowered under the latter section or the Appellate Court granting such application", the words "by the authority or the Appellate Court or the State Government or any Officer authorised by it in this behalf" shall be substituted;

(2) in sub-section (2) for the words and figures "the authority empowered under section 15 or the Appellate Court", the words "the State Government or the officer authorised by it in this behalf" shall be substituted.

[*Vide* Karnataka Act 2 of 1977, s. 8].

22. Bar of Suits.—No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

(*a*) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(*b*) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(*c*) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or

(*d*) could have been recovered by an application under section 15.

[1][**22A. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.]

23. Contracting out.—Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

[2][**24. Delegation of powers.—**The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be also exercisable**—**

(*a*) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(*b*) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

1. Ins. by Act 53 of 1964, s. 20(w.e.f. 1-2-1965).
2. Subs. by Act 41 of 2005, s. 10, for section 24 (w.e.f. 9-11-2005).

25. Display by notice of abstracts of the Act.—The person responsible for the payment of wages to persons[1][employed in a factory or an industrial or other establishment] shall cause to be[2][displayed in such factory or industrial or other establishment] a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed[3][in the factory or industrial or other establishment] as may be prescribed.

[4][**25A. Payment of undisbursed wages in cases of death of employed person.—**(*1*) Subject to the other provisions of the Act, all amounts payable to an employed person as wages shall, if such amounts could not or cannot be paid on account of his death before payment or on account of his whereabouts not being known,—

(*a*) be paid to the person nominated by him in this behalf in accordance with the rules made under this Act; or

(*b*) where no such nomination has been made or where for any reasons such amounts cannot be paid to the person so nominated, be deposited with the prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed.

(*2*) Where, in accordance with the provisions of sub-section (*1*), all amounts payable to an employed person as wages—

(*a*) are paid by the employer to the person nominated by the employed person, or

(*b*) are deposited by the employer with the prescribed authority,

the employer shall be discharged of his liability to pay those wages.]

26. Rule-making power.—(*1*) [5][Appropriate Government] may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(*2*) [5][Appropriate Government] may,[6]*** by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(*3*) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (*2*) may—

(*a*) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act [7][, prescribe the form thereof and the particulars to be entered in such registers or records];

(*b*) require the display in a conspicuous place or premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;

(*c*) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;

(*d*) prescribe the manner of giving notice of the days on which wages will be paid;

(*e*) prescribe the authority competent to approve under sub-section (*1*) of section 8 acts and omissions in respect of which fines may be imposed;

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1. Subs. by Act 38 of 1982, s. 12, for "employed in a factory" (w.e.f. 15-10-1982).
2. Subs. by s. 12, *ibid.*, for "displayed in such factory" (w.e.f. 15-10-1982).
3. Subs. by s. 12, *ibid.*,for "in the factory" (w.e.f. 15-10-1982).
4. Ins. by s. 13, *ibid.* (w.e.f. 15-10-1982).
5. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
6. The words "subject to the control of the Governor-General in Council," omitted by the A.O. 1937.
7. Subs. by Act 53 of 1964, s. 22, for "and prescribed the form thereof" (w.e.f. 1-2-1965).

(*f*) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10;

(*g*) prescribe the conditions subject to which deduction may be made under the proviso to sub-section (*2*) of section 9;

(*h*) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;

(*i*) prescribe the extent to which advances may be made and the installments by which they may be recovered with reference to clause (*b*) of section 12;

[1][(*ia*) prescribe the extent to which loans may be granted and the rate of interest payable thereon with reference to section 12A;

(*ib*) prescribe the powers of Inspectors for the purposes of this Act;]

(*j*) regulate the scales of costs which may be allowed in proceedings under this Act;

(*k*) prescribe the amount of court-fees payable in respect of any proceedings under this Act;[2]***

(*l*) prescribe the abstracts to be contained in the notices required by section 25;[3]***

[4][(*la*) prescribe the form and manner in which nominations may be made for the purposes of sub-section (1) of section 25A, the cancellation or variation of any such nomination, or the making of any fresh nomination in the event of the nominee predeceasing the person making nomination, and other matters connected with such nominations;

(*lb*) specify the authority with whom amounts required to be deposited under clause (b) of sub-section (*1*) of section 25A shall be deposited, and the manner in which such authority shall deal with the amounts deposited with it under that clause;]

[1][(*m*) provide for any other matter which is to be or may be prescribed.]

(*4*) In making any rule under this section[5][appropriate Government] may provide that a contravention of the rule shall be punishable with fine[6][which shall not be less than seven hundred fifty rupees but which may extend to one thousand five hundred rupees].

(*5*) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (*3*) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall not be less than three months from the date on which the draft of the proposed rules was published.

[1][(*6*) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in[7][two or more successive sessions,] and if, before the expiry of the session[8][immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

[9][(*7*) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature.]

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1. Ins. by Act 53 of 1964, s. 22 (w.e.f. 1-2-1965).
2. The word "and" omitted by Act 53 of 1964, s. 22 (w.e.f. 1-2-1965).
3. The word "and" omitted by Act 38 of 1982, s. 14 (w.e.f. 15-10-1982).
4. Ins. by s. 14, *ibid.* (w.e.f. 15-10-1982).
5. Subs. by Act 41 of 2005, s. 3, for "the State Government" (w.e.f. 9-11-2005).
6. Subs. by s. 11, *ibid.*,for "which may extend to two hundred rupees" (w.e.f. 9-11-2005).
7. Subs. by Act 38 of 1982, s. 14, for "two successive sessions" (w.e.f. 15-10-1982).
8. Subs. by s. 14, *ibid.*,for "in which it is so laid or the session immediately following" (w.e.f. 15-10-1982).
9. Ins. by Act 41 of 2005, s. 11 (w.e.f. 9-11-2005).

STATE AMENDMENTS

Karnataka

Amendment of section 26.—In section 26 of the principal Act in sub-section (3), in clause (k) for the words "Court fees", the words "*ad valorem* or fixed court fees" shall be substituted.

[*Vide* Karnataka Act 2 of 1977, s. 9].