

ABSTRACT OF THE CONTRACT LABOUR ACT, 1971

The Act aims at the abolition of Contract Labour in respect of such categories as may be notified by the appropriate Government and at regulating the service conditions of Contract Labour where abolition is not possible.

APPLICABILITY

This Act applies

- to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour [Section 1(4)(a)];
- to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen [Section 1(4)(b)].

To whom does it not apply ?

It shall not apply to establishments in which work only of an intermittent or casual nature is performed [Section 1(5)(a)].

If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final [Section 1(5)(b)].

For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature :

- if it was performed for more than one hundred and twenty days in the preceding twelve months; or
- if it is of a seasonal character and is performed for more than sixty days in year.

Administration

The Act is administered by the Central or State Advisory Boards, as the case may be, whereon the Labour Commissioner will be a member [Sections 3 & 4].

Who is principal employer ?

The Head of any office or department of Government or local authority or, in a factory, the owner or occupier of the factory or a person named as the Manager of the factory under the Factories Act, 1948, is the principal employer under the Act [Section 2(g)].

What are 'Wages' ?

For the purpose of this Act, the expression 'wages' shall have the same meaning assigned to it under the Payment of Wages Act. Wages will, therefore, comprise Basic Pay (B.P.), Dearness Allowance (D.A.), City Compensatory Allowance (C.C.A.), Overtime Wages (O.W.) and Production Incentive. The term also includes encashment amount of leave, terminal dues, such as, notice pay, retrenchment compensation for Layoff etc., if the contract between the worker and the immediate employer so provide [Section 2(h)].

Who is a 'Workman' ?

Workman means any person employed in or in connection with a work of skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical nature for hire or reward, whether terms of the employment are express or implied. The expression 'workman' includes :

- (a) any person employed mainly in a managerial or administrative capacity; or
- (b) a person being employed in a supervisory capacity but draws wages exceeding 500 rupees per mensem or exercises either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature; or
- (c) a person who is a out-worker, that is to say, a person to whom any articles or materials are given out by on behalf of the principal employer to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of the principal employer and the process is to be carried out either in the home of the out-worker or in some other premises, not being premises under the control and management of the principal employer [Section 2(i)].

Contractor to make payment of wages

The Contractor shall be responsible for payment of wages to each contract worker employed by him, such amounts as wages and at such intervals as are agreed upon in the contract. The Contractor should ensure that the wages are disbursed in the presence of authorised representative of the principal employer.

The obligations of the principal employer

In case the Contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as the case may be, to the contract labour employed by the Contractor and recover the amount so paid from the Contractor either by deduction from any amount payable to the Contractor under any contract or as a debt payable by the Contractor [Section 21].

Employers' Obligations

Every principal employer of an establishment shall, under this Act, make an application to the Registering Officer in Form 1 for registration of his establishment. If the establishment fails to so register, it is prohibited to employ contract labour after the expiry of the period permitted for making the application [Section 7(1) & (2)].

Licensing of Contractors

No employer shall undertake any work through Contract Labour except under the licence issued by the Licensing Officer [Section 11]. Such licence will contain conditions as to hours of work, fixation of wages and other essential amenities for the contract employees. Such licence shall be valid for a specific period whereafter the employer may apply for renewal [Section 12(2)]. Any appeal against an order of the licensing officer may be made by the employer within thirty days before the Appellate Officer nominated by the Government [Section 15].

Welfare, safety and health measures

Every principal employer governed by this Act is responsible for maintaining such standards of welfare, safety and health of contract labour as prescribed in detail in the Act [Sections 16 to 21].

Registers and records

Registers of contractors : Every principal employer shall maintain in respect of each registered establishment a register of contractors in Form XII [Rule 74 of 1971].

Employment card : (i) Every contractor shall issue an employment card in Form XIV to each worker within three days of the employment of the worker, (ii) The card shall be maintained up-to-date and any change in the particulars shall be entered therein [Rule 76 of 1971].

Service Certificate : On termination of employment for any reason whatsoever the contractor shall issue to the workman whose service have been terminated a Service Certificate in Form XV [Rule 77].

Muster Roll, Wages Register, Deduction Register and Overtime Register : (a) Every contractor shall in respect of each work on which he engages contract labour [Rule 78]:

- maintain a Muster Roll and a Register of Wages in Forms XVI and XVII respectively;
 - Provided that a combined Register of Wage-cum-Muster Roll in Form XVIII shall be maintained by the contractor where the wage period is a fortnight or less;
 - maintain a Register of Deductions for damage or loss, Register of Fines and Register of Advances in Form XX, Form XXI and Form XXII respectively;
 - maintain a Register of Overtime in Form XXIII recording therein the number of hours of, and wages paid for, overtime work, if any.
 - Every contractor shall, where the wage period is one week or more, issue wage slips in Form XDX, to the workmen at least a day prior to the disbursement of wages;
 - Every contractor shall obtain the signature or thumb impression of the worker concerned against the entries relating to him on the Register of Wages or Muster Roll-cum-Wages Register, as the case may be, and the entries shall be authenticated by the initials of the contractor or his authorised representative and shall also be duly certified by the authorised representative of the principal employer in the following manner :
- The authorised representative of the principal employer shall record under his signature a certificate at the end of the entries in the Register of Wages or the (Register of Wage-cum-Muster Roll), as the case may be, in the following form :

Certified that the amount shown in Column No..... has been paid to the workman concerned in my presence on (date) at (place).

Display of the Act

Every contractor shall display an abstract of the Act and rules in English and Hindi and in the language spoken by the majority of workers in such form as may be approved by the Chief Labour Commissioner (Central). The contractor shall also display notices showing rates of wages, hours of work, wage period, dates of payment of wages in conspicuous places at the establishment and the work-site [Rules 80-81(1) & (2)].

Returns

Every principal employer shall, within fifteen days of the commencement or completion of each contract work under each contractor, submit a return to the Inspector; intimating the actual dates of commencement and completion of such contract work in Form VI-B [Rule 81(3)].

Every contractor shall send half yearly returns in Form XXIV (in duplicate) so as to reach the Licensing Officer concerned not later than thirty days from the close of the half year [Rule 82(1)].

Every principal employer of registered establishment shall send annually a return in Form XXV (in duplicate) so as to reach the Registering Officer concerned not later than fifteenth February following end of the year to which it relates [Rule 82(2)].

Penalties

Contravention of provisions of the Act will attract punishment by way of imprisonment or fine or both.

