



## The Payment of Wages Act, 1936

Act 4 of 1936

**Keyword(s):**

Employee Person, Industrial Establishment, Plantation, Prescribed, Railway Administration, Wages,

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THE PAYMENT OF WAGES ACT, 1936.

(ACT 4 OF 1936)

ARRANGEMENT OF SECTIONS

SECTIONS.

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4. The Payment of Wages (Amendment) Ordinance, 1940 (3 of 1940).
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8. The Payment of Wages (Amendment) Act, 1957 (68 of 1957) (with effect from the 1st April, 1958).
9. The Payment of Wages (Punjab Amendment) Act, 1962 (Punjab Act 15 of 1962)<sup>1</sup>.
10. The Payment of Wages (Punjab Amendment) Act, 1964 (Punjab Act 2 of 1964)<sup>2</sup>.
11. The Payment of Wages (Amendment) Act, 1964 (53 of 1964) (with effect from 1st February, 1965).
12. The Central Labour Laws (Extension to Jammu and Kashmir) Act, 1970 (51 of 1970) (with effect from 1st September, 1971).

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<sup>1</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1962, page 496.

<sup>2</sup>For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary), 1963, page 1000.

**THE PAYMENT OF WAGES ACT, 1936.**  
(Act 4 of 1936.)

[23rd April, 1936.]

An Act to regulate the payment of wages to certain classes of persons employed in industry.

Whereas it is expedient to regulate the payment of wages to certain classes of persons employed in industry;

It is hereby enacted as follows:—

1. (1) This Act may be called the Payment of Wages Act, 1936.

Short title, extent, commencement and application.

[(2) It extends to the whole of India <sup>3</sup>[\* \* \*]].

(3) It shall come into force on such date<sup>4</sup> 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 factory and 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.

(5) The [State Government] may, after giving three months' notice of its intention of so doing, by notification in the [Official Gazette], extend the provisions of [this Act] or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments :

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, page 20, for Report of Select Committee; see *ibid*; page 77.

<sup>2</sup>Substituted by the A.O. 1950; for sub-section (2).

<sup>3</sup>The words "Except the State of Jammu and Kashmir" omitted by Act 51 of 1970.

<sup>4</sup>28th March, 1937, see Gazette of India, 1937, Pt. I, page 626.

<sup>5</sup>Substituted by the A.O. 1937 for "Governor-General in Council".

<sup>6</sup>Substituted *ibid*, for "Gazette of India".

<sup>7</sup>Substituted by the A.O. 1950 for "Provincial Government".

<sup>8</sup>Substituted by the A.O. 1937 for "local official Gazette".

<sup>9</sup>Substituted by Act 68 of 1957, section 2, for "the Act" (with effect from 1st April, 1958).

<sup>1</sup>[Provided that in relation to any industrial establishment owned by the Central Government with objects not confined to one State no such notification shall be issued except in consultation with that Government.]

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average <sup>2</sup>[four hundred rupees] a month or more.

**Definitions.**

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

<sup>3</sup>[(i) “employed person” includes the legal representative of a deceased employed person;

(ia) “employer” includes the legal representative of a deceased employer;

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

(ii) “industrial establishment” means any—

<sup>4</sup>[(a) tramway service, or motor transport service engaged in carrying passengers 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;

<sup>5</sup>[(c) inland vessel, mechanically propelled;]

<sup>1</sup>Inserted by Act 53 of 1964, section 2.

<sup>2</sup>Substituted by section 2, *ibid.*, for “two hundred rupees” (with effect from 1st April, 1958).

<sup>3</sup>Substituted for clause (i) by Act 53 of 1964, section.

<sup>4</sup>Substituted for sub-clause (a) by *ibid.*

<sup>5</sup>Substituted by Act 68 of 1957, section 3.

(d) mine, quarry or oil-field;

(e) plantation;

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

<sup>1</sup>[(g) 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 the supply of water or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on.]

<sup>2</sup>[(ia) "mine" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952;]

<sup>3</sup>[(iii) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951;]

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

(v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890; and

<sup>4</sup>[(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

<sup>1</sup>Inserted by section 3 *ibid.*

<sup>2</sup>Inserted Act 53 of 1964, section.

<sup>3</sup>Substituted for clause (iii) by *ibid.*

<sup>4</sup>Substituted for clause (vi) by Act 68 of 1957, section 3.

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 or light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State 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 persons 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. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act :

Responsibility for payment of wages.

Provided that, in the case of persons employed (otherwise than by a contractor)—

- (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],
- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment;
- (c) upon railways (otherwise 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;

the person so named, the person so responsible to the employer or the person so nominated, as the case may be, <sup>2</sup>[shall also be responsible] for such payment.

4. (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.

Fixation of wage-periods.

<sup>1</sup>Substituted by Act 68 of 1957, section 4, for "clause (e) sub-section 9 of the Factories Act 1934" (with effect from April, 1958)

<sup>2</sup>Substituted for the words "shall be responsible" by Act 53 of 1964, section 4.



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

Time of pay-  
ment of wages.

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

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

(b) any other railway, factory or industrial 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.

<sup>1</sup>[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.

<sup>1</sup>[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) The <sup>2</sup>[State 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 or <sup>1</sup>[to persons employed as daily-rated

<sup>1</sup>Inserted by Act 53 of 1964, section 5.

<sup>2</sup>Substituted for "Provincial Government" by Adaptation of Laws order, 1980.

workers in the Public Works Department of the Central Government or the State Government;]

from the operation of this section in respect of the wages of any such persons or class of such persons.

<sup>1</sup>[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) [Save as otherwise provided in sub-section (2), all payments] of wages shall be made on a working day.

<sup>2</sup>[6. All wages shall be paid in current coin or currency notes or in both. <sup>3</sup>[\* \* \* \* \*]. Wages to be paid in current coin or currency notes.

9 of 1890.

7. (1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act. Deductions which may be made from wages.

<sup>4</sup>[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.

<sup>5</sup>[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

<sup>1</sup>Inserted by Act 68 of 1957, section 5 (with effect from 1st April, 1958).

<sup>2</sup>Section 6 substituted by Punjab Act 15 of 1962, section 2.

<sup>3</sup>Proviso and explanation to section 6 omitted by Punjab Act 2 of 1964, section 2.

<sup>4</sup>Explanation re-numbered as explanation 1 by Act 68 of 1957, section 5.

<sup>5</sup>Inserted by Act 68 of 1957, section 5 (with effect from 1st April, 1958).

(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 the State 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;
- <sup>1</sup>[(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 subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette;]
- (e) deductions for such amenities and services supplied by the employer as the <sup>2</sup>\* \* \*  
<sup>3</sup>[State Government] <sup>4</sup>[or any officer specified by it in this behalf] may, by general or special order, authorize;

*Explanation.*—The word “services” in this sub-clause does not include the supply of tools

<sup>1</sup>Substituted by section 5, *ibid*, for clause (d) (with effect from 1st April, 1958).

<sup>2</sup>The words “Governor-General in Council or” omitted by A.O. 1937.

<sup>3</sup>Substituted by the A.O. 1950, for “Provincial Government”.

<sup>4</sup>Inserted by Act 53 of 1964, section 6.

and raw materials required for the purposes of employment.

- <sup>1</sup>[(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 the State Government, and the interest due in respect thereof;
- (fff) deductions for recovery of loans granted for house-building or other purposes approved by the State 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, applies or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922, or any provident fund approved in this behalf by the <sup>2</sup>[State Government], during the continuance of such approval; <sup>3</sup>\*\*\*.
- (j) deductions for payments to co-operative societies approved by the <sup>2</sup>[State Government] <sup>4</sup>[or any officer specified by it in this behalf] or to a scheme of insurance maintained by the Indian Post Office; <sup>5</sup>[and]

<sup>1</sup>Substituted by *ibid.*

<sup>2</sup>Substituted by A.O. 1950 for "Provincial Government".

<sup>3</sup>The word 'and' omitted by Ordinance 3 of 1940 section 2.

<sup>4</sup>Added by section 2 *ibid.*

<sup>5</sup>Inserted by Act 53 of 1964, section 6.

<sup>1</sup>[(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, or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such Government.].

<sup>2</sup>[(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 crantage or in respect of sale of food in catering establishments or in respect of sale of commodities in grain shops or otherwise;

(o) deduction 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.]

<sup>3</sup>[(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—

<sup>1</sup>Substituted by Act 68 of 1957, section 5.

<sup>2</sup>Inserted by Act 53 of 1964, section 6.

<sup>3</sup>Inserted by Act 68 of 1964, section 6.

- (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 per cent of such wages; and
- (ii) in any other case, fifty per cent of such wages;

Provided that where the total deductions authorised under sub-section (2) exceed seventy-five per cent or, as the case may be, fifty per cent 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 the Indian Railways Act, 1890.]

8. (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 the <sup>1</sup>[State Government] or of the prescribed authority, may have specified by notice under sub-section (2). Fines.

(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 persons 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 half-anna in the rupee of the wages payable to him in respect of that wage-period.

<sup>1</sup>Substituted by A.O. 1950 for "Provincial Government".

(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 instalments or after the expiry of sixty 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 persons 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 industrial 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. (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 larger 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 the <sup>1</sup>[State Government], if ten or more employed persons acting in concert absent themselves

<sup>1</sup>Substituted by the A.O. 1950 for "Provincial Government".

Deductions of  
absence from  
duty.

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.

<sup>1</sup>[*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.]

10. <sup>2</sup>[(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. Deductions for  
damage of loss.]

(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. 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 Deductions for  
services rendered.

\* \* \* <sup>4</sup>[State Government] may impose.

<sup>1</sup>Added by Act 22 of 1937, section 2.

<sup>2</sup>Substituted by Act 53 of 1964, section 7.

<sup>3</sup>The words "the Governor-General in Council or" omitted by A.O. 1937.

<sup>4</sup>Substituted by for "Provincial Government" by A.O. 1950.



Deductions for recovery of advances.

12. Deduction 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 :—

<sup>1</sup>[(aa) recovery of an advance of money given after employment began shall be subject to such conditions as the State Government may impose;]

(b) recovery of advances of wages not already earned shall be subject to any rules made by the <sup>2</sup>[State Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

Deductions for recovery of loans.

<sup>3</sup>[12-A. Deductions for recovery of loans granted under Clause (fff) of sub-section (2) of section 7 shall be subject to any rules made by the State Government regulating the extent to which such loans may be granted and the rate of interest payable thereon.]

Deductions payments to co-operative societies and insurance schemes.

13. Deduction under clause (j) <sup>4</sup>[and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the <sup>5</sup>[State Government] may impose.

Maintenance of registers and records.

<sup>6</sup>[13-A. (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.]

<sup>1</sup>Inserted by Act 53 of 1964, section 8.

<sup>2</sup>Substituted by for "Provincial Government" by A.O. 1950.

<sup>3</sup>Inserted by *ibid*, section 9.

<sup>4</sup>Inserted by Ordinance No. 3 of 1940, section 3.

<sup>5</sup>Inserted by Act 53 of 1964, section 10.

43 of 1948. 14. (1) An Inspector of Factories appointed under <sup>Inspectors.</sup> '[sub-section (1) of section 8 of the Factories Act, 1948] shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The <sup>2</sup>[State 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) The <sup>2</sup>[State Government] may, by notification in the <sup>3</sup>[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 industrial establishments in respect of which they shall exercise their functions.

<sup>4</sup>[(4) An inspector may,—

- (a) make such examinations and enquiry 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 industrial establishment at any reasonable time for the purpose of carrying out the objects of this Act ;
- (c) supervise the payment of wages to persons employed upon any railway or in any factory or industrial 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 ;

<sup>1</sup>Substituted by Act 68 of 1957, section 6, for "sub-section (1) of section 10, of the Factories Act, 1934" (with effect from 1st April, 1958).

<sup>2</sup>Substituted by the A.O., 1950 for "Provincial Government".

<sup>3</sup>Substituted by the A.O. 1937 for "local official Gazette".

<sup>4</sup>Substituted by Act 53 of 1964, section 11.

- (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 any statement tending to incriminate himself.

(4A) The provisions of the Code of Criminal Procedure, 1898, 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 section 98 of the said Code.]

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

Facilities to be afforded to Inspectors.

<sup>1</sup>[14-A. Every employer shall afford an Inspector all reasonable facilities for making any entry, inspection, supervision, examination or enquiry under this Act.]

Claims arising out of deductions from wages or delay in wages and penalty for malicious or vexatious claims.

15. (1) The <sup>2</sup>[State Government] may, by notification in the <sup>3</sup>[Official Gazette], appoint <sup>4</sup>[a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 or under any corresponding law relating to the investigation and settlement of Industrial disputes in force in the State or] any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be 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, <sup>5</sup>[of persons employed or paid in that area, including all matters incidental to such claims :

<sup>1</sup>Inserted by Act *ibid*, section 12.

<sup>2</sup>Substituted by the A.O. 1950 for "Provincial Government".

<sup>3</sup>Substituted by A.O. 1937, for "Local Official Gazette".

<sup>4</sup>Inserted by *ibid*, section 13.

<sup>5</sup>Substituted for certain words by *ibid*, section 13.

Provided that where the State 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 <sup>1</sup>[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 <sup>1</sup>[twelve months] when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(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 inquiry (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 deducted in the former case and <sup>2</sup>[not exceeding twenty-five rupees in the latter, and even

<sup>1</sup>Substituted for "six months" by Act 53 of 1964, section 13.

<sup>2</sup>Substituted for certain words, by *ibid.*

if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding twenty-five rupees].

Provided 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, 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.

<sup>1</sup>[(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 not exceeding fifty 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 not exceeding fifty rupees be paid to the State Government by the employer or other person responsible for the payment of wages.

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<sup>1</sup>Substituted by Act 53 of 1964, section 13.

(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.]

(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 any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

16. (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if <sup>1</sup>[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. Single application in respect of claims from unpaid group.

(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 <sup>2</sup>[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

<sup>1</sup>Substituted by Act 68 of 1957, section 7, for "An appeal against a direction made under *sub-section (3) or sub-section (4) of section 15*" (with effect from 1st April, 1958). The words and figures in italics, were substituted by Act 20 of 1937 section 2 and Sch I, for "sub-section (3)".

<sup>2</sup>Substituted for certain words by *ibid.*

group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

Appeal.

17. (1) <sup>1</sup>[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 <sup>2</sup>[the order or direction] was made, in a Presidency-town <sup>3</sup>\* \* \* before the Court of Small Causes and elsewhere before District Court—

(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, <sup>4</sup>[or such direction has the effect of imposing on the employer or the other person a financial liability exceeding one thousand rupees;]

<sup>5</sup>(b) by an employed person on 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 <sup>6</sup>[sub-section (4)] of section 15.

<sup>7</sup>[(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

<sup>1</sup>Substituted for certain words by *ibid.*

<sup>2</sup>Substituted for "the direction" by Act 68 of 1957, section 7.

<sup>3</sup>The words "or in Rangoon" omitted by A.O. 1937.

<sup>4</sup>Inserted by Act 53 of 1964, section 15.

<sup>5</sup>Substituted by *ibid.*

<sup>6</sup>Substituted for "sub-section (5)" by Act 20 of 1937, section 2 and schedule I.

<sup>7</sup>Inserted by Act 53 of 1964, section 15.

that the appellant has deposited the amount payable under the direction appealed against.]

<sup>1</sup>[(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.]

<sup>2</sup>[(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.]

<sup>3</sup>[17A. (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 <sup>4</sup>[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 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

Conditional attachment of property of employer or other person responsible for payment of wages.

<sup>1</sup>Substituted by Act 68 of 1957, section 7.

<sup>2</sup>Sub-section (3) and (4) inserted by Act 53 of 1964, section 15.

<sup>3</sup>Inserted by Act 68 of 1957, section 8.

<sup>4</sup>Substituted for certain words by Act 53 of 1964, section 16.



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, relating to attachment before judgment under that Code shall, so far as may be, apply to any order for establishment under sub-section (1).]

5 of  
1908.

Powers of authorities appointed under section 15.

18. 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, 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 for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898,

5 of  
1908.5 of  
1898.

<sup>1</sup>[19. \* \* \* \* \*].

Penalty for offences under the Act.

20. (1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, <sup>2</sup>[section 5 except sub-section (4) thereof, section 7, section 8 except sub-section (8) thereof, section 9, section 10 except sub-section (2) thereof, and sections 11 to 13], both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes the provisions of section 4, <sup>3</sup>[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 with fine which may extend to two hundred rupees.

<sup>4</sup>[(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

<sup>1</sup>Omitted by Act 53 of 1964, section 17.

<sup>2</sup>Substituted for "section 5 and sections 7 to 13" by *ibid.*

<sup>3</sup>Substituted for "section 6" by *ibid.*

<sup>4</sup>Sub-sections "(3) to (6)" inserted by *ibid.*

- (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 with fine which may extend to five hundred rupees.

(4) Whoever—

- (a) wilfully obstructs an Inspector in the discharge of his duties under this Act; or
- (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 or industrial 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 with fine which may extend to 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 which may

extend to three months, or with fine which may extend to one thousand rupees, or with both :

Provided that for the purpose of this 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 fifty rupees for each day for which such failure or neglect continues.]

Procedure in  
trial of  
offences.

21. (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 and 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 contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

<sup>1</sup>[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.]

(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.

22. 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.

<sup>2</sup>[22A. 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.]

Protection of  
action taken in  
good faith.

<sup>1</sup>Inserted by Act 53 of 1964, section 19.

<sup>2</sup>Inserted by Act 53 of 1964, section 20.

Contracting  
out.

23. 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.

Application of  
Act to railways,  
mines and oil-  
fields.

<sup>1</sup>[24. The powers by this Act conferred upon the <sup>2</sup>[State Government] shall, in relation to <sup>3</sup>[railway], <sup>4</sup>[air transport services] mines and oilfields, be powers of the Central Government.]

Display by  
notice of abs-  
tracts of the  
Act.

25. The person responsible for the payment of wages to persons employed in a factory shall cause to be displaced in such factory 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 in the factory, as may be prescribed.

Rule-making  
power.

26. (1) The <sup>2</sup>[State Government] may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(2) The <sup>2</sup>[State Government] may, \* \* \* by notification in the <sup>6</sup>[Official Gazette], make <sup>7</sup>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 <sup>8</sup>[prescribe the form thereof and the particulars to be entered in such registers or records.];

<sup>1</sup>Substituted by the A.O., 1937 for the original section 24.

<sup>2</sup>Substituted by the A.O. 1950 for "Provincial Government".

<sup>3</sup>Substituted *ibid* for "Federal railways (within the meaning of the Government of India Act, 1935)".

<sup>4</sup>Inserted by Act 53 of 1964, section 21.

<sup>5</sup>The words "subject to the control of the Governor-General in Council" omitted by the A. O. 1937.

<sup>6</sup>Substituted *ibid* for "local official Gazette".

<sup>7</sup>For Punjab rules, see Punjab Government notification No. 778-I&L-37/8066, dated 26th February, 1937.

<sup>8</sup>Substituted by Act 53 of 1964, section 22.

- (b) require the display in a conspicuous place on 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;
  - (f) prescribe the procedure for the imposition of fines under section 8 and for the making of deductions referred to in section 10;
  - (g) prescribe the conditions subject to which deductions 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 instalments by which they may be recovered with reference to clause (b) of section 12 ;
  - <sup>1</sup>[(ia) prescribe the extent to which loans may be granted and the rate of interest payable thereon with reference to section 12 A ;
  - (ib) prescribe the powers of Inspectors for the purposes of this Act;]
  - (j) regulate the scales of costs may be allowed in proceedings under this Act ;
  - (k) prescribe the amount of court-fees payable in respect of any proceedings under this Act;
- <sup>2</sup>[\* \*].

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<sup>1</sup>Inserted by *ibid.*

<sup>2</sup>The word "and" omitted by *ibid.*