



श्रीमती मंजु बगाई
विधि सलाहकार
MRS. MANJU BAGAI
LEGAL ADVISER

वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद्
अनुसंधान भवन, 2, रफी मार्ग, नई दिल्ली-110 001
COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH
Anusandhan Bhawan, 2, Rafi Marg, New Delhi-110001

फा. सं.3(89)ईए-लॉ-वॉल्यू-IV
दिनांक : 18.09.2008 2109

सभी राष्ट्रीय प्रयोगशालाओं/संस्थानों के प्रधान

विषय: श्रम कानूनों का अनुपालन
संदर्भ: सीएसआईआर का दिनांक 11.5.2005 का परिपत्र सं.3/89-ईए(लॉ)

महोदय,

आपका ध्यान इस ओर आकृष्ट किया जाता है कि हाल ही में श्रम प्रवर्तन अधिकारी द्वारा सीएसआईआर की एक प्रयोगशाला का निरीक्षण किया गया और यह पाया गया कि श्रम कानूनों के कुछेक प्रावधानों का अनुपालन नहीं हो रहा है जैसे कार्यस्थल पर अद्यतन रजिस्टर न रखा जाना। अंतः श्रम प्रवर्तन अधिकारी द्वारा उस प्रयोगशाला के निदेशक के विरुद्ध श्रम कानूनों का अनुपालन न किए जाने के कारण मुख्य न्यायिक मजिस्ट्रेट (सीजेएम) के न्यायालय में आपराधिक शिकायत दर्ज की गई। इस सिलसिले में निदेशक को सीजेएम के समक्ष प्रस्तुत होना पड़ा और जुर्माना भी देना पड़ा।

इस संबंध में आपका ध्यान दिनांक 11.5.2005 के समसंख्यक परिपत्र की ओर आकर्षित किया जाता है जिसके द्वारा आपसे ठेका श्रमिक (आर एण्ड ए) अधिनियम 1971 के अनुसार औपचारिकताओं का अनुपालन करने हेतु अनुरोध किया गया था। प्रयोगशाला/संस्थान द्वारा ऐसी अन्य स्थानीय औपचारिकताओं को पूरा किए जाने के संदर्भ में आपको स्थानीय वकील से परामर्श करने की सलाह भी दी गई थी। ऐसा प्रतीत होता है कि कुछ प्रयोगशालाओं में श्रम कानूनों की कुछेक औपचारिकताओं का अनुपालन नहीं हो रहा है। इस संबंध में इंगित किया जा सकता है कि विभिन्न श्रम कानूनों के कुछेक प्रावधानों का अनुपालन न करना एक दंडनीय अपराध है और उस कानून में निर्धारित अवधि के लिए कारावास का दंड दिया जा सकता है और/अथवा उसमें उल्लिखित राशि के बराबर जुर्माना भी लगाया जा सकता है। विभिन्न श्रम कानूनों के कुछ दंडिक प्रावधानों के सार संलग्न हैं।

अतः संबंधित प्रशासन अधिकारी/प्रशासन नियंत्रक अथवा किसी अन्य अधिकारी को सभी श्रम कानूनों के प्रावधानों के अनुपालन को सुनिश्चित करने के अनुरोध दिए जाएं, ताकि भविष्य में किसी भी प्रकार के उल्लंघन इत्यादि के आरोपों से बचा जा सके एवं संस्थान के प्रधान होने के नाते निदेशक को किसी भी प्रकार की उलझन न हो।

सभी सांविधिक आवश्यकताओं/प्रावधानों का कड़ाई से अनुपालन किया जाए। श्रम कानूनों के प्रावधानों का अनुपालन करने अथवा उसे समझने में किसी प्रकार की कठिनाई होने पर अधोहस्ताक्षरी अथवा स्थानीय वकील से सलाह ली जा सकती है और तदनुसार कार्रवाई की जा सकती है।

भवदीया,
मंजु बगाई
(मंजु बगाई)



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F.No.3(89)EA-Law-Vol-IV | 2109
Date: 19.09.2008

To

The Heads of all National Labs./Instts.

Sub: Compliance of Labour Laws.

Ref: CSIR Circular letter No.3/89-EA(Law) dated 11.5.2005.

Sir,

This is to bring to your kind notice that recently an inspection was conducted by Labour Enforcement Officer in one of the laboratories and due to non-compliance of certain provisions of the Labour Laws such as non-maintenance of up to date register at the place of work site, a criminal complaint was filed by Labour Enforcement Officer against the Director of the Laboratory in the court of Chief Judicial Magistrate (CJM) for non-compliance. Director had to appear before the CJM and fine was imposed.

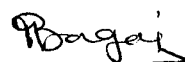
In this connection, your kind attention is invited to circular of even number dated 11.5.2005 whereby you were requested to comply with the formalities as per Contract Labour (R&A) Act 1971. You were also advised to consult the local advocate with reference to such other local formalities to be completed by Laboratory/Institute. It appears that in some labs certain formalities of Labour Laws are not being complied with. In this connection, it may be pointed out that non compliance of certain provisions of various Labour Laws is a penal offence and shall be punishable with imprisonment for a term of as prescribed therein and/or fine of the amount mentioned therein. Extracts of few penal provisions of various Labour Laws are enclosed herewith.

In order to avoid any such violation and embarrassment to the Director, being the Head of the Institution in future, AO/CoA or any other concerned officer of your laboratory may be instructed to ensure compliance of the provision of all Labour Laws. The statutory requirements/provisions may be scrupulously followed and complied with

PTO

In case of any difficulty in following/understanding the provision of Labour Laws, the undersigned or local advocate may be consulted for advise and act accordingly.

Yours faithfully,


(Manju Bagai)

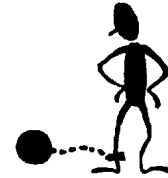
Copy to:

1. Sr. CoAs/CoAs/AOs of all Labs/Instts.
2. US & PS to JS(Admn.)
3. CVO, CSIR
4. Head, HRDG,
5. Sr. DS, CSIR Complex
6. Under Secy. in CSIR Hqrs.
7. ✓ Sh. A. Wahid, Scientist, IT Division – with the request that this circular may be made available in CSIR Website.
8. Office Copy
9. Guard File.



CHECKLIST

CONTRACT LABOUR (REGULATION & ABOLITION) ACT, 1970



Object of the Act

To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

Applicability

- Every establishment in which 20 or more work men are employed or were employed on any day of the preceding 12 months as contract labour.
- Every contractor who employs or who employed on any day of the preceding twelve months 20 or more workmen.

Sec. 1

Registration of Establishment

Principal employer employing 20 or more workers through the contractor or the contractor(s) on deposit of required fee in Form 1.

Sec. 7

Prohibition of Employment of Contract Labour

Only by the appropriate Government through issue of notification after consultation with the Board (and not Courts) can order the prohibition of employment of contract labour.

Sec. 10

Revocation of Registration

When obtained by misrepresentation or suppression of material facts etc. after opportunity to the principal employer.

Sec. 9

Licensing of Contractor

- Engaging 20 or more than 20 workers and on deposit of required fee in Form IV.
- Valid for specified period.

Sec. 12, Rule 21

Revocation or Suspension & Amendment of Licences

- When obtained by misrepresentation or suppression of material facts.
- Failure of the contractor to comply with the conditions or contravention of Act or the Rules.

Sec. 14

Welfare measures to be taken by the Contractor

- Contract labour either one hundred or more employed by a contractor for one or more canteens shall be provided and maintained.
- First Aid facilities.
- Number of rest-rooms as required under the Act.
- Drinking water, latrines and washing facilities.

Secs. 16 & 17

Liability of Principal Employer

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

Sec. 20

Responsibility of Contractor for Payment of Wages

- To pay timely and to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.
- Rate of wages not less than the rates as fixed or prevailing in such employment as fixed by agreement.

Sec. 21, Rule 25

Laws, Agreement or Standing Orders inconsistent with the Act - Not Permissible

Unless the privileges in the contract between the parties are more favourable than the prescribed in the Act, such contract will be invalid and the workers will continue to get more favourable benefits.

Sec. 30

Registers of Contractors

- **Principal employer**
 - To maintain a register of contractors in respect of every establishment in Form XII.
- **Contractor**
 - To maintain register of workers for each registered establishment in Form XIII.
 - To issue an employment card to each worker in Form XIV.
 - To issue service certificate to every workman on his termination in Form XV.

Rules 75, 76 and 77

Returns

Contractor to send half yearly return in Form XXIV in duplicate within 30 days Principal employer to send annual return in Form XXV in duplicate before 15th Feb. following the end of the concerned year.

Rule 82

Muster Roll, Wages Register, Deduction Register and Overtime Register by Contractor

- Every contractor shall
 - Maintain Muster Roll and a Register of Wages in Form XVI and Form XVII respectively when combined.
 - Register or wage-cum-Muster Roll in Form XVII where the wage period is a fortnight or less.
 - Maintain a Register of Deductions for damage or loss, Register or Fines and Register of Advances in Form XX, form XXI and Form XXII respectively.
 - Maintain a Register of Overtime in Form XXIII.
 - To issue wage slips in Form XIX, to the workmen at least a day prior to the disbursement of wages.
 - 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.
- When covered by Payment of Wages Act, register and records to be maintained under these rules -
 - Muster Roll, • Register of Wages, • Register of Deductions, • Register of Overtime, • Register of Fines, • Register of Advances, • Wage slip.



Rule 79

- To 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 appropriate authority.
- To display notices showing rates of wages, hours of work, wage period, dates of payment, names and addresses of the Inspector and to send copy to the inspector and any change forthwith.

Rule 80

Rule 81

PENALTIES

Section	Offence	Punishment
Sec. 22	Obstructions	For obstructing the inspector or failing to produce registers etc.
Sec. 23	Violation	- 3 months imprisonment or fine upto Rs.500, or both. For violation of the provisions of Act or the Rules, imprisonment of 3 months or fine upto Rs.1000. On continuing contravention, additional fine upto Rs.100 per day.





CHECKLIST

EQUAL REMUNERATION ACT, 1976



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CHECKLIST

MINIMUM WAGES ACT, 1948



Object of the Act
To provide for fixing minimum rates of wages in certain employments.

Minimum Rates of Wages

Such as

- Basic rates of wages etc.
- Variable DA and
- Value of other concessions etc.

Sec. 4

Fixing Hours for Normal Working

- Shall constitute a normal working day, inclusive of one or more specified intervals.
- To provide for a day of rest in every period of seven days with remuneration.
- To provide for payment for work on a day of rest at a rate not less than the overtime rate.



Sec. 13

Fixation of Minimum Rates of Wages

- The appropriate government to fix minimum rates of wages. The employees employed under part-I or part-II of Schedule.
- To make review at such intervals not exceeding five years the minimum rates or so fixed and revised the minimum rates.

Government can also fix Minimum Wages for

- Time Work • Piece work at piece rate • Piece work for the purpose of securing to such employees on a time work basis • Overtime work done by employees for piece work or time rate workers.

Sec. 3

Procedure for fixing and revising Minimum Rates of Wages

- Appointing Committee
- Issue of Notification etc.

Sec. 5



Overtime

- To be fixed by the hour, by the day or by such a longer wage-period works on any day in excess of the number of hours constituting a normal working day.
- Payment for every hour or for part of an hour so worked in excess at the overtime rate double of the ordinary rate (1½ times for agriculture labour)

Sec. 14



Composition of Committee

Representation of employer and employee in scheduled employment in equal number and independent persons not exceeding 1/3rd or its total number one such person to be appointed by the Chairman.

Sec. 9

Payment of Minimum Rates of Wages

Employer to pay to every employee engaged in scheduled employment at a rate not less than minimum rates of wages as fixed by Notification by not making deduction other than prescribed.

Sec. 12



Wages of workers who work for less than normal working days

Save as otherwise hereinafter provided, be entitled to receive wages in respect of work done by him on that day as if he had worked for a full normal working day.

Sec. 15

Wages for two classes of work

Where an employee does two or more classes of work to each of which a different minimum rate of wages is applicable, wages at not less than the minimum rate in respect of each such class.

Sec. 16

Maintenance of registers and records

- Register of Fines - Form I Rule 21(4)
- Annual Returns - Form III Rule 21 (4-A)
- Register for Overtime - Form IV Rule 25
- Register of Wages - Form X, Wage slip - Form XI, Muster Roll - Form V Rule 26
- Representation of register - for three years Rule 26-A.



Sec. 18

Minimum time rate wages for piece work

Not less than minimum rates wages as fixed.

Sec. 17

Claims by employees

- To be filed before authority constituted under the Act within 6 months.
- Compensation upto 10 rupees

Sec. 20

PENALTIES

Offence

Punishment

Sec. 22

For paying less than minimum rates of wages

Imprisonment upto 6 months or with fine upto Rs.500/- or both

For contravention of any provisions pertaining to fixing hours for normal working day etc.

Fine upto Rs.500/-.





CHECKLIST

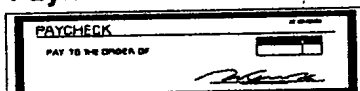
EMPLOYEES' PROVIDENT FUNDS & MISC. PROVISIONS ACT & THE SCHEMES



Eligibility

Any person who is employed for work of an establishment or employed through contractor in or in connection with the work of an establishment.

Payment of Contribution



• The employer shall pay the contribution payable to the EPF, DLI and Employees' Pension Fund in respect of the member of the Employees' Pension Fund employed by him directly by or through a contractor.

• It shall be the responsibility of the principal employer to pay the contributions payable to the EPF, DLI and Employees' Pension Fund by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through a contractor.

Clarification about Contribution

After revision in wage ceiling from Rs.5000 to Rs.6500 w.e.f. 1-6-2001 per month, the government will continue to contribute 1.16% upto the actual wage of maximum Rs.6500 per month towards Employees' Pension Scheme. The employer's share in the Pension Scheme will be Rs.541 w.e.f. 1-6-2001.

Under Employees' Deposit-Linked Insurance Scheme the contribution @ 0.50% is required to be paid upto a maximum limit of Rs.6500. The employer will pay administrative charge @ 0.01% on a maximum limit of Rs.6500.

The employer will also pay administrative charges @ 0.01% on maximum limit of Rs.6500 whereas an exempted establishment will pay inspection charges @ 0.005% on the total wages paid.

Notes:

(1) The above clarification is given by taking wages upto a maximum of Rs.6500 towards wage (basic + DA).

(2) Since an excluded employee i.e. drawing wages more than Rs.6500 can also become member of the Fund and the Schemes on joint request and if, for instance, such an employee is getting Rs.10,000 per month, his share towards provident fund contribution will be Rs.1200 e.g. 12% and employer's share towards provident fund contribution will be Rs.659 and Rs.541 towards Employees' Pension Fund.

Applicability

• Every establishment which is a factory engaged in any industry specified in Schedule 1 and in which 20 or more persons are employed.

• Any other establishment employing 20 or more persons which Central Government may, by notification, specify in this behalf.

• Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

Benefits



Employees covered enjoy a benefit of Social Security in the

form of an unattachable and unwithdrawable (except in severely restricted circumstances like buying house, marriage/education, etc.) financial nest egg to which employees and employers contribute equally throughout the covered persons' employment.

This sum is payable normally on retirement or death. Other Benefits include Employees' Pension Scheme and Employees' Deposit Linked Insurance Scheme.



Rates of Contribution



SCHEME	EMPLOYEE'S	EMPLOYER'S	CENTRAL GOVT.'S
Provident Fund Scheme	12%	Amount > 8.33% (in case where contribution is 12% or 10%) 10% (in case of certain Establishments as per details given earlier)	NIL
Insurance Scheme	NIL	0.5%	NIL
Pension Scheme	NIL	8.33% (Diverted out of Provident Fund Contributions)	1.16%

Damages

- Less than 2 months @17% per annum
- Two months and above but less than four months @22% per annum
- Four months and above but less than six months @27% per annum
- Six months and above @37% per annum

Penal Provision



Liable to be arrested without warrant being a cognisable offence. Defaults by employer in paying contributions or inspection/administrative charges attract imprisonment upto 3 years and fine upto Rs.10,000 (S.14). For any retrospective application, all dues have to be paid by employer with damages upto 100% of arrears.



EMPLOYEES' STATE INSURANCE

ACT & the SCHEME CHECKLIST



Applicability of the Act & Scheme

Is extended area-wise to factories using power and employing 10 or more persons and to non-power using manufacturing units and establishments employing 20 or more persons upto Rs. 6500/- per month. It has also been extended upon shops, hotels, restaurants, road motor transport undertakings, equipment maintenance staff in the hospitals.

Coverage of employees

Drawing wages (w.e.f. 1-10-2006) upto
Rs. 10,000/- per month engaged either directly or thru' contractor.

Rate of Contribution of the wages

Employers' **4.75%**
Employees' **1.75%**



THE ESI SCHEME TODAY

No. of implemented Centres	677
No. of Employers covered	2.38 lacs
No. of Insured Persons	85 lacs
No. of Beneficiaries	330 lacs
No. of Regional Offices/SRO's	26
No. of ESI Hospitals/Annexes	183
No. of ESI Dispensaries	1453
No. of Panel Clinics	2950

Manner and Time Limit for making payment of contribution



The total amount of contribution (employee's share and employer's share) is to be deposited with the authorised bank through a challan in the prescribed Form in quadruplicate on or before 21st of month following the calendar month in which the wages fall due.

Benefits

to the employees under the Act

Medical sickness, extended sickness for certain diseases, enhanced sickness, dependants, maternity, besides funeral expenses, rehabilitation allowance, medical benefit to insured person and his or her spouse.



WAGES FOR ESI CONTRIBUTIONS

Registers/files to be maintained by the employers.

Contribution period

1st April to 30th
September

1st October to 31st
March

Benefit period

If the person joined insurable employment for the first time, say on 5th January, his first contribution period will be from 5th January to 31st March and his corresponding first benefit will be from 5th October to 31st December.

To be deemed as wages

- Basic pay
- Dearness allowance
- House rent allowance
- City compensatory allowance
- Overtime wages (but not to be taken into account for determining the coverage of an employee)
- Payment for day of rest
- Production incentive
- Bonus other than statutory bonus
- Night shift allowance
- Heat, Gas & Dust allowance
- Payment for unsubstituted holidays
- Meal/food allowance
- Suspension allowance
- Lay off compensation
- Children education allowance (not being reimbursement for actual tuition fee)
- Conveyance

NOT to be deemed as wages

- Contribution paid by the employer to any pension/provident fund or under ESI Act
- Sum paid to defray special expenses entailed by the nature of employment - Daily allowance paid for the period spent on tour.
- Gratuity payable on discharge
- Pay in lieu of notice of retrenchment compensation
- Benefits paid under the ESI Scheme
- Encashment of leave
- Payment of Inam which does not form part of the terms of employment
- Washing allowance
- Amount towards reimbursement for duty related journey.

Penalties

Different punishments have been prescribed for different types of offences in terms of section 85 :
(i) (six months imprisonment and fine Rs.5,000),
(ii) (one year imprisonment and fine), and 85-A : (five years imprisonment and not less to 2 years) and 85-C(2) of the ESI Act, which are self-explanatory. Besides these provisions, action also can be taken under section 408 of the IPC in cases where an employer deducts contributions from the wages of his employees but does not pay the same to the corporation which amounts to criminal breach of trust.

