

Delhi Shops & Estab. Act, 1954

Regulates hours of work, payment of wages, leave, holidays, terms of service, other conditions of service in shops, commercial establishments & establishments for public entertainment or amusement, other establishments.

Applies to whole of UT of Delhi – to establishments as Govt. may notify.

'Child' – who is less than 12 years

'Commercial establishment' – includes societies, trusts or charitable trusts – doing trade business, profession or work.

'Establishment' – means shop, commercial establishment, hotel, restaurant, theatre, notified establishments

'Shop' – where goods are sold & includes office, storeroom, godown, warehouse or workplace.

'Wages' as defined in Min. Wages Act, 1948- all remuneration capable of being expressed in terms of money – Excludes house, medical, PF/Pension Fund contributions, TA, gratuity, special expenses.

Exempted Establishments – See Schedule (Mostly S. 15 (Open/Closing) & 16 (Closed day + 3 National holidays))

Registration of Establishments (within 90 days) (Was mandatory till 23/11/89 – now in abeyance)

Changes/Closing of Estab. – Chief Inspector of S&E to be informed in 15 days.

Employment of adults – not more than 9 hours per day/48 hrs per week

Restriction on double employment – ½ hr Interval of Rest/meals – 5 hrs before interval Spread over not more than 10.5 hrs for estab and 12 hrs for shop

Children not to be employed – not even family members – Young persons (12 to 18 yrs) not to work for more than 6 hrs – give rest after 3.5 hrs – not more than 8 hrs daily

Young persons & Women to work during day time – not between 9PM & 7AM or 8PM – 8AM

Opening & Closing hrs – as per Govt. notification (S. 15)

Close day & 3 National Holidays – exemption during religious festivals (S. 16) – Wages to be paid for close days/holidays (for daily wagers also) – Wage period is one month to be paid by the 7th of following month in cash – within 2 days if terminated.

Weekly holiday (may be same as close holiday)

Power to enforce cleanliness – Precautions against fire – Accidents – WC Act to apply, –

Employer to issue letter of appointment – Maintain all records

Notice of dismissal – one month's or wages in lieu – Employer & Employee to give one month's notice for terminating contract.

No Deductions from wages – except fines, absence from duty, money loss or damages caused due to negligence, HRA, authorised amenities, loan repayments (upto 2 months wages), I. Tax, by Court order, PF, for Co-ops, fines (after giving opportunity to explain) Claims relating to wages to be filed before Commissioner for Workmen's Compensation within 1 year

Leave – 15 days PL, 12 days CL or SL, – 5PL for four months service – 1 CL per month service – Watchman – for 1 yr 30 days PL – Can accumulate upto 3 months PL. – Wages to be paid during leave – No Contracting Out – Lighting & Ventilation & Drinking water Inspectors & Chief Inspector – powers – Penalties – fine upto 250 Rs –

Minimum Wages Act, 1948 – 31 Sections + Schedule

To provide for fixing minimum rates of Wages in certain employments
(Applies whole of India)

'Adolescent' – 14 to 18 years

'Child' – who has completed 14 years

Cost of Living Index

Scheduled Employment

Wages – all remuneration capable of being expressed in money + HRA

Excludes house facility, medical, PF contribution, TA, gratuity, spl expenses

Employee – excludes member of Armed forces

Fixing of min. wages by appropriate Govt.-time-rate for time work, piece-rate for piece
Work, overtime rates, -different rates for different employments, classes
of work, adults, adolescents, children, apprentices, localities, - rates may
be per hr /day/month – manner of calculation to be indicated

Min. Rate of Wages – Basic rate + allowances as per cost of living index- Procedure for
Fixing/revising/reviewing every 5 yrs-may appoint Committees- to notify
Proposals for comments within 2 months – to come into force after 3 months-
Advisory Boards may be set up-Central Advisory Board

Wages to be in cash or kind (with concessional supplies of essentials)

Employers shall not pay less than Min. Wages- Fixing hrs for normal working day, rest
period, overtime for excess work- wages for those who work less than normal day- wages
for 2 or more classes of work- Minimum time rate for piece workers-

Maintenance of Records & Registers

Inspectors – Claims for non-payment of min. wages to be decided by authorised LC-
claim to be filed in 6 months- may direct payment & Compensation-Amt may be ordered
to be recovered as fine.

Punishment of Employer- 6 months jail or Rs 500 fine-Cognizance with sanction of
Inspector- - Undisbursed amounts to be given to prescribed authority

Exemption from liability where person nominated –

Bar of Suits –

Contracting Out – No

Act not to apply to family members of Employer

Govt. may add to Schedule – Central Govt. to give directions

Rules by Central Govt. for Advisory Board

Power to make Rules with Appropriate Govt.

The Employees' Provident Fund & Misc Provisions Act, 1952

To provide for the institution of PF, Pension & Deposit-Linked Insurance Fund for employees of factories & other establishments

'Appropriate Govt.' – Central Govt. for establishments Owned & Controlled by CG
- State Govt. for any other establishments

'Authorised Officer' – Central PF Commissioner, Addl, Deputy, Asstt/Regional PF Cr
'basic wages' - all emoluments as per contract excluding cash value of food concession, DA(as per cost of living index), HRA, OT, bonus, Commission.

'Employer' – factory- owner/manager/occupier
in the case of establishment- person having ultimate control

'Employee' – any kind of work manual or otherwise who gets his wages from employer
includes those employed through Contractor, apprentice (other than those under Apprentices Act, 1961).

'Exempted Establishment/Employee' - those exempted u/s 16 & 17

'Factory' – where manufacturing process is carried on

'Industry' – as per list in Schedule I (CG can add to it)

'Recovery Officer' – authorised by Central Government 'Superannuation' -58 yrs

EPF Appellate Tribunal – for hearing appeals

'Establishment' includes all departments & branches

CG may frame PF Scheme & Fund (which is to vest in Central Board)

Schedule II – Matters to be provided for in the Scheme

Schedule III- Matters to be provided in Pension Scheme ('family' deleted)

Schedule IV- Matters to be provided in the Insurance Scheme

Central Board- Exe. Committee- State Board- Board of Trustees- Officers- Delegation

Contribution (S.6) – Matters to be provided in Schemes- laying before Parliament –CG

May modify Schemes-

Determination of moneys due from Employers by Central PFC, RPFC etc – may decide

(S.7A) Dispute on applicability of Act- hold inquiry & determine amts due from Employers under the Schemes- Can Review

EPF Appellate Tribunal

(S.7D to 7P)

Interest payable by Employer – 12% p.a. or as specified in Scheme

Mode of Recovery of moneys from employer or damages u/s 14B or charges by

Attachment & sale, arrest & jail, appoint Receiver- I.Tax Act

+Certificate Rules to apply for recovery

Fund to be recognized u/I.Tax Act.

Protection against Attachment - PF Accumulations/Pension /Insurance not liable to be

(S.10) assigned/charged/attachment by court decree for any debt or liability incurred by member –Money vests in nominee after death of member

Priority of payment of Contributions over other debts – Dues of employer under

(S.11) PF/Insurance Schemes/damages/charges have to be paid first if he is adjudicated insolvent or there is winding up. These will be 'first charge' on assets of the Establishment.

Employer not to reduce wages etc.

Inspectors – can ask for information/search/seizure

Penalties – false statement – Rs 5000 /1 yr jail

Default in compliance – 3 yrs jail

Default in payment of contribution- Rs 10K / 3yrs jail

Offences

Damages recoverable by way pf penalty for default in contribution – damages shall not

Exceed arrears – Waiver/reduce in the case of Sick companies

Court may extend time for payment of contributions

Act not to apply – to Co-op Societies with less than 50 workers without power, Schemes for Govt. servants under CG Schemes/Rules , Statutory bodies having their own Schemes

CG can exempt estabs. with weak financial conditions

Power to exempt (S.17) – by appropriate Govt. where establishments have better benefits of PF/Pension/Insurance

Power to CG to give directions to Central Board

Power to make Rules

Employees State Insurance Corporation Act, 1948

To provide for certain benefits to employees in case of Sickness, Maternity, and Employment Injury.

Whole of India – Applies to all Factories (other than seasonal) – CG can extend Act to any other establishment

ESI Corporation/ Standing Committee/Medical Benefit Council/ DG & Financial Commissioner

ESI Fund – regulation through elaborate Rules and Regulations

ESIC Hospitals + State Government help

Contributions – 1.75 % from Employees wages and 4.75% from Employers

Payment of Gratuity Act, 1972

To provide for a Scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, Railways, shops or other establishments

Whole of India (but not to plantations & ports in J&K)

10 or more persons employed in last 12 months

Other establishments having 10 or more employees as notified by CG

Act will apply despite fall in number of employees from 10.

'Appropriate government' – Central Govt. for owned/controlled factories, establishments

- State Govt. for others

'Completed year of service' - continuous service for 1 year

'Controlling Authority' – as appointed by appropriate Govt.

'Employee' – all kinds except Govt. servants / statutory bodies regulated by their own rules of gratuity.

'Employer' - For CG – HOD; For local authority-CEO; in any other case those having ultimate control

'Family' – male - female – adopted children

'retirement' – termination otherwise than by superannuation

'superannuation' – on attaining age of vacation of employment as per contract

'Wages' – basic + DA (excludes HRA, bonus, OT, commission etc.)

'Continuous service' – For 1 year : 180 days for mines below ground (95 for 6 months)

For others – 240 days (120 days for 6 months)

Payment of Gratuity – Eligibility is continuous service for 5 years (except where he dies)

Upon resignation, superannuation, retirement, death

Rate of gratuity – @ 15 days wages per year based on last wages drawn

Monthly wages X 15 = gratuity

An employee can have better than this.

Refusal of gratuity – forfeited towards damages caused by negligence

For riotous or disorderly conduct, act of violence

For act of moral turpitude

Insurance from LIC for employer's liability for gratuity – also register with

Controlling authority.

Power to Exempt – where better benefits of gratuity are made available

Nomination – to be made within 1 year

Determination of gratuity – and disputes to be decided by Controlling authority

Appeal to Appropriate Govt within 60 days

Inspectors – powers

Recovery of gratuity dues – Controlling authority issues Certificate to Collector

Penalties – 6 months to 1 year jail/ fine of Rs 10K to 20K

Cognizance of offences by Controlling authority who can file complaint with Magistrate

Protection of gratuity – Not liable to attachment by any decree of Court

Power to make rules.