[FORM V]

Abstract of the Payment of Wages Act, 1936, and the Rules made thereunder.

Whom the act affects

1. The Act applies to the payment of wages to persons in this factory or industrial establishment receiving less than Rs.400 a month.
2. No employed person can give up by contract, or agreement, his rights under the Act.

Definition of Wages

3. “Wages” means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which could, if the terms of employment, express or implied were fulfilled, be payable to a person employed in respect of this 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.
   (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 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 includes:
   (1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable, under any award or settlement between the parties or order of a Court.
   (2) The value of any house accommodation or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government.
   (3) Any contribution paid by the employer to any pension or provident fund, and the interest which may have acquired thereon.
   (4) Any traveling allowance or the value of any traveling concession.
   (5) Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment or.
   (6) Any gratuity payable on the termination of employment in cases other than those specified in sub-clauses (d).
Responsibility for and method of, payment

4. The employer is the employer and the manager of the factory jointly are responsible for the payment under the Act, of wages to persons employed under him, and any contractor employing persons is responsible for payment to the persons he employs and in the case of an industrial establishment the person responsible, if any and employer are jointly and severally responsible for such payment.

5. Wage-period shall be fixed for the payment of wages at intervals not exceeding one month.

6. Wages shall be paid on a working day within 7 days of the end of the wage period (or within 10 days if one 1000 or more persons are employed). The wages of a persons discharged shall be paid not later than the second working day after his discharge.

7. Payments in kind are prohibited.

Fines and Deductions

8. No deductions shall be made from wages except those authorized Under the Act (see paragraphs 9-15-A below.)

8A. Any loss of wages resulting from the imposition, for good and sufficient cause of the following penalties, namely:

(i) Withholding of increment or promotion (including the stoppage of increment at an efficiency bar.);
(ii) Reduction to a lower post or time scale or to a lower state in a time scale; or
(iii) Suspension

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

9. (1) Fines can be imposed only for such acts and omissions as the employer may, with the previous approval, in the case of establishments, of the Municipal Commissioner, or the Chief Officer, or Secretary, as the case may be within whose jurisdiction the establishment is situated, and in other cases, of the Chief Inspector of Factories, specify by notice displayed at or near the main entrance of the factory or industrial establishment and after giving the employed person an opportunity for explanation.

(2) Fines:

(a) Shall not exceed half an anna in the rupee;
(b) Shall not be recovered by instalments, or later than sixty days of the date of imposition;
(c) Shall be registered in a register and applied to such purpose beneficial to the employed persons as are approved by the Municipal Commissioner, Chief Officer, “Secretary or” Chief Inspector of Factories as the case may be,
(d) Shall not be imposed on a child.

10. (a) Deductions for absence from duty can be made only on account of the absence of the employed person at times when he should be working and such deductions must not exceed an amount which is in the same proportion to his wages for the wage period, as the time he was absent in that period is to the total time he should have been at work.

(b) If ten or more employed persons, acting in concert, absent themselves without reasonable cause and without due notice, the deduction for absence can include wages for eight days in lieu of notice, but—

(i) no deduction for breaking a contract can be made from a person under 15 or a woman;

(ii) there must be a provision in writing which forms part of the contract of employment, requiring that a specific period of notice of intention to cease work not exceeding 15 days or the period of notice which the employer has to give to discharge a worker, must be given to the employer and that wages may be deducted in lieu of such notice;

(iii) the above provision must be displayed at or near the main entrance of the factory; or industrial establishment;

(iv) no deduction of this nature can be made until a notice that this deduction is to be made, has been posted at or near the main entrance of the factory; or industrial establishment;

(v) no deduction must exceed the wages of the employed person for the period by which the notice be gives of leaving employment, is less than the notice he should give under his contract.

11. Deductions can be made for damage to or loss of goods expressly entrusted to an employed person or for loss of money for which he is required to account, where such damage or loss is due to his neglect or default.

Such deduction cannot exceed the amount of the damage or loss caused and can be made only after giving the employed person an opportunity for explanation.

12. Deductions can be made, equivalent to the value thereof, for

(a) 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; and

(b) Such amenities or services (other than too and raw materials) supplied by the employer as may have been authorised by general or special order of Government.

13. (a) Deductions can be made for the recovery of advances, or for adjustment of overpayment of wages.

(b) Advances made before the employment began can only be recovered from the first payment of wages for a complete wage-period but no recovery can be made of advances given for traveling expenses before employment began.

(c) Advances of unearned wages can be made at the paymaster’s discretion during employment but must not exceed the amount for four month’s wages without the permission of an Inspector.
These advances can be recorded by instalments, spread over not more than 18 months and the instalments must not exceed one-third or if the wages are not more than Rs.20 one-forth of the wages for any wage-period.

14. Deductions can be made for subscription to and for repayment of advances from any recognized provident fund.

15. Deductions can be made for payments to co-operative societies approved by State Government or to the postal insurance, subject to any conditions imposed by the State Government.

15A. Deductions can be made with the written authorization of the persons employed for payment of any premium on life insurance policy to the Life Insurance Corporation of India or for the purpose of securities of the Government of India or of any State Government or in furtherance of any savings Scheme of any such Government.

**Inspection**

16. An Inspector can enter on any premises and can exercise powers of inspection (including examination of documents and taking of evidence) as he may deem necessary for carrying out the purpose of the Act.

**Complaints of Deductions or Delays**

17. (1) Where irregular deductions are made from wages, or delays in payment take place an employed person can make an application in the prescribed form within one year to the authority appointed by the State Government for the purpose. An application delayed beyond this period may be rejected unless sufficient cause for the delay is shown.

(2) An Inspector under the Act or a representative Union registered as such under the Bombay Industrial; Relations Act, 1946, or when authorized in writing by the employed person, any legal practitioner or official of a registered trade union, or with the permission of the Authority, any other person can also apply to the Authority for a direction under section 15(3) on behalf of an employed person. In case an employed person is dead, his legal representative can also make an application for a similar direction.

(3) A single application may be presented by, or on behalf of any number of persons belonging to the same factory or industrial establishment the payment of whose wages has been delayed.

**Action by the authority**

18. The authority may award compensation to the employed person in addition to ordering the payment of delayed wages or the refund of illegal deductions. It may also direct the payment of the such compensation in cases where, the amount deducted or the delayed wages are paid by the employer to the employed person or his legal representative before the disposal of the application.

If a malicious or vexatious complaint is made, the authority may impose a penalty not exceeding Rs.50 on the applicant and other that it be paid to the employer.
Appeal against the authority

19. An appeal against an order or a direction may by the authority may be preferred, within thirty days to the District Court--
(a) by the paymaster if the total amount directed to be paid exceeds Rs.300 and the amount payable under the order appealed against is deposited with Authority;
(b) by an employed person or any legal practitioner or any official of a registered trade union authorized in writing to act on this behalf or a representative union registered as such under the Bombay Industrial Relations Act, 1946; or any Inspector under the Act or any other person authorized by an authority to make an application under sub-section (2) of section 15 and in the case of death of the employed person, his legal representative, if the total amount of wages withheld from him or his coworkers exceed Rs.50.
(c) by a person directed to pay a penalty for a malicious or vexations applications.

Provided that, When the order or direction appealed against was made by any person who holds or has held office of or above the rank of a District Judge or a judicial member of the Industrial Court constituted under the Bombay Industrial Relations Act 1946, or the presiding officer of a Tribunal constituted under the Industrial Disputes Act, 1947, an appeal under this section shall lie to the, High Court.

Punishment for Breaches of the Act

20. Any one delaying the payment of wages beyond the due date, or making any unauthorized deduction from wages is liable to a fine-up to Rs.2000 but only if prosecuted with the sanction of the State Government or any officer authorized by it in this behalf. No Court shall take cognizance of such complaint unless application for refund of the amount deducted or for payment of delayed wages has been granted wholly or in part by the Authority appointed under section 15 of the Act or by the Appellate Court.

21 The Paymaster who,
(1) Does not fix a wage-period; or
(2) makes payment in kind; or
(3) fails to display at or near the main entrance of the factory this abstract in English and in the language of the majority of the employed persons; or
(4) breaks certain rules made under the Act, is liable to a fine not exceeding Rs.200.

A complaint to this effect can be made only by the Inspector or with his sanction.