

## **Commerce and Industries**

- Formation of a non profit company 'Invest Karnataka' to promote industries in Karnataka.
- Rs.175 Crore allocated to upgrade infrastructure facilities in existing industrial areas.
- Cashew Technology Centre at Kumuta, Uttara Kannada district.
- It is proposed to upgrade skills of rural youths who have lost their land for industries, for employment in the local industries.
- Establishing Women Parks in Ballary, Darwad and Mysuru to encourage women entrepreneurs.
- A National Investment and Manufacturing Zone at Chittapur Taluk, Kalaburagi District.
- Japanese Industrial Township at Vasantha Narasapura, Tumakuru District.
- Upgradation of 30 existing and new industrial estates through cluster approach.
- 50% subsidy on land/shed price by KIADB/ KSSIDC to SC/ST entrepreneurs and balance payment in instalments.
- Additional 5% of the plots/sheds developed by KIADB will be reserved for the backward class-1 and class-2A, minorities, physically disabled and ex-military personnel as per the Industrial Policy 2014.
- Grant of Rs. 3 crore for development of skill/EDP training centre to SC/ST entrepreneurs in Devanahalli Industrial Area.
- Establish a 'Centre of Excellence' (CoE) at GTTC in Bengaluru, Kalaburagi, Dandeli and Mysuru.
- Waive off Rs.17 crore loan and interest given to weavers for construction of living cum work sheds.
- Loan upto Rs.2 lakh with 1% interest and from Rs.2 lakh to Rs.5 lakh at 3% interest for the handloom and powerloom weavers.
- Solar equipments at 50% subsidized cost for small powerloom units in rural areas.
- Rs.10,000 per power loom for upgradation.
- Infrastructure facilities will be provided at Tadadi of Kumata taluka at a cost of Rs.10 crore to promote marine exports.
- Organize prestigious 'Pravasi Bharatiya Divas' at Bengaluru in January 2017

**The Negotiable Instruments Act, 1881** - An Act to define and Law relating to negotiable instruments which are Promissory Notes, Bills of Exchange and cheques .

- **Enacted by Imperial Legislative Council (India) on 9<sup>th</sup> Dec 1881 and commenced from 1<sup>st</sup> March 1881**
- **According to Section 13 of the Negotiable Instruments Act, "A *negotiable instrument* means a promissory note, bill of exchange or cheque payable either to order or to bearer."**
- **Main Types of Negotiable Instruments are:**
  1. Inland Instruments
  2. Foreign Instruments
  3. Bank Draft
- **Some of the important definitions of the Act are**
- **1. Section 4 - Promissory note :** is an instrument in writing containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.
- **2. Section 5 - Bill of exchange :** is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.
- **3. Section 6 - Cheque :** A cheque is bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form
- (a) ***a cheque in the electronic*** form & (b) ***a truncated cheque***
- **4. Section 13 - Negotiable Instruments:**
- **i. *Negotiable instrument*** means a promissory note, bill of exchange or cheque payable either to order or to bearer.
- **ii.** A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or -some of several payees.

- **5. Section 123 - Cheque Crossed Generally:** Where a cheque bears across its face an addition of the words and company or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words, not negotiable, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.
- **6. Section 124 - Cheque crossed specially** : Where a cheque bears across its face an addition of the name of a banker, either with or without the words not negotiable, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker
- **7. Section 126 Cheque crossed specially:** Where a cheque is crossed generally, the banker, on whom it is drawn shall not pay it otherwise than to a banker.
- **Section 130 Cheque bearing Not Negotiable :** A person taking a cheque crossed generally or specially, bearing in either case the words not negotiable, shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had

## **The Indian Partnership Act, 1932**

- Enacted by The Parliament of India, It received the assent of the Governor-General on 8 April 1932 and came into force on 1 October 1932.
- The act is not applicable to Limited Liability Partnerships, since they are governed by the Limited liability Partnership Act, 2008.
- The term 'partnership' is defined under section 4 of Indian partnership act 1932 as under "Partnership is an agreement between two or more persons who have agreed to share profits of the business carried on by all or any one of them acting upon all."
- **Section 2 of the act defines,**
  - (a) an "act of a firm" means any act or omission by all the partners, or by any partner or agent of
    - the firm which gives rise to a right enforceable by or against the firm;
  - (b) "business" includes every trade, occupation and profession;
  - (c) "prescribed" means prescribed by rules made under this Act; (c-1)
- "Registrar" means the
  - Registrar of Firms appointed under sub-section (1) of section 57 and includes the Deputy
  - Registrar of Firms and Assistant Registrar of Firms appointed under sub-section (2) of that
  - section;

(d) "third party" used in relation to a firm or to a partner therein means any person who is not a

partner in the firm; and

(e) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872,

shall have the meanings assigned to them in that Act.

**Indian Contract Act, 1872** - is the main source of law regulating contracts in India.

- Enacted by [Imperial Legislative Council](#) on 25 April 1872 and commenced on 1 September 1872
- The Act was passed by British India and is based on the principles of English Common Law
- It is applicable to all the states of India except the state of Jammu and Kashmir.
- The Act as enacted originally had 266 Sections, it had wide scope and included.
  - General Principles of Law of Contract- Sections 01 to 75
  - Contract relating to Sale of Goods- Sections 76 to 123
  - Special Contracts- Indemnity, Guarantee, Bailment & Pledge- Sections 124 to 238
  - Contracts relating to Partnership- Sections 239 to 266
- Subsequently the provisions relating to the Sale of Goods and Partnership contained in the Indian Contract Act were repealed respectively in the year 1930 and 1932 and new enactments namely Sale of Goods and Movables Act 1930 and Indian Partnership act 1932 were re-enacted.
- At present the Indian Contract Act may be divided into two parts
  - Part 1:deals with the General Principles of Law of Contract Sections 1 to 75
  - Part 2:deals with Special kinds of Contracts such as
- A contract is a legally enforceable agreement between two or more parties with mutual obligations. The Indian contract Act 1872, Section 2(h) defines the term contract as an agreement legally enforceable by law, for the formation of a contract there must be an agreement, the agreement should be enforceable by law.

**1.** There must be a "lawful offer" and a "lawful acceptance" of the offer, thus resulting in an agreement.

**2. Acceptance 2(b):-** When the person to whom the proposal is made, signifies his assent there to, the proposal is said to be accepted.

**3. Promise 2(b):-** A Proposal when accepted becomes a promise. In simple words, when an offer is accepted it becomes promise.

**4. Promisor and promisee 2(c):-** When the proposal is accepted, the person making the proposal is called as promisor and the person accepting the proposal is called as promisee.

**5. Consideration 2(d):-** When at the desire of the promisor, the promisee or any other person has done or abstained from doing something or does or abstains from doing something, such act or abstinence or promise is called a consideration for the promise. Price paid by one party for the promise of the other Technical word meaning QUID-PRO-QUO i.e. something in return.

**6. Agreement 2(e)- Every promise and set of promises forming the consideration for each other. In short,**

**7. Contract 2(h):-** An agreement enforceable by Law is a contract.

Therefore, there must be an agreement and it should be enforceable by law.

**8. Void agreement 2(g):-** An agreement not enforceable by law is void.

**9. Voidable contract 2(i):-** An agreement is a voidable contract if it is enforceable by Law at the option of one or more of the parties there to (i.e. the aggrieved party), and it is not enforceable by Law at the option of the other or others.

**10. Void contract 2(j):-** A contract which ceases to be enforceable by Law becomes void when it ceases to be enforceable

## Social Legislation: Needs and Objectives

The need and importance of social legislation in a Welfare State cannot be undermined. Our Constitution reflects the aspirations of masses to become a welfare state where everyone enjoys the right to live a dignified life and right to the pursuit of happiness are fundamental. In broader sense, everyone in the country men is entitled to have basic human rights such as right to life, employment, work health, education, etc. Now these rights can only be secured through State action. Social legislation gives us a proper formalized legal framework for achieving these goals. It is a known

fact that as social order undergoes changes, new problems and demands arise which cannot be allowed to go out of hand. Problems such as juveniledelinquency, new forms of crime, socio-economic injustices, socio-economic inequalities, problems of social security have to be tackled through welfare legislations. It is important to have social legislation to meet the existing social needs and problems. It also anticipates the direction of social change. Thus, Social legislation is needed

- i) to ensure social justice,
- ii) to bring about social reform,
- iii) to promote social welfare,
- iv) to bring about desired social change.

v) to protect and promote of rights of socio-economically disadvantaged groups of the society.

#### Objectives of Social Legislation

Social legislation derives its inspiration from our constitution and has the following specific objectives:

- i) removal of discrimination on the grounds of sex, religion, caste, class etc. and promotion of equality to all.
- ii) safeguard the rights of the weaker section such as women, children, elderly, widows, destitute and the backward classes.
- iii) eradication of traditional malpractices and social evils such as untouchability, dowry, child marriage, female infanticide etc.
- iv) provision of social security.

Social legislation is required for

- (i) protection and promotion of rights,
- (ii) prevention of individual and social disorganisation,
- (iii) proactive action,
- (iv) pioneering social reforms in social institutions and,
- (v) progressive social values for desired social order.

In brief, the main aim of social legislation is to change and reorganise society by improving its social and economic condition. Each individual of the society has to be given equal rights and equal opportunities. Social legislation aims to address social problems through legislative means, and initiates process of social reform and social change based on sound social rules. Since the process of social change in fast social legislation also provides desired direction to changes

## **The Trade And Merchandise Marks Act, 1958**

- [An Act to provide for the registration and better protection of trade marks and for the prevention of the use of fraudulent marks on merchandise](#)
- In 1958, the Trade and Merchandise Marks Act, 1958 was enacted which consolidated the provisions related to trademarks contained in other statutes like, the Indian Penal Code, Criminal Procedure Code and the Sea Customs Act.
- The Trade and Merchandise Marks Act, 1958 was repealed by the Trade Marks Act, 1999 and is the current governing law related to registered trademarks

### **Trademark**

According to Section 2 (zb) of the Trade Marks Act, 1999, "trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours." A mark can include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colors or any such combinations.

## Trademark Classes

Trademark law 2002, suggests that trademark can be registered in India under the following classes:

Class 1. Chemical used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesive used in industry

Class 2 . Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordents; raw natural resins; metals in foil and powder form for painters; decorators; printers and artists

Class 3 . Bleaching preparations and other substances for laundry use; cleaning; polishing; scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices

Class 4 . Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels(including motor spirit) and illuminants; candles, wicks

Class 5 . Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants; preparation for destroying vermin; fungicides, herbicides

Class 6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores

Class 7 . Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs

Class 8 . Hand tools and implements (hand-operated); cutlery; side arms; razors

Class 9 . Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus

Class 10 . Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials

Class 11 . Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying ventilating, water supply and sanitary purposes

Class 12 . Vehicles; apparatus for locomotion by land, air or water

Class 13 . Firearms; ammunition and projectiles; explosives; fire works

Class 14 . Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and other chronometric instruments

Class 15. Musical instruments

Class 16 . Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks

Class 17 . Rubber, gutta percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal

Class 18 . Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides, trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery

Class 19 . Building materials, (non-metallic), non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20 . Furniture, mirrors, picture frames; goods(not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother- of-pearl, meerschaum and substitutes for all these materials, or of plastics

Class 21 . Household or kitchen utensils and containers(not of precious metal or coated therewith); combs and sponges; brushes(except paints brushes); brush making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes

Class 22 . Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes) padding and stuffing materials(except of rubber or plastics); raw fibrous textile materials

Class 23 . Yarns and threads, for textile use

Class 24 . Textiles and textile goods, not included in other classes; bed and table covers.

Class 25 . Clothing, footwear, headgear

Class 26 . Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers

Class 27 . Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings(non-textile)

Class 28 . Games and playthings, gymnastic and sporting articles not included in other classes; decorations for Christmas trees

Class 29 . Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats

Class 30 . Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice

Class 31. Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt

Class 32 . Beers, mineral and aerated waters, and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages

Class 33 .Alcoholic beverages(except beers)

Class 34 . Tobacco, smokers' articles, matches

## **SERVICES**

Class 35 .Advertising, business management, business administration, office functions.

Class 36 .Insurance, financial affairs; monetary affairs; real estate affairs.

Class 37 . Building construction; repair; installation services.

Class 38. Telecommunications.

Class 39. Transport; packaging and storage of goods; travel arrangement.

Class 40. Treatment of materials.

Class 41. Education; providing of training; entertainment; sporting and cultural activities.

Class 42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

Class 43. Services for providing food and drink; temporary accommodation.

Class 44. Medical services, veterinary services, hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45. Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals

## **Drugs and Cosmetics Act, 1940**

- The **Drugs and Cosmetics Act, 1940** is an Act of the Parliament of India which regulates the import, manufacture and distribution of drugs in India
- The primary objective of the act is to ensure that the drugs and cosmetics sold in India are safe, effective and conform to state quality standards
- The related Drugs and Cosmetics Rules, 1945 contains provisions for classification of drugs under given schedules and there are guidelines for the storage, sale, display and prescription of each schedule
- This act was originally known as the Drug Act and was passed in 1940. The original act was prepared in accordance to the recommendations of the Chopra Committee formed in 1930. The related Drugs Rules was passed in 1945. Since 1940, the act has undergone several amendments and is now known as the Drugs and Cosmetics Act, 1940.

The term "drug" as defined in the act includes a wide variety of substance, diagnostic and medical devices. The act defines "cosmetic" as any product that is meant to be applied to the human body for the purpose of beautifying or cleansing. The definition however excludes soaps.

In 1964, the act was amended to include Ayurveda and Unani drugs.

The Section 16 of the act defines the standards of quality for drugs.

The Section 17 defines "misbranding". A drug is considered misbranded if it claims to be of more therapeutic value than it actually is.

The manufacturer of such a drug may be asked to suspend manufacture of the drug under Section 18.

Section 27 deals with fake and adulterated drugs. The act requires that ingredients of the drugs should be printed on the label.

The Section 22 defines the powers of the drug inspectors and Section 23 defines the strict procedure which should be followed by the inspectors during any raids

## **SALIENT FEATURES OF THE FACTORIES ACT, 1948**

### **(a) Health**

Section 11 to 20 deals with the health of workers in the work place defining the various parameters in maintaining the cleanliness, disposal of effluent, standard of lightning, noise levels, latrines, etc.,

### **(b) Safety**

Section 21 to 41 deals with the safety provisions. Fencing of machineries, restriction of women and children in certain type of process, testing of pressure plants, hoists and lifts, lifting machineries, chains, ropes and lifting tackles by competent persons, appointment of safety officers etc., are explained.

### **(c) Welfare**

Section 42 to 50 specifies the necessity for welfare of workers such as washing facilities, first aid appliances, rest room, crèches, canteen, appointment of welfare officers, etc.,

(d) Provision relating to Hazardous Process

Section 41(A) to 41(H) deals various special provisions for factories wherein hazardous process are carried on. Here compulsory disclosure of information by the occupier to the workers as well as to the public, permissible limit of exposure of chemicals and toxic substance, workers participation in safety management etc, are prescribed.

(e) Working Hours

Section 51 to 66 handles the restriction of working hours such as weekly hours, weekly holidays, compensatory holidays, night shifts, over time, etc.,

(f) Employment of Young Persons

Section 67 to 77 explains the working conditions of young persons, regarding the certificate of fitness reduced working hours etc.

(g) Annual Leave with wages

Section 78 to 84 deals with the leave eligibility for a worker

(h) Penalty and Procedure

Section 92 to 106A deals with the penalty provisions. For any contravention of the provisions of this act, or of any rules made there under, the occupier and the manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to 2 Years or with fine which may extend to 1 lakh rupees or with both.

## **List of Industries involving hazardous process under Section 2 (cb) of the Factories Act, 1948**

Ferrous Metallurgical Industries.

- Integrated Iron and Steel
- Ferro Alloys
- Special Steels

Non-ferrous Metallurgical Industries

- Primary Metallurgical Industries, namely, zinc, lead, copper, manganese and aluminum

Foundries (Ferrous and Non-ferrous)

- Castings and forgings including cleaning or smoothening / roughening by sand and shot blasting

Coal (including coke) industries

- Coal Lignite, coke, etc.
- Fuel Gases (Including Coal Gas, Producer Gas, Water Gas)

Power Generating Industries

Pulp and paper (including paper products) industries

Fertilizer Industries.

- Nitrogenous
- Phosphatic
- Mixed

Cement Industries

- Portland Cement ( including slag cement, puzzolona cement and their products)

Petroleum Industries

- Oil Refining
- Lubricating Oils and Greases

Petro-Chemical Industries

Drugs and Pharmaceutical Industries,

- Narcotics, Drugs and Pharmaceuticals

Fermentation Industries (Distilleries and Breweries)

Rubber (Synthetic Industries)

Paints and Pigment Industries

Leather Tanning Industries

Electro-plating Industries

Chemical Industries

- Coke Oven By-products and Coal tar distillation products
- Industrial Gases (nitrogen, oxygen, acetylene, argon, carbon dioxide, hydrogen, sulphur dioxide, nitrous oxide halogenated hydrocarbon, ozone, etc.
- Industrial Carbon
- Alkalies and Acids
- Chromates and dichromates
- Leads and its compounds
- Electrochemicals (metallic sodium, potassium and magnesium, chlorates, per chlorates and peroxides)
- Electro thermal produces (artificial abrasive, calcium carbide)
- Nitrogenous Compounds (cyanides, cyanamides, and other nitrogenous compounds)

- Phosphorous and its compounds
- Halogens and Halogenated compounds (Chlorine, Fluorine, Bromine and Iodine)
- Explosives (including industrial explosives and detonators and fuses) - Hazardous Manufacture and Process

Insecticides, Fungicides, Herbicides and other Pesticides Industries

Synthetic Resin and Plastics

Man-made Fiber (Cellulosic and non-cellulosic ) industry

Manufacture and repair of electrical accumulators

Glass and Ceramics

Grinding or glazing of metals

Manufacture, handling and processing of asbestos and its products

Extraction of oils and fats from vegetables and animal sources

Manufacture, handling and use of benzene and substances containing benzene

Manufacturing process and operations involving carbon disulphide

Dyes and Dyestuff including their intermediates

Highly flammable liquids and gases.

## INDUSTRIAL DISPUTES ACT 1926

Objective of the act :

The object of the Act is to make provisions for investigation and settlement of industrial disputes. However, it makes other provisions in respect of lay off, retrenchment, closure etc. The purpose is to bring the conflicts between employer and employees to an amicable settlement. [The Act is achieving exactly opposite]. The Act provides machinery for settlement of disputes, if dispute cannot be solved through collective bargaining.

'Industry' under Industrial Disputes Act – The definition of 'industry' is as follows – 'Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen. [section 2(j)]. Thus, the definition is very wide. - - The scope is much wider than what is generally understood by the term 'industry'.

In Bangalore Water Supply & Sewerage Board v. Rajappa. A very wide interpretation to the term 'industry' was given. It was held that profit motive or a desire to generate income is not necessary. Any systematic activity organized by cooperation between employer and employees for the production and/or distribution of goods and services calculated to satisfy human wants and wishes is 'industry'. Thus, many hospitals, educational institutions, universities, charitable institutions and welfare organisations have got covered under the Act. Professions, clubs, cooperatives, research institutes etc. are also covered.

'Industry Dispute' and 'Workman' – The definition of 'industrial dispute' and 'workman' is as follows -

Industrial Dispute: means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms and conditions of employment or with the conditions of labour, of any person. [section 2(k)]. - - Section 2A provides that dismissal, discharge, retrenchment of even a single workman will be 'industrial dispute' even if no other workman or any union is a party to the dispute.

Workman: means any person (including apprentice) employed in any industry to do any manual, clerical or supervisory work for hire or reward. It includes dismissed, discharged or retrenched person also. However, it does not include (i) Armed Forces i.e. those subject to Air Force Act, Army Act or Navy Act (ii) Police or employees of prison (iii) Employed in mainly managerial or administrative capacity or (iv) person in supervisory capacity drawing wages exceeding Rs 1,600 per month or functions are is mainly of managerial nature. [section 2(x)].

Adjudication of disputes – The Act provides for 'Works Committee' in factories employing 100 or more workers. [section 3]. The committee will consist of equal number of representatives of employer and employees. Representatives of employees will be selected in consultation with Registered Trade Union. The Works Committee will first try to settle disputes. If dispute is not solved, it will be referred to Conciliation Officer.

'Conciliation Officer'. He is appointed by Government. [section 4]. The matter may also be referred to Board of Conciliation.

'Board of Conciliation'. [section 4]. He will try to arrive at fair and amicable settlement acceptable to both parties. If he is unable to do so, he will send report to appropriate Government. [section 12(4)]. The Government may then refer the industrial dispute to Board of conciliation, Labour Court or Industrial Tribunal. [section 12(5)].

Employer and employees can voluntarily refer the matter to arbitration. [section 10A]. [This provision is very rarely used by employer and workmen. Generally, they prefer the Court route].

If no settlement is arrived at, there is three tier system of adjudication – Labour Court, Industrial Tribunal and National Tribunal. The order made by them is 'award'.

'Award' means an interim or final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal. It also includes arbitration award. [section 2(b)]. - - The 'award' is required to be published by State/Central Government within 30 days. [section 17]. The award becomes effective 30 days after its publication. [section 17A].

Labour Court : are constituted by State Governments u/s 7. It will be presided over by 'Presiding Officer'. The Labour Court has powers in respect of \* Interpretation of Standing Orders \* Violation of Standing Orders \* Discharge or dismissal of a workman \* Withdrawal of any customary concession or privilege \* Illegality or otherwise of a strike or lock-out \* Other matters which are not under Industrial Tribunal. [Second Schedule to the Act]

Industrial tribunal: is constituted by State Government u/s 7A. The tribunal will be presided over by 'Presiding Officer. The Industrial Tribunal has powers in respect of \* Wages, including period and mode of payment \* Compensatory and other allowances \* Hours of work and rest intervals \* Leave with wages and holidays \* Bonus, profit sharing, provident fund and gratuity \* Shift working changes \* Classification by grades \* Rules of discipline \* Rationisation and retrenchment of workmen. [Third Schedule to Act].

National Tribunal : is formed by Central Government for adjudication of industrial disputes of national importance or where industrial establishments situated in more than one States are involved. [section 7B].

Settlement : means a settlement arrived at in the course of conciliation proceedings. It includes a written agreement between employer and workmen arrived at otherwise than in course of conciliation proceedings (i.e. outside the conciliation proceedings). - - The difference is that settlement arrived at in course of conciliation or an arbitration award or award of labour court or Tribunal binds all parties to industrial dispute including present and future workmen and all parties who were summoned to appear in the proceedings. [section 18(3)]. If settlement is arrived at by mutual agreement, it binds only those who were actually party to agreement. [section 18(1)]. - - The settlement is binding during the period it is in force. Even after that period is over, it continues to be binding, unless a 2 month notice of termination is given by one party to another. [section 19(2)]. - - If no period has been specified, settlement is valid for 6 months and an award is valid for one year.

Lay off, retrenchment and closure – 'Lay off' means failure, refusal or inability of employer on account of shortage of coal, power or raw materials or accumulation of stock or break down of machinery or natural calamity; to give employment to

a workman on muster roll. - - 'Lay off' means not giving employment within two hours after reporting to work. - - Lay off can be for half day also. In such case, worker can be asked to come in second half of the shift. [section 2(kkk)].

A factory employing 50 or more but less than 100 employees on an average per working day can lay off the workmen, who have completed one year of service, by paying compensation equal to 50% of salary (basic plus DA) (section 25C of IDA). - - Employer can offer him alternate employment, if the alternate employment does not call for any special skill or previous experience, and lay off compensation will not be payable if employee refuses to accept the alternate employment (section 25E).

Above provisions of compensation for lay off do not apply to (a) Industrial establishments employing less than 50 workmen (b) seasonal industry (c) Establishments employing 100 or more workmen, as in their case, prior approval of Appropriate Government is necessary u/s 25M(1).

Retrenchment : means termination by the employer of service of a workman for any reason, other than as a punishment inflicted by a disciplinary action. However, 'retrenchment' does not include voluntary retirement or retirement on reaching age of superannuation or termination on account of non-renewal of contract or termination on account of continued ill-health of a workman.

'Retrenchment' means discharge of surplus labour or staff by employer. It is not by way of punishment. The retrenchment should be on basis of 'last in first out' basis in respect of each category, i.e. junior-most employee in the category (where there is excess) should be retrenched first. [section 25G]. If employer wants to re-employ persons, first preference should be given to retrenched workmen. [section 25H].

Meaning of 'continuous service' :Provisions of compensation for lay off and retrenchment are applicable only to workman who is in 'continuous service' for one year. As per section 25B, 'continuous service' includes service interrupted by sickness, authorised leave, accident or strike which is not illegal, or lock-out or cessation of work which is not due to fault of workman. -- In *Workmen v. Management of American Express* AIR 1986 SC 548 = 1985(4) SCC 71, it was held that 'actually worked' cannot mean only those days where workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he was in the employment of employer and for which has been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc.

Closure: means permanent closing down of a place of employment or part thereof. [section 2(cc)]. - - Thus, closure can be of part of establishment also. - - 60 days notice should be given for closure to Government, if number of persons employed are 50 or more. 60 days notice is not necessary if number of persons employed are less than 50. [section 25FFA]. Compensation has to be given as if the workman is retrenched. [section 25FFF(1)]. - - If number of workmen

employed are 100 or more, prior permission of Government is necessary for closure u/s 25-O.

Provisions for large industries for lay off and closure - Large industries employing 100 or more workmen on an average for preceding 12 months cannot lay-off, retrench or close down the undertaking without permission from Government (sections 25M to 25-O of Industrial Disputes Act). Invariably, such permission is almost never given, whatever may be the merits of the case.

Provisions of section 25M in respect of prior permission for lay off have been upheld in *Papnasan Labour Union v. Madura Coats*. In this case, it was held that powers to give prior permission are quasi-judicial and hence opportunity of hearing must be given and the order giving permission or refusing permission is subject to judicial review. In *Bharatia Electric Steel Co. Ltd. v. State of Haryana* 1998, it was observed that operation of section 25-O should be limited to cases where employer is acting arbitrarily or unfairly. If the reasons given by employer for closure are genuine and adequate, permission cannot be refused.

In *Orissa Textiles v. State of Orissa* 2002, it was held that order u/s 35-O should be in writing with reasons. The order can be reviewed after one year, even for the same reasons.

If Banks refuse to give further loans to run the plant, the employer has to either abandon the plant or devise some dubious ways to surmount the difficulties. One of the major reason why foreign investors are reluctant to come to India in a big way is lack of 'exit policy'. Some industrial sickness and closures are inevitable in a 'market oriented economy'. Absence of official exit policy creates problems for honest employers (Dishonest employers devise their own ways).

Notice of change in conditions of service - Section 9A provides that an employer cannot effect any change in the conditions of service applicable to any workman without giving 21 days notice. Such notice is not required if there is settlement or award of Labour Court or Tribunal. As per fourth schedule to the Act, such 21 day notice is required if there is going to be change in wages, wage period, PF contribution, allowances, hours of work and rest intervals, shift timings, new rules of discipline, increase or decrease in number of persons employed in any department or shift.

Strike : means a cessation of work by a body of persons employed in any industry, acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment.

Lock-out :means temporary closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him. Workers go on strike, while 'lock-out' is to be declared by employer.

Wages during strike period- Wages during strike period are payable only if the strike is both legal and justified in

No work no pay - Principle of 'No work no pay' has been accepted by Supreme Court. -

Illegal strike or lock-out: Strike or lock out in violation of sections 22 or 23 and when it is continuing in violation of order issued by Government u/s 10(

No change in conditions of service in matters related to dispute:

Employer shall not make any change in condition of service connected to dispute without permission of authority before whom proceedings are pending. [section 33(1)(a)]. Change which is not related to dispute can be made in accordance with standing orders without any permission.

No removal of workman in matters related to dispute :

Employer shall not discharge, dismiss or punish any workman in matter for any misconduct concerned to dispute, without permission of authority before whom proceedings are pending. [section 33(1)(b)]. Punishment which is not connected to dispute can be made in accordance with standing orders without any permission. However, dismissal or discharge of workman will require approval of the action. Application for approval should be made after action is taken. [section 33(2)(b)]. Prior permission is not necessary. Application for approval is required to be submitted after action is already taken. - In Jaipur Zila Sahakari Bhoomi Vikas Bank v. Shri Ram Gopal 2002 it was held that if the approval is not granted u/s 33(2)(b) of Industrial Disputes Act, the order of dismissal becomes ineffective from the date it was passed and employee becomes entitled to wages from date of dismissal to date of disapproval of application.

Protected workman :

In every establishment, 1% of total workmen are recognised as 'Protected workman' u/s 33(3) (but minimum 5 and maximum 100). In case of such workmen, order for his dismissal, discharge or punishment cannot be passed without permission of authority before whom proceedings are pending, whether the issue is related to dispute or not. Such

permission is required only during the period proceedings are pending and not after main reference is decided.

Unfair Labour Practices: Section 25T prohibits unfair labour practices by

employer or workman or a trade union. If any person commits unfair labour practice, he is punishable with fine upto Rs 1,000 and imprisonment upto 6 months. [section 25U]. Fifth schedule to Act gives list of what are 'Unfair Labour Practices'. Then major are as follows -

In case of employer -

- \* Interfering in Trade Union activities
- \* Threatening workmen to refrain them from trade union activities
- \* Establish employer sponsored Trade Union
- \* Discourage trade union activities by various means
- \* Discharge or dismiss by way of victimization or falsely implicating workman
- \* Abolish work of regular nature and to give that work to contractors
- \* Mala fide transfer of workman under guise of management policy
- \* Employ badli or casuals and continue them for years
- \* Recruitment workmen during strike which is not illegal
- \* Acts of force and violence \* Not implementing settlement or agreement or award
- \* Refuse collective bargaining \* Continue illegal lock-out

In case of workmen and trade unions -

- \* Support or instigate illegal strike
- \* Coerce workmen to join or not to join a particular trade union
- \* Threatening or intimidating workmen who do not join strike
- \* Refuse collective bargaining in good faith
- \* Coercive actions including 'go slow', 'gherao', 'squatting on work premises after working hours' etc.
- \* Wilful damage to employer's property \* Acts of force or violence or intimidation.

## **The Payment Of Wages Act, 1936**

Application: -

The Payment of Wages Act, 1936 is a central legislation which applies to the persons employed in the factories and to persons employed in industrial or other establishments specified in sub-clauses (a) to (g) of clause (ii) of section 2 of this Act. This Act does not apply on workers whose wages payable in respect of a wage period average Rs. 1600/- a month or more. Since the minimum wages in Delhi are much higher, this Act has become almost redundant in its present form. The Ministry of Labour has already initiated the process for suitable amendment of this Act.

### **SALIENT FEATURES:-**

This Act has been enacted with the intention of ensuring timely payment of wages to the workers and for payment of wages without unauthorized deductions. The salary in factories/establishments employing less than 1000 workers is required to be paid by 7th of every month and in other cases by 10th day of every month. A worker, who either has not been paid wages in time or an unauthorized deductions have been made from his/her wages, can file a Claim either directly or through a Trade Union or through an Inspector under this Act, before with the Authority appointed under the Payment of Wages Act. The power for hearing and deciding Claims under this Act has been vested at present with the Presiding Officer of a Labour Court.

According to Section 10, "All agreements are contracts, if they are made by the free consent of the parties, competent to contract, for a lawful consideration, with a lawful object and are not expressly declared by the Act to be void.

### **Essential Elements of a Contract as defined in Section 10 of the Indian Contract Act 1872**

1. Agreement - Offer and Acceptance
2. Legal purpose
3. Lawful Consideration
4. Capacity to contract
5. Consent to contract
6. Lawful object
7. Certainty
8. Possibility of Performance
9. Not expressly declared void
10. Legal formalities like Writing, Registration etc.

All the above ingredients must be satisfied in every valid contract. It can be noted that all contracts are agreements, but not all agreements are contracts.

Offer - Indian Contract Act, 1872

Section 2(a) of the Indian Contract Act, 1872 defines the term "Proposal" as when

one person signifies to another his willingness to do or to abstain from doing something with a view to obtaining the assent of the other to such an act or abstinence, he is said to make a proposal. The person making the 'proposal' or 'offer' is called the 'promisor' or 'offeror', the person to whom the offer is made is called the 'offeree'.

Acceptance - Indian Contract Act, 1872 : means the expression of assent to whom the proposal is made in a Contract. Acceptance may be expressed either by conduct or by implied circumstances. However, silence cannot be prescribed as a mode of acceptance.

Consideration: Section 10 of the Indian Contract Act states Consideration as one of the essential elements to constitute a contract.

Consideration means 'something in return'. According to section 2(d) of the Indian Contract Act, "When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing something, such act or abstinence is called a consideration for the promisee."

#### Capacity to Contract

Section 11 of the Indian Contract Act provides the requirements for competency of the parties to the contract.

It says, "Every person is competent to contract, who is of the age of majority, according to law, which he is subject to also who is of sound mind and who is not disqualified from contracting by any law to which he is the subject"

#### Disqualifications

An incorporated company cannot be part of contract. A minor is also incompetent to enter into a contract subject to certain exceptions. Mental incapacity. Section 12 says "A person is said to be of sound mind for the purpose of making a contract, if at the time when he makes it, he is capable of understanding it and of forming a rational judgement to its effect upon his interests" A person who suffers from insanity at intervals can enter into a contract, when he is of sound mind. A person who suffers from insanity occasionally cannot enter into a contract, when he is of unsound mind.

#### Quasi-Contracts

Under special circumstances, obligations resembling those created by a contract are imposed by law although there is no contract between the parties. Such contracts are called Quasi-Contracts.

Sections 68 to 72 deal with Quasi-Contractual Obligations.

Claim for Necessaries supplied to a person incapable of contracting or on his account  
Reimbursement of person paying money due by another, in payment of which he is interested  
Obligation of person enjoying benefit of non-gratuitous act  
Responsibility of finder of goods  
Liability of person to whom money is paid, or thing delivered by mistake or under coercion.

## Discharge of Contract

A Contract may be discharged in any of the following ways

Discharge by Performance  
Discharge by Mutual Consent or Agreement  
Novation - When a new contract is substituted for an existing contract  
Alteration  
Rescission  
Remission - Accepting the lesser sum of amount than what was contracted for  
Discharge by subsequent illegality or impossibility  
Destruction of Subject-matter  
Failure of ultimate purpose  
Death or personal incapacity of Promisor  
Change of Law  
Discharge by lapse of time  
Discharge by operation of law  
Discharge by breach of contract  
Anticipatory breach  
Actual breach

## Remedies for Breach of Contract

Chapter VI of Contract Act with Sections 73 to 75 deals with the consequences of breach of a contract.

When a contract is breached, the injured party is entitled to one or more of the following remedies.

Rescission of the contract  
Suit for damages  
Suit upon quantum merit  
Suit for specific performance of the contract  
Suit for injunction

## Damages under Indian Contract Act, 1872

Ordinary or General damages  
Special damages  
Exemplary or Punitive damages  
Nominal damages

**The Indian Boilers Act-1923** was enacted with the objective to provide mainly for the safety of life and Property of persons from the danger of explosions of steam boilers and for achieving uniformity in registration and inspection during operation and maintenance of boilers in India

"Steam Boiler" means any closed vessel exceeding 22.75 litres which is used exclusively for generating steam under pressure and includes any mountings and other fittings attached to such vessel which is wholly or partly under pressure when steam is shut off.

Every boiler owner is required to make an [application](#) to the Chief Inspector of Boilers for the inspection of the boiler along with the treasury challan of the [requisite fees](#) as per requirements of Indian Boilers Act-1923.

Under Indian Boilers Act-1923 Indian Boilers Regulation-1950 has been framed. This Regulation deals with the materials, procedure & inspection techniques to be adopted for the manufacture of boilers & boiler mountings & fittings. The boiler is inspected by the Inspectorate as per the procedure laid under IBR -1950 and if found satisfactory, a Certificate is issued for operation for a maximum period of 12 months.

The boilers which are not found satisfactory during the inspection are repaired as per the procedure laid under Indian Boilers Regulation-1950 & are re-inspected as explained above.

The Boilers are also casually visited by the Inspectorate from time to time to check the validity of their certificates, safe and efficient operation. The show cause notice is issued to the boiler owner whose boiler is found working without a valid certificate and given a specified time to comply with. If the compliance is not made during the stipulated period, then necessary action as deemed fit under the Act is taken against the erring boiler owner.

## **Khadi and Village Industries Commission**

**has introduced Margin Money Scheme ( MMS) in order to create large employment opportunities in rural areas of the Country**

- This scheme is to encourage establishment of village industries in the Country by providing certain fixed amount as Margin Money

## **Aerospace Policy 2013 -2023**

### **Objectives**

- a) To make Karnataka a preferred global destination for manufacturing of aircraft, aircraft systems & sub systems, assemblies and components.
- b) To create an eco-system comprising infrastructure, education and R&D to make the State a conducive hot spot for aerospace industry.
- c) To make Bangalore a magnet for global tier-1 Suppliers.
- d) To make Karnataka as one of the leading MRO hubs in Asia.
- e) To make available ready to employ human resource pool for the industry
- f) To strengthen R&D infrastructure for achieving innovative and cutting edge technologies.
- g) To create enhanced facilitation mechanism for ease of doing business through industry friendly policy frame work.