

THE PAYMENT OF WAGES ACT, 1936

An Act to regulate the payment of wages to all classes of employed persons. WHEREAS it is expedient to regulate the payment of wages to all classes of employed persons

Responsibility for payment of wages.

Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act: Provided that, in the case of persons employed (otherwise than by a contractor)—

Fixation of wage-periods.

Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable. No wage-period shall exceed one month.

Time of payment of wages.

The payment of wages should be made before the expiry of 7th day after the last day of wages period

The employer has to compulsorily maintain the following register:

- a) Register of Wages
- b) Register of fines
- c) Register of deduction for damage or loss
- d) Register of advance
- e) Register of any other deductions required to be made by order of a court or other authority competent to make such order.

Self-Certification by the Owner

Self-Certification by the owner shall be accepted under the Payment of Wages Act, 1936 as per matter contained in Schedule – I. Such self-certification shall be deemed as sufficient compliance and shall dispense with the necessity of enquiry and verification (vide No.193-Emp/Emp/1M-19 dt.18.06.15)

F.A.Q

What is the object of the [Payment of Wages Act, 1936](#)? The main object of the Act is to avoid unnecessary delay in the payment of wages and to prevent unauthorized deductions from the wages.

To which [establishments](#) is the Act applicable? The Act is applicable to the payment of wages to persons employed:

- a. in [factories](#);
- b. upon railways;
- c. in other [establishments](#) specified in sub-clauses (a) to (g) of section 2(ii) of the Act.

The Act empowers the [State Government](#) to extend its provisions to the persons employed in any [establishments](#) over and above the aforesaid establishments. {Section 1}

Are all wages covered or protected by the Act?: Wages averaging less than Rs. 6500.00 per month only are covered or protected by the Act with effect from 11th September 2005. {Section 1(6)}

Are overtime wages to be taken into account for deciding the applicability of the Act?: Wages means contractual wages and not overtime wages. They are not to be taken into account for deciding the applicability of the Act in the context of section 1(6) of the Act.

Can any employer fix a period longer than one month for paying wages to a person employed by him?: The period to be fixed for paying wages to an employed person must not exceed one month. That means, an employer can choose to pay wages to a person employed by him for a period of every week or every fortnight, but not for a period of every two months or every three months, {Section 4}

What are the requirements of the Act in respect of time of payment of wages?: The following are the requirements of the Act in respect of time of payment of wages:

- a. Wages must be paid on a working day and not on a holiday.
- b. [Establishments](#) employing less than 1000 persons must pay wages before the expiry of the 7th day of every month and other establishments must pay wages before the expiry of the 10th day of every month.
- c. When the employment of any person is terminated, the wages earned by him must be paid before the expiry of the second working day from the day of termination. {Section 5}

What are the requirements of the Act in respect of method of payment of wages?: Wages must be paid in current coin or currency notes or in both and not in kind. It is, however, permissible for an employer to pay wages by cheque or by crediting them in the bank account if so authorized in writing by an employed person. {Section 6}

What is the provision of the Act regarding deductions from the wages payable to an employed person?: The Act prohibits all kinds of deductions except those which are authorized by or under the Act. {Section 7}

What are the provisions of the Act regarding the imposition of fines on the employed person?:

- a. The employer must exhibit on his premises a list of acts or omissions for which fines can be imposed.
- b. Before imposing a fine on an employed person he must be given an opportunity of showing cause against the fine.
- c. The amount of fine must not exceed 3 percent of the wages.
- d. A fine cannot be imposed on an employed person who is under the age of 15 years.
- e. A fine cannot be recovered by installments or after 90 days from the day of the act or omission for which it is imposed.
- f. The moneys realized from fines must be applied to purposes beneficial to employed persons. {Section 8}

Is the employer free to impose fines in respect of any act of omission on the part of employed persons?: Fines can be imposed in respect of only those acts or omissions of the employed persons which are approved by the authority prescribed under section 8(1) of the Act. {Rules 10 to 12}

What is the procedure prescribed for the imposition of fine and for making deductions for damage or loss?: Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss shall explain personally or in writing to the said person the act or omission, or damage or loss in respect of which the fine or deduction is proposed to be imposed, and the amount of fine or

deduction, which it is proposed to impose, and shall hear his explanation in the presence of at least one other person, or obtain it in writing. {Subsection 8(3), 10(1-A) & Rule 15}

Apart from the employer himself, who else is responsible for the payment to the persons employed by him of wages required to be paid under the Act?:

- a. In factories, if any person has been named as the manager of the [factory](#), then the person so named is also responsible for such payment.
- b. In [industrial establishments](#), if there is a person responsible to the employer for the supervision and control of the industrial establishment, then the person so responsible is also responsible for such payment.
- c. Upon railways, if the employer is the railway administration and the railway administration has nominated a person in this behalf, then the person so nominated is also responsible for such payment.

{Section 3}

What is the meaning of the word pay-master?: In the Maharashtra Payment of Wages Rules, 1963, the word paymaster is used to denote an employer or other person responsible under section 3 of the Act for the payment of wages required to be paid under the Act. {Rule 2(q)}

What is the procedure an employed person has to follow for claiming deducted or delayed wages?:

- a. If contrary to the provisions of the Act any deduction has been made from the wages of an employed person or any payment of wages has been delayed, he has to make an application for claiming the same to the Authority appointed under the Act.
- b. Such application can be made by the employed person himself or a legal practitioner or an official of a registered trade union.
- c. Such application has to be made within a period of 12 months from the date on which the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made.
- d. When any application under Subsection (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under Section 3, or give them an opportunity of being heard, and, after such further enquiry, if any, as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees.
- e. The amount directed to be paid by the Authority can be recovered as if it were a fine.
- f. If the employed person is not satisfied with the order of the Authority, he himself or a legal practitioner or an official of a registered trade union, if the amount claimed by him is more than Rs. 25.00, can, within 30 days from the date of the order prefer an appeal to the Appellate court. {Subsection 15 & 17}

Can the Authority refuse to entertain an application presented to it?: The Authority may refuse to entertain an application presented to it, if after giving the applicant an opportunity of being heard the Authority is satisfied, for reason to be recorded in writing that -

- a. the applicant is not entitled to present an application;
- b. the application is barred by limitation, or
- c. the applicant shows no sufficient cause for making a direction under Section 15.

The Authority may refuse to entertain an application presented to it if the application is insufficiently stamped or otherwise incomplete. When the Authority refuses to entertain an application for the said reason, he shall return it with an indication of the defects. The application so refused may be presented again after the defects have been made good. {Rule 7 or Central Rules}

If any employee is prevented from making an application for payment of deducted or delayed wages within the prescribed period of limitation of twelve months, can the Authority admit his application after the expiry of the said period?: Under the second proviso to Section 15(2) of the Act the Authority is given power to condone the delay in making the application within the said period if sufficient cause is shown by the applicant for not making the application within the said period.

Is it correct to contend that the expression "ten times the amount deducted" appearing in Section 15(3) of the Act means that the compensation awarded under that section must be always in multiples of the wages deducted?: The compensation awarded under section 15(3) may not be in multiples of the wages deducted. The Authority is free to fix such compensation at the proportionate rate which it may think to be fair and just subject to the maximum of ten times the amount deducted.

Is the compensation awarded under section 15(3) of the Act penal or in the nature of recompensation?: Compensation awarded under section 15(3) is not penal but is in the nature of a payment by way of recompensation for loss or privation by reason of deduction from the wages paid.

Can a group of employed persons make a single application for claiming deducted or delayed wages?: This can be done if they are working in the same [establishment](#) and if deductions have been made from their wages for the same cause and during the same wages period or if their wages have remained unpaid for the same wage period. {Section 16}

Has the employed person to pay any court-fees for making and application for claiming deducted or delayed wages?: In the State of Maharashtra and in some other States the employed person is exempted from paying any Court-fees, other than fees for service of process, for making such application; but at the same time the Government is empowered to recover the amount of such court-fees from the employer of the employed person if the employed person succeeds in the application. {Section 15A}

Can the employer also prefer an appeal against the order of the Authority?: If the employer is aggrieved by the order of the Authority, he also can, within 30 days of the date of order, prefer an appeal to the Appellate Court if the amount ordered to be paid by him is more than Rs. 300.00 or the order imposes on him a [financial](#) liability of more than Rs. 1000.00

If an employer wants to file an appeal against any order of the Authority directing payment of wages, is he required to comply with any condition at the time of filing the appeal?: Section 17(1A) of the Act provides that no such appeal shall lie unless the amount payable under the order has been deposited by the employer with the Authority.

Can the amount required to be deposited under Section 17(1A) be paid after the filing of the appeal?: The amount required to be deposited under Section 17(1A) must be paid at the time of filing of the appeal. The appeal filed un-accompanied by the certificate of deposit is not maintainable.

If a person is prevented from filing an appeal to the Appellate Authority within the prescribed period of limitation of thirty days, can the Appellate Court accept his appeal after the expiry of the said period?: The Act makes no provision for condonation of the delay in filing the appeal.

If the employer, instead of availing of the remedy of appeal under section 17 of the Act, files a writ petition under Article 226/227 of the Constitution of India, is the writ petition

maintainable?: The writ petition is not maintainable if by filing it the employer has deliberately chosen to circumvent the provisions of law.

Is it competent for the Authority to entertain and decide an application for payment of subsistence allowance?: The subsistence allowance payable to an employee placed under suspension pending Departmental Enquiry is covered within the definition of wages given under Section 2(6) of the Act and, therefore, the Authority is competent to entertain and decide an application for payment of subsistence allowance.

Is it competent for the Authority under the Act to examine the justifiability of an order of suspension?: If an order of suspension has been passed by an officer competent to pass it, the authority under the Act cannot examine its validity to see as to whether it was justified in law or not.

Can the Authority under the Payment of Wages Act decide the question of the status of an employed person?: The Authority under the Payment of Wages Act is a Court of summary jurisdiction having powers to deal with the simple matter of delay in payment of wages or deduction from wages. It is not within the competence of the Authority to decide the question of the status of an employed person, i.e., whether he is a Mistry or Veldar. The matter is a complicated question of law as also of fact.

Can there be attachment of property pending the disposal of a claim for deducted or delayed wages?: The Authority or the Appellate Court can attach the property of an employer pending the disposal of such claim if it is satisfied that the employer is likely to evade payment of any amount that may be ordered to be paid by it. {Section 17A}

Can an employee file a suit against his employer seeking injunction restraining the employer from making any deductions from his wages?: No such suit can be filed because according to section 22(d) of the Act no Court can entertain any suit for the recovery of any deduction from wages insofar as the sum so claimed can be recovered by an application under section 15 of the Act.

Can any employed person relinquish his rights under the Act?: An employed person is prohibited from contracting out of the Act, i.e. from giving up any right conferred upon him by the Act, and any contract or agreement made by him relinquishing such rights is null and void. {Section 23}

Is an agreement between an employer and his employees authorising the deduction of unionsubscription from the salaries of the employer null and void under Section 23 of the Act?: Such agreement being beneficial and advantageous to the employees is not null and void under Section 23 of the Act.

Is an employer required to display the abstracts of the Act in his [factory](#) or [establishment](#)?: Every employer must display in his factory or establishment a notice containing the abstracts of the Act and the rules made thereunder in English and also in the language understood by the majority or the persons employed in the factory or establishment. {Section 25}

Form No. VI and Rule 24 regarding the display of the abstract of this Act has been deleted by [Government of Maharashtra](#) vide notification date 30-Mar-2001 MGG Pt. I-L. Ext. date 30-Mar-2001 P. 213

What is the responsibility of an employer in respect of wages remaining unpaid on account of the death of an employed person on account of the whereabouts of an employed person not being known?: An employer shall stand discharged of his liability to pay such wages if he pays them to the nominee of the deceased person, and in case he is not able to do so, if he deposits them with the prescribed authority. {Section 25A}

Is deducting some amount or union levies from wages of employees and paying the same to the union invalid under section 7 of the Act?: If such deduction and payment is made with the consent of the employees and / or with the approval of a competent Court, it is not invalid under Section 7 of the Act.

What are the conditions imposed on deductions for recovery of advances of wages? :

1. An advance of wages shall not exceed four months wages.
2. The advance may be recovered in installments by deduction from wages spread over not more than 18 months.
3. No installment shall exceed one-third of the wages for the month.
4. The rate of interest charged for advances shall not exceed 6 1/4% per annum. {Rule 18}

Are the provisions of section 9(2) of the Payment of Wages Act permitting deduction in wages for participation in illegal strike affected by the provisions of section 26 of the Industrial Disputes Act providing for penalty for illegal strikes?: The Payment of Wages Act and the Industrial Disputes Act operate in different fields and the provisions of section 26 of the Industrial Disputes Act providing for penalty for illegal strikes do not affect the right of the [management](#) to effect a cut in wages to the extent permitted by Section 9(2) of the [Payment of Wages Act](#).